

JAN 28 2015

A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

1 SECTION 1. The legislature finds that creative problem
2 solving is necessary to address the growing concerns of the
3 State's deficit. Hawaii is responsible for unfunded liabilities
4 totaling billions of dollars. Like many states, Hawaii must
5 balance its budget while managing the demands of infrastructure
6 maintenance and public service needs. Budget shortfalls result
7 in postponed maintenance and reduced social services despite a
8 growing population driving the demand for services and adding
9 stress to public infrastructure.

10 The legislature finds that public-private partnerships can
11 help government maintain infrastructure, provide services, and
12 operate more efficiently. A public-private partnership is a
13 contractual agreement between a public agency and a private
14 sector entity where skills and assets of each sector are
15 combined to deliver services to the public. Both entities share
16 in the risks and rewards of the venture. A public-private
17 partnership is not privatization of a government function. The



1 partnership provides for a level of public control and oversight
2 of operations not typical of privatization.

3 While public-private partnerships are widely employed
4 around the world, only five states have adopted comprehensive
5 legislation authorizing governmental entities to contract with
6 private partners to design, build, finance, operate, and
7 maintain public facilities. Public-private partnerships have
8 been created to address social infrastructure, transportation,
9 water treatment, energy, and financial management concerns. The
10 private sector contributes management efficiency, technology,
11 cash flow management, and personnel development to complement
12 the government's legal authority, capital resources, procurement
13 policies, and broad perspective.

14 The purpose of this Act is to establish a framework for
15 public-private partnerships in Hawaii.

16 SECTION 2. (a) The state procurement office shall draft
17 rules for public-private partnership contracts.

18 (b) The rules shall include but not be limited to the
19 following:



- 1 (1) A requirement that a public-private partnership
2 contract include a long-term maintenance and
3 operations scope;
- 4 (2) Provisions that require a suitability test wherein a
5 centralized governmental entity with expertise in
6 public-private partnership delivery and financial
7 modeling compares the value of long-term leases to
8 existing project delivery models before issuing any
9 requests for qualifications or proposals, which would
10 be triggered after satisfaction of basic threshold
11 requirements for public-private partnerships;
- 12 (3) Provisions that require the government to have an
13 independent consultant or in-house expert in
14 facilities planning, design, and construction assess
15 the long-term projected needs of the government before
16 considering the use of a public-private partnership;
17 advise the government prior to solicitation; and
18 continue serving as advisor to the government
19 throughout the planning, design, and construction
20 phases;



1 (4) Comprehensive statutory guidelines that apply to all
2 state entities to provide a uniform, fair process that
3 enables private developers to properly assess the
4 risks and rewards of engagement;

5 (5) Provisions that encourage communication between design
6 professionals and the end user during the request for
7 proposals phase so the government end user is
8 empowered to provide direct, meaningful input to the
9 competitor design teams developing the proposed
10 designs; and

11 (6) Provisions that enable small businesses to compete by
12 either restricting the use of design competitions or
13 by limiting the number of competitors required to
14 provide designs during the request for proposal phase,
15 and awarding reasonable stipends to unsuccessful
16 bidders.

17 (c) The state procurement office shall report the draft
18 rules for public-private partnerships and any proposed
19 legislation to the legislature no later than twenty days prior
20 to the convening of the regular session of 2016.



S.B. NO. 1228

1 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY:

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S.B. NO. 1228

Report Title:

State Procurement Office; Public-private Partnerships; Rules

Description:

Requires the state procurement office to develop draft rules regarding public-private partnerships in Hawaii, and to report the draft rules and any proposed legislation to the legislature.

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

