

A BILL FOR AN ACT VETO OVERRIDE

RELATING TO INTERNATIONAL TRADE AGREEMENTS.

ACT No. 1
Approved: [Signature]
Dated: July 10, 2007

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

1 SECTION 1. The legislature finds that a number of today's
2 international free trade agreements contain policy obligations
3 and restrictions that would take precedence over state and local
4 government provisions relating to state purchasing laws and
5 preferences. These trade agreements may undermine state and
6 local laws relating to requirements that a product contain a
7 certain minimum amount of recycled material. They may also
8 undermine state laws that would discourage the off-shoring of
9 jobs or encourage the purchase of locally-produced goods and
10 services.

11 However, because the expenditure of state tax dollars is an
12 intrinsic function of state government, the federal government
13 has refrained from unilaterally binding states to the
14 procurement provisions in international trade agreements.
15 Instead, the United States Trade Representative has sent out
16 correspondences to all the states' governors asking that the
17 governors voluntarily bind their states to procurement rules to
18 be included in various new international trade agreements now



1 being negotiated. The legislature is informed that Hawaii
2 governors, in this manner, have bound the State to procurement
3 provisions contained in the World Trade Organization, the United
4 States-Chile Free Trade Agreement, the United States-Singapore
5 Free Trade Agreement, the Moroccan Free Trade Agreement, and the
6 United States-Australia Free Trade Agreement. The provisions
7 contained in these agreements may undermine provisions of the
8 State's public procurement code and other state preference and
9 set-aside policies established to promote and protect various
10 sectors and groups of our local economy. However, questions
11 relating to the State's public procurement code or decisions
12 relating to state preference and set-aside policies are within
13 the legislative domain and should require legislative action.

14 The legislature finds that the governor vetoed H.B. No.
15 2199, C.D. 1, 2006, relating to international trade agreements.
16 The basis of the veto concerns were:

- 17 (1) Providing a timely response within the federal
18 government deadlines for consenting to an
19 international trade agreement;
- 20 (2) Why the legislature heretofore did not seek to bind
21 previous governors of Hawaii; and



1 (3) The adverse effects on conducting business in the
2 state if the legislature is involved in approving
3 international trade agreements and does not do so in a
4 timely manner.

5 The legislature finds that previous governors did not seek
6 to bind the State to international trade agreements to the same
7 extent as the current governor, who in 2003 consented to an
8 array of pending trade agreements. Furthermore, any adverse
9 effect upon the procurement code is a consideration for the
10 legislature to resolve in approving any trade agreement.

11 The purpose of this Act is to prohibit the future binding
12 of the State to government procurement rules contained in an
13 international trade agreement without legislative action.

14 SECTION 2. The Hawaii Revised Statutes is amended by
15 adding a new chapter to be appropriately designated and to read
16 as follows:

17 **"CHAPTER**

18 **INTERNATIONAL TRADE AGREEMENTS**

19 **§ -1 Definitions.** As used in this chapter:

20 "International trade agreement" means a trade agreement or
21 memorandum of agreement between the United States government and



1 a foreign nation, whether bilateral, multilateral, global, or
2 regional, to which the State, at the request of the United
3 States government, is a covered procuring entity; provided the
4 term shall not include a trade agreement or memoranda of
5 agreement:

6 (1) Between the State and a foreign nation or its sub-
7 national entity to which the United States government
8 is not a party; or

9 (2) Between a county and a foreign nation or its sub-
10 national entity to which the United States government
11 is not a party.

12 "Procurement" means any provision of chapter 103D.

13 **§ -2 International procurement rules, legislative**

14 **action.** (a) Any international trade agreement entered into by
15 the President of the United States that contains provisions
16 relating in any manner to procurement by the states shall not be
17 valid as to those procurement provisions as it applies to this
18 State, unless the legislature by a simple majority vote on a
19 concurrent resolution approves of those procurement provisions.
20 The legislature shall consider, among other things, the effect
21 of an international trade agreement upon procurement preferences



1 and upon the possibility of foreign governments ceasing to do
2 business with the State.

3 (b) When the federal government notifies the State of an
4 impending international trade agreement and seeks the State's
5 approval when the legislature is not in session, the governor
6 shall notify the president of the senate and the speaker of the
7 house of representatives. The legislature may consider approval
8 of the procurement provisions during a special session convened
9 as provided in Article III, section 10, of the Hawaii state
10 constitution. The governor may not approve a trade agreement
11 without legislative approval of its procurement provisions by a
12 simple majority vote on a concurrent resolution.

13 **§ -3 Federal law; conferral of authority.** This chapter
14 is not intended to preclude state officials from entering into
15 international trade agreements when federal law confers the
16 authority on state officials to do so, subject to section -2.

17 **§ -4 Prior agreements before Act.** Any international
18 trade agreement entered into by the President of the United
19 States, which contains provisions relating in any manner to
20 procurement by the states to which the governor has agreed prior
21 to the effective date of this Act, shall remain valid."



1 SECTION 3. The governor shall notify the revisor of
2 statutes of the obligations of the State specified in
3 international trade agreements to which the State is a
4 consenting party. The revisor of statutes shall annotate the
5 Hawaii Revised Statutes with regard to these obligations, as
6 deemed necessary.

7 SECTION 4. This Act shall take effect upon its approval.

