

DAVID Y. IGE
GOVERNOR OF HAWAII



ELIZABETH A. CHAR, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
STATE COUNCIL
ON DEVELOPMENTAL DISABILITIES
PRINCESS VICTORIA KAMĀMALU BUILDING
1010 RICHARDS STREET, Room 122
HONOLULU, HAWAII 96813
TELEPHONE: (808) 586-8100 FAX: (808) 586-7543
March 22, 2022

The Honorable Representative Aaron Ling Johanson, Chair
House Committee on Consumer Protection and Commerce
The Thirty-First Legislature
State Capitol
State of Hawai'i
Honolulu, Hawai'i 96813

Dear Representative Johanson and Committee Members:

SUBJECT: SB3040 SD2 HD1 Relating to Procurement

The Hawaii State Council on Developmental Disabilities **STRONGLY SUPPORTS SB3040 SD2 HD1**, establishes the state procurement automation system special fund. Authorizes the state procurement administrator to develop and administer procurement automation systems and assess, charge, and collect a transaction fee from all vendors using the procurement automation systems. Deletes language regarding qualified community rehabilitation programs made redundant by Act 55, SLH 2021. Appropriates funds for hiring of staff. Effective 7/1/2050. (HD1)

This measure will correct a conflict in the procurement code relating to Qualified Community Rehabilitation Programs (QCRP). Act 055 of the 2021 Hawaii legislative session removed 14c certificates from the requirement of being a QCRP program under 103D-1001 of the procurement code and replaced it with: "Maintains a disabled to non-disabled employee ratio equal to or greater than one to three at all times. To ensure integrated employment of individuals with disabilities, this one-to-three ratio is to include all levels of employment, management, and sub-contracting."

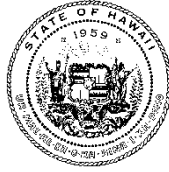
The employee ratio language in procurement code 103D-1010 needs to be removed to conform with the amendment made to section 103D-1001 by Act 55, Session Laws of Hawaii 2021. We support the changes on page 7 lines 4-21.

Thank you for the opportunity to submit testimony in **strong support of SB3040 SD2 HD1**.

Sincerely,

A handwritten signature in blue ink that reads "Daintry Bartoldus".

Daintry Bartoldus
Executive Administrator



**STATE OF HAWAII
STATE PROCUREMENT OFFICE**

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Tel: (808) 586-0554
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TESTIMONY
OF
BONNIE KAHAKUI, ACTING ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE HOUSE COMMITTEE
ON
CONSUMER PROTECTION & COMMERCE
March 22, 2022; 2:00 P.M.

SENATE BILL 3040, SD 2, HD1
RELATING TO PROCUREMENT

Chair Johanson, Vice Chair Kitagawa, and members of the committee, thank you for the opportunity to submit testimony on Senate Bill 3040, SD2, HD1. The State Procurement Office (SPO) strongly supports this bill to increase transparency and efficiency in procurement.

Procurement Automation System

The SPO has digitized its processes and conducted business online to improve its level of customer service, and it seeks to transition to an online procurement automation system (eProcurement System) as a self-funded model to stay on par with industry standards. A procurement automation system, which is an accounting-oriented, multi-module, data-based system that integrates all procurement activities from solicitation to contract management, will provide the following benefits and more:

Maximized administrative efficiency and resources (one-stop-shop for government buyers and vendors)

- Automated government policy and guidance (built-in adaptable technology to remain compliant with policy)
- Improved user-friendly procurement templates
- Increased competition (more competition means lower costs)
- Managed spending (leverage buying power, monitor compliance)
- Validated data (spend data)
- Mitigated risks from nonconforming contracts
- Improved transparency and accountability (less off-contract/non-catalog spend)

SB 3040, SD 2, HD1, describes how the procurement automation system can be a self-funded model. If a self-funded model is not used, the cost would be approximately \$5 million for implementation, plus an additional \$500,000 to \$1 million for annual licenses.

One of the purposes of SB 3040, SD2, HD1 is to establish the foundation of the procurement automation system. As part of the process, the SPO has obtained approval from the Office of Enterprise Technology Services' Project Advisory Council (PAC), whose voting members are the State Chief Information Officer, the Department of General Services Comptroller, the Director of Finance, and the Director of Human Resources Development. Other non-voting members of the PAC include the Deputy Attorney General (Deputy AG) assigned to work with ETS, and other ETS staff.

