

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
DEPUTY DIRECTOR

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

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

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 SENATE COMMITTEE ON WAYS AND MEANS
ON
SENATE BILL NO. 3040, S.D. 1

February 22, 2022
10:00 a.m.
Room 211 and Videoconference

RELATING TO PROCUREMENT

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

S.B. No. 3040, S.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 amends Section 103D-1010, HRS, to conform with the amendments made to Section 103D-1001, HRS. 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 \$350,000 in general funds in FY 23 to the SP Office (SPO) to fund 5.00 full-time equivalent (FTE) Purchasing Specialist positions, of which one 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.

Thank you for your consideration of our comments.

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
February 22, 2022

The Honorable Senator Donovan M. Dela Cruz, Chair
Senate Committee on Ways and Means
The Thirty-First Legislature
State Capitol
State of Hawai'i
Honolulu, Hawai'i 96813

Dear Senator Dela Cruz and Committee Members:

SUBJECT: SB3040 SD1 Relating to Procurement

The Hawaii State Council on Developmental Disabilities **SUPPORTS SB3040 SD1** which 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; establish a procurement automation system special fund; and amends section 103D-1010, Hawaii Revised Statutes (HRS), to conform with the amendments made to section 103D-1001, HRS.

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 strongly support the changes on page 7 lines 17-18 and on page 8 lines 1-3.

Thank you for the opportunity to submit testimony in **support of SB3040 SD1**.
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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TESTIMONY
OF
BONNIE KAHAKUI, ACTING ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE SENATE COMMITTEE
ON
WAYS AND MEANS
February 22, 2022; 10:00 A.M.

SENATE BILL 3040 SD1
RELATING TO PROCUREMENT

Chair Moriwaki, Vice Chair Dela Cruz, and members of the committee, thank you for the opportunity to submit testimony on Senate Bill 3040 SD1. The State Procurement Office (SPO) strongly supports this bill to increase transparency and efficiency in procurement.

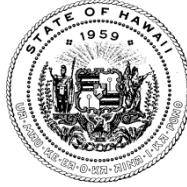
As stated in its testimony submitted on the original version of this bill, the SPO has digitized its processes and conducted business online to improve its level of customer service, and it seeks to transition to an online procurement automation system (eProcurement System) as a self-funded model to 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 SD1 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.

Thank you.



TESTIMONY BY:

JADE T. BUTAY
DIRECTOR

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

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

February 22, 2022
10:00 A.M.
State Capitol, Teleconference

S.B. 3040, S.D. 1
RELATING TO PROCUREMENT

Senate Committee on Ways and Means

The Department of Transportation, Highways Division (DOT-HWY), **supports** this bill that would authorize 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; establish a procurement automation system special fund; and amends section 103D-1010, Hawaii Revised Statutes (HRS), to conform with the amendments made to section 103D-1001, HRS; and Appropriates funds.

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 2020, 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.



**Testimony to the Senate Committee on Ways and Means
Senator Donovan Dela Cruz, Chair
Senator Gilbert Keith-Agaran, Vice-Chair
Tuesday, February 22, 2022, 10:00 a.m.
Via Videoconference
SB 3040, SD1, Relating to Procurement**

Dear Chair Dela Cruz, Vice-Chair Keith-Agaran, and members of the WAM 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, SD1, 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, SD1 would amend the nomination process and the number of the members for the Procurement Policy Board. While HANO understands the overall intent to improve the functionality of the Board, we oppose the decrease of the number of Policy Board members representing the field of health and human services from two to one. HANO believes there are efforts, short of reducing these members, that can be made to fill these seats with reliable members, and offers our assistance in ensuring this happens.

SB 3040 would also 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

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 SD 1

INTRODUCED BY: Senate Committee on Government Operations

EXECUTIVE SUMMARY: 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; establish a procurement automation system special fund; and amends section 103D-1010, Hawaii Revised Statutes (HRS), to conform with the amendments made to section 103D-1001, HRS.

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 eProcurement, 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, 2022

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: 2/19/2022