

JAN 27 2021

A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

1 SECTION 1. Section 103D-307, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[+]§103D-307[+] **Emergency procurements.** (a) The head of
4 a purchasing agency may obtain a good, service, or construction
5 essential to meet an emergency by means other than specified in
6 this chapter when the following conditions exist:

7 (1) A situation of an unusual or compelling urgency
8 creates a threat to life, public health, welfare, or
9 safety by reason of major natural disaster, epidemic,
10 riot, fire, or similar events and to a lesser extent,
11 by reason of equipment failures, repairs to public
12 property in order to protect against further loss of,
13 or damage to, public property, or to prevent or
14 minimize serious disruption in continued functioning
15 of government services, or such other reason as may be
16 determined by the head of that purchasing agency;

17 (2) The emergency condition generates an immediate and
18 serious need for goods, services, or construction that

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1 cannot be met through normal procurement methods and
2 the government would be seriously injured if the
3 purchasing agency is not permitted to employ the means
4 it proposes to use to obtain the goods, services or
5 construction; and

6 (3) Without the needed good, service, or construction, the
7 continued functioning of government, the preservation
8 or protection of irreplaceable property, or the health
9 and safety of any person will be seriously threatened.

10 (b) The emergency procurement shall be made with such
11 competition as is practicable under the circumstances [~~and,~~
12 ~~where practicable, approval from the chief procurement officer~~
13 ~~shall be obtained prior to the procurement~~]. A written
14 determination of the basis for the emergency and for the
15 selection of the particular contractor shall be included in the
16 contract file.

17 (c) The head of the purchasing agency that makes an
18 emergency procurement in response to a serious threat to life,
19 public health, welfare, or safety by reason of major natural
20 disaster, epidemic, riot, fire, or similar events and to a
21 lesser extent, equipment failures, repairs to public property in
22 order to protect against further loss of, or damage to, public

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1 property, to prevent or minimize serious disruption in continued
2 functioning of government services, shall account for the money
3 spent in making the procurement and report on that accounting to
4 the legislature within sixty days after the end of the fiscal
5 year in which the procurement was made."

6 SECTION 2. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

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

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INTRODUCED BY: *M. D. W.*

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BY REQUEST

S .B. NO. 1207

Report Title:

Emergency; Procurement; Public Property; Repairs; Equipment Failures; and Government Services

Description:

Amends section 103D-307, Hawaii Revised Statutes, Emergency Procurements, to add equipment failures, repairs to public property to protect against further loss of, or damage to, public property, to prevent or minimize serious disruption in continued functioning of government services. Replaces Chief Procurement Officer approval with an accounting report to the Legislature within sixty days after the end of the fiscal year in which the procurement was made.

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

JUSTIFICATION SHEET

DEPARTMENT: Transportation

TITLE: A BILL FOR AN ACT RELATING TO PROCUREMENT.

PURPOSE: To amend section 103D-307, Hawaii Revised Statutes, Emergency Procurements, to add equipment failures, repairs to public property to protect against further loss of, or damage to public property, to prevent or minimize serious disruption in continued functioning of government services and to replace Chief Procurement Officer approval with an accounting report to the Legislature within sixty days after the end of the fiscal year in which the procurement was made.

MEANS: Amend section 103D-307, Hawaii Revised Statutes.

JUSTIFICATION: Maintenance schedules to extend the useful life of a facility or equipment are a primary function of preventive maintenance. A procuring agency's practical response to budgetary limitations may result in deferred maintenance or, when appropriate, through an emergency procurement.

Impact on the public: This bill broadens allowable emergency procurements within the intent of the procurement code's competition requirements. It shifts the showing of transparency from requiring approval from the Chief Procurement Officer to a reporting by the head of the purchasing agency to the Legislature.

Impact on the department and other agencies: This bill will allow the head of the purchasing agency to decide when it is appropriate to conduct an emergency procurement.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: TRN 995.

OTHER AFFECTED
AGENCIES: State Procurement Office.

EFFECTIVE DATE: Upon approval.