Request for Positions

To manage the procurement automation system and to provide the state and county agencies the high-level procurement guidance and oversight recommended by the Senate Special Committee on State of Hawaii Procurement, the SPO requires the addition of five procurement positions. The addition of skilled procurement personnel will ensure that complex solicitations are prepared by experienced procurement specialists, and specialized expertise is available to assist with construction procurement.

Deletion of 103D-1010 (a)(2), HRS

Section 103D-1010 (a) (2), HRS, needs to be deleted so it does not conflict with the new section 103D-1001, HRS, as amended by Act 55, SLH 2021. This will clarify that the 3:1 ratio of disabled employees required in section 103D-1010, HRS, is no longer in effect.

Thank you.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, New User Fee for Automated Procurement System and New Special Fund

BILL NUMBER: SB 3040 HD 1

INTRODUCED BY: Senate Committee on Government Operations

EXECUTIVE SUMMARY: Establishes the state procurement automation system special fund. Authorizes the state procurement administrator to develop and administer procurement automation systems and assess, charge, and collect a transaction fee from all vendors using the procurement automation systems.

Our view is that the end game of this bill is to milk those from whom the State buys goods or services and squirrel away the resulting fees in a special fund that could largely avoid legislative scrutiny.

SYNOPSIS: Adds a new section to chapter 103D, HRS, to establish the state procurement automation system special fund.

Amends section 103D-104, HRS, by adding a new definition of “Procurement automation system” as an electronic procurement, accounting-oriented, multi-module, data-based system that integrates procurement activities from solicitation to contract management.

Amends section 103D-206, HRS, to require the administrator of the procurement office to develop and administer procurement automation systems, and to assess, charge, and collect a transaction fee for the use of the procurement automation system to cover procurement automation system costs.

Makes other technical and conforming amendments.

EFFECTIVE DATE: July 1, 2050

STAFF COMMENTS: This is an Administration bill sponsored by the Department of Accounting and General Services and designated as AGS-04 (22).

Essentially, this bill is taking an opportunity to modernize and automate procurement (which is not objectionable), tacking on a “user fee” and charge it to the persons from whom the State buys goods and services (which is probably going to be charged right back to the State in the form of higher prices for those goods or services), and then siphon it off into a special fund where it would be, by and large, under sole control of DAGS and not subject to the appropriation and budgeting processes (which is objectionable).

Special funds are pots of money that exist for a specific purpose, and largely bypass the legislative appropriation process. The existence of hundreds of these special funds has often

confounded those who seek answers to simple questions like “How much money does the State have?”

Our Legislature is supposed to be the steward of all state moneys, but special funds make it very easy to lose track of where the money is and how it is being spent. Departments are supposed to tell the Legislature if they have special funds and how much is in them, but let’s just say they don’t always. Recently, in Report No. 20-01, the State Auditor took DBEDT to task for failing to report \$6.5 million in non-general fund moneys. DBEDT’s response? Just that they’ll “take corrective action.” Not even a “Whoops! We screwed up and promise to do better next time!” This followed closely on the heels of Report No. 19-16, where the Auditor found that \$1.04 million in non-general fund moneys administered by the Attorney General wasn’t reported. That department responded that they “shall establish procedures to assure required reports are issued.” Is it any wonder that it’s getting harder and harder to follow the money and rein in government spending?

Digested: 3/19/2022



**Testimony to the House Committee on Consumer Protection & Commerce
Representative Aaron Ling Johanson, Chair
Representative Lisa Kitagawa, Vice-Chair
Tuesday, March 22, 2022, 2:00 p.m.
Via Videoconference; Room 329
SB 3040, SD2, HD1, Relating to Procurement**

Dear Chair Johanson, Vice-Chair Kitagawa, and members of the CPC Committee:

On behalf of the Hawai'i Alliance of Nonprofit Organizations, I would like to offer our testimony in opposition to parts of SB 3040, SD2, HD1, Relating to Procurement.

Hawai'i Alliance of Nonprofit Organizations (HANO) is a statewide, sector-wide professional association of nonprofits. Our mission is to unite and strengthen the nonprofit sector as a collective force to improve the quality of life in Hawai'i. Our member organizations provide essential services to every community in the state.

