

EXECUTIVE CHAMBERS

HONOLULU

June 20, 2003

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 1460

Honorable Members
Twenty-Second Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 1460, entitled "A Bill for an Act Relating to Contracts Entered Into by the Hawaii Tourism Authority."

This bill requires the Hawaii Tourism Authority (HTA) to put certain provisions into its contracts that exceed \$6,000,000 or those that are of a level of complexity (as determined by the Executive Director of the HTA) that a reasonably prudent person would expect of a complex contract. Such contract provisions would include language on intellectual property, loyalty to and in support of the HTA, subcontracting only with prior consent, no subcontracting beyond the term of the contract, standards of conduct, confidentiality, best efforts, payments related to deliverables, and performance standards with detailed goals and timelines.

The HTA's Executive Director may suspend these required provisions if the Executive Director notes the reasons for the suspension in a memorandum attached to the contract, and forwards it to the Legislature within ten days.

This bill violates the fundamental government principal of separation of powers, under which the legislative branch of government enacts laws that are then carried out by the executive branch in its discretion. This bill mandates, in minute detail, what provisions must be included in a contract. Such legislative micromanagement of an executive function is inappropriate, especially where there has been no showing of need and the Legislature has acknowledged that "the current executive director

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of the HTA has strived to include these provisions in all HTA contracts."

Although this bill allows for the suspension of a required provision under certain circumstances, it could still unnecessarily limit HTA's contracting options. Such discretion should properly rest with the executive branch. Moreover, the bill's requirement that all such suspensions be reported to the Legislature within ten days is a further example of legislative micromanagement.

For the foregoing reasons, I am returning Senate Bill No. 1460 without my approval.

Respectfully,

LINDA LINGLE
Governor of Hawaii

P R O C L A M A T I O N

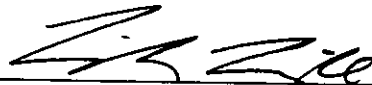
WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 1460, entitled "A Bill for an Act Relating to Contracts Entered Into by the Hawaii Tourism Authority," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 1460 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 1460 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu,
State of Hawaii, this 20th day
of June, 2003.



LINDA LINGLE
Governor of Hawaii