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## A BILL FOR AN ACT

RELATING TO STATE PROCUREMENT REFORM.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Chapter 103D, Hawaii Revised Statutes, is  
2 amended by adding two new sections to be appropriately  
3 designated and to read as follows:

4           "§103D-        Cost overruns; liability determination. In the  
5 event of construction cost overruns, a procurement officer shall  
6 create a report documenting the determination whether to pursue  
7 damages against a design professional. The report shall  
8 identify the factors used by the procurement officer in making  
9 the procurement officer's determination.

10           §103D-        Professional services; disqualified vendors.  
11 The chief procurement officer shall develop a list of all  
12 construction companies and design professionals who are in  
13 noncompliance with a provision of this chapter or have  
14 outstanding fines or other penalties incurred for violations of  
15 this chapter. This list shall be made publicly available on the  
16 state procurement office's website."



1 SECTION 3. Section 103D-110, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3 "(b) The state procurement office, in cooperation with the  
4 department of human resources development, shall develop and  
5 maintain a procurement practices training and development  
6 program for procurement officers of the State and the several  
7 counties, to ensure that an agency's procurement practices are  
8 in compliance with the procurement code and that proper  
9 procurement decisions are made consistent with this chapter.

10 The program shall include [a]:

11 (1) A mandatory fundamental training and development  
12 session; provided that such session includes training  
13 on the procurement officer's duty to hold design  
14 professionals contractually liable for breaches of  
15 professional standards; and

16 (2) [~~follow-up~~] Follow-up training and development  
17 sessions."

18 SECTION 4. Section 103D-206, Hawaii Revised Statutes, is  
19 amended to read as follows:



1           **"§103D-206 Additional duties of the administrator of the**  
2 **procurement office.** In addition to the duties referred to in  
3 section 103D-205, the administrator shall:

- 4           (1) Perform periodic review of the procurement practices  
5                     and procedures of all governmental bodies, in  
6                     collaboration with the state procurement policy board,  
7                     for compliance with the procurement code;
- 8           (2) Assist, advise, and guide governmental bodies in  
9                     matters relating to procurement;
- 10          (3) Determine corrective actions; provided that if a  
11                     procurement officer under the jurisdiction of the  
12                     administrator of the state procurement office or a  
13                     chief procurement officer of any of the other state  
14                     entities under section 103D-203, fails to comply with  
15                     any determination rendered by the administrator within  
16                     thirty days from the date of the issuance of the  
17                     determination, or longer if permitted by the  
18                     administrator upon request by the procurement officer  
19                     or a chief procurement officer, the procurement  
20                     officer or chief procurement officer shall be subject



1 to an administrative fine under section 103D-106, for  
2 every day of noncompliance;

3 (4) Develop and administer a statewide procurement  
4 orientation and training program[+], which shall  
5 include training on the use of contractors for  
6 program, project, construction, and liability  
7 management services, and which shall align with  
8 current federal practices;

9 (5) Develop, distribute, and maintain a procurement manual  
10 for all state procurement officials; and

11 (6) Develop, distribute, and maintain a procurement guide  
12 for vendors wishing to do business with the State and  
13 its counties. "

14 SECTION 5. The chief procurement officer shall adopt or  
15 amend rules pursuant to chapter 91 to allow state procurement  
16 officers to request that cost or pricing data be certified upon  
17 the initial bid submission and not after the conclusion of  
18 contract negotiations.

19 SECTION 6. (a) The legislative reference bureau shall  
20 conduct a study of the laws and regulations relating to  
21 construction management policies and procedures applicable to



1 the procurement code. This study shall consider the level of  
2 oversight over contractors performing management services.

3 (b) The legislative reference bureau shall submit a report  
4 of its findings and recommendations, including any proposed  
5 legislation, to the legislature no later than twenty days prior  
6 to the convening of the regular session of 2022.

7 SECTION 7. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9 SECTION 8. This Act shall take effect on July 1, 2021.

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INTRODUCED BY:    
JAN 27 2021



# H.B. NO. 1355

**Report Title:**

State Procurement Code; Procurement Officers; Training; Design Professionals; Legislative Reference Bureau

**Description:**

Requires procurement officers to document whether to pursue a design professional for damages in the event of construction cost overruns. Requires the chief procurement officer to compile a public list of construction companies or design professionals that are in noncompliance with the procurement code or owe penalties. Requires the state procurement office include training on the duty of procurement officers to hold design professionals liable for breaches of professional standards. Requires the legislative reference bureau to conduct a study on the laws and regulations relating to construction management policies and procedures applicable to the procurement code.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