SB 3040, SD2, HD1 would authorize the State Procurement Office to develop and administer procurement automation systems and assess a transaction fee, reportedly not to exceed 2.5%, from all vendors using the systems. HANO opposes any such transaction fee imposed on the purchase of health and human services provided by nonprofit organizations. Unlike private for-profit businesses, nonprofit organizations bid on State contracts to help deliver needed services to communities, families, or individuals which are intended to maintain or improve health or social well-being, rather than to make a profit. Providers will often spend their own funds, raised via charitable donations, fundraising, or grants, to provide the services under a State contract which will cover only part of the budget. To put additional fees on a nonprofit will only result in less services being provided to Hawaii's needy.

As such, HANO requests that Section 4, page 7, lines 1-3 of the SD1 be amended to exempt procurements made under Chapter 103F, HRS, from the imposition of transaction fees as follows:

"(8) Assess, charge, and collect a transaction fee for the use of the procurement automation systems to cover procurement automation system costs; **provided contracts awarded pursuant to Chapter 103F shall be exempt from the transaction fee."**

Mahalo for the opportunity to provide written testimony.

Lisa Maruyama
President and CEO

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE
ON
SENATE BILL NO. 3040, S.D. 2, H.D. 1

March 22, 2022
2:00 p.m.
Room 329 and Videoconference

LATE

RELATING TO PROCUREMENT

The Department of Budget and Finance (B&F) offers comments on Senate Bill (S.B.) No. 3040, S.D. 2, H.D. 1.

S.B. No. 3040, S.D. 2, H.D. 1, authorizes the State Procurement (SP) Administrator to develop and administer Procurement Automation Systems (PAS) and assess, charge, and collect a transaction fee from all vendors using the PAS; establishes a SP Automation System Special Fund (SPASSF); and deletes language regarding qualified community rehabilitation programs made redundant by Act 55, SLH 2021. PAS is defined to mean an eProcurement, accounting-oriented, multi-module, data-based system that integrates procurement activities from solicitation to contract management. The measure also appropriates unspecified general funds in FY 23 to the SP Office (SPO) to fund 5.00 full-time equivalent (FTE) Purchasing Specialist positions, of which 1.00 FTE position shall manage the PAS within the SPO.

B&F notes that, with respect to the general fund appropriation in this bill, the federal Coronavirus Response and Relief Supplemental Appropriations Act requires that

states receiving Elementary and Secondary School Emergency Relief (ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with these ESSER MOE requirements.

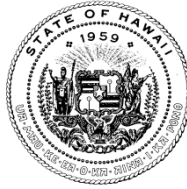
Additionally, regarding the establishment of the SPASSF, as a matter of general policy, B&F does not support the creation of special funds which do not meet the requirements of Section 37-52.3, HRS. Special funds should: 1) serve a need as demonstrated by the purpose, scope of work and an explanation why the program

cannot be implemented successfully under the general fund appropriation process;

- 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue;
- 3) provide an appropriate means of financing for the program or activity; and
- 4) demonstrate the capacity to be financially self-sustaining. In regard to S.B. No. 3040, S.D. 2, H.D. 1, it is difficult to determine whether the special fund meets the criteria to establish a special fund.

Thank you for your consideration of our comments.

DAVID Y. IGE
GOVERNOR



TESTIMONY BY:

JADE T. BUTAY
DIRECTOR

Deputy Directors
ROSS M. HIGASHI
EDUARDO P. MANGLALLAN
PATRICK H. MCCAIN
EDWIN H. SNIFFEN

LATE

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

March 22, 2022
2:00 P.M.
State Capitol, Teleconference

**S.B. 3040, S.D. 2, H.D. 1
RELATING TO PROCUREMENT**

House Committee on Consumer Protection & Commerce

The Department of Transportation, Highways Division (DOT-HWY), **supports** this bill that would establish the state procurement automation system special fund. Authorizes the state procurement administrator to develop and administer procurement automation systems and assess, charge, and collect a transaction fee from all vendors using the procurement automation systems. Deletes language regarding qualified community rehabilitation programs made redundant by Act 55, Session Laws of Hawaii 2021. Appropriates funds for hiring of staff.

Prior to the pandemic, DOT-HWY bid and proposal document submissions for goods, services, and construction above the small purchase limits were physically submitted in hard copy sealed envelope to the department, either in person, or through post or courier.

Since the pandemic, the DOT-HWY has made available both the solicitation documents as well as allowed for the submission of bid and proposal documents through the state electronic procurement system, HlePRO.

Having a procurement automation system would benefit the DOT-HWY. During fiscal year 2021, DOT-HWY had bid openings for forty-five (45) projects, with contract amounts totaling approximately \$200 million.

Thank you for the opportunity to provide testimony.