

LATE

NEIL ABERCROMBIE
GOVERNOR



AARON S. FUJIOKA
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**TESTIMONY
OF
AARON S. FUJIOKA
ADMINISTRATOR
STATE PROCUREMENT OFFICE**

**TO THE
HOUSE COMMITTEES
ON
LABOR & PUBLIC EMPLOYMENT
and
ECONOMIC REVITALIZATION & BUSINESS**

February 04, 2011

9:00 AM

HB 1485

RELATING TO E-VERIFY.

Chair Rhoads, Chair McKelvey, Vice Chair Yamashita, Vice-Chair Choy, and committee members, thank you for the opportunity to testify on HB 1485. This bill proposes to create a new mandate to require a contractor to provide proof of its employees' employment eligibility using an e-Verify system prior to a government agency entering into contracts subject to the Hawaii Public Procurement Code.

The State Procurement Office opposes this bill.

The requirement to verify employment eligibility by an offeror should not be addressed in the procurement process. Government contracting is already a lengthy and complex process due to numerous requirements from other entities (i.e. State and IRS tax clearances, labor compliance requirements for TDI, UI, WC, pre-paid health care, DCCA business registration and contractor licensing, county, State and federal permitting processes, insurance and bonding requirements, prevailing wages, etc.) to ensure compliance with other statutory laws and rules. The offeror and subsequently the contractor is responsible to comply with all laws and to act "in good faith" when responding to a procurement request.

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The additional requirement placed on purchasing agencies to verify potential offerors to "e-Verify" employment eligibility of their employees will result in additional delays in the award of contracts while the purchasing agency complies with this requirement.

HRS chapter 103D is only one of several processes that results in government contracts. Other contracting processes are available such as HRS chapter 102 - concessions, HRS chapter 103F - purchase of health and human services, HRS chapter 42F - grants and subsidies, along with numerous contracts that are exempt or not subject to any statutory processes. This bill excludes the various other contracting processes. Thank you.

LATE



HAWAI'I CIVIL RIGHTS COMMISSION

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February 4, 2011
Rm. 309, 9:00 a.m.

To: The Honorable Karl Rhoads, Chair
Members of the House Committee on Labor and Public Employment

The Honorable Angus McKelvey, Chair
Members of the House Committee on Economic Revitalization and Business

From: Coral Wong Pietsch, Chair
and the Commissioners of the Hawai'i Civil Rights Commission

RE: H.B. No. 1485

The Hawai'i Civil Rights Commission (HCRC) has enforcement jurisdiction over Hawai'i's laws prohibiting discrimination in employment, housing, public accommodations, and access to State and State-funded services. The HCRC carries out the Hawai'i constitutional mandate that no person shall be discriminated against in the exercise of their civil rights. Art. I, Sect. 5.

The HCRC opposes H.B. No. 1485 which would amend Hawai'i Revised Statutes chapter 103D and §78-1 to require all state contractors and government employers to use the E-Verify program. E-Verify is a federal program under which employers enter into a memorandum of understanding with the Department of Homeland Security and Social Security Administration regarding the use of the program to verify the employment eligibility of all newly hired employees.

There are several reasons for HCRC opposition to H.B. No.1485:

- 1) All employers are already required by federal law to verify identity and employment authorization by I-9 verification after an offer of employment. A state law requiring the additional mandatory use of the E-Verify system would impose a requirement that is not imposed under federal law. Federal law only requires the use the E-Verify system for specific classes of employers (federal contractors, employers previously convicted of hiring unauthorized workers, and employers in states that require the use of E-Verify).
- 2) Enactment of this proposed state law requirement would raise a number of concerns, including: the need for state enforcement of federal program requirements; preemption issues; continuing problems with false negative E-Verify results that prevent non-citizens who are authorized to work from getting employment; and, contribution to anti-immigrant sentiment and ancestry discrimination.

The HCRC opposes H.B. No. 1485, and urges the Committee to hold this measure.