

S .B. NO. 1208

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-709, Hawaii Revised Statutes, is
2 amended by amending subsection (e) to read as follows:

3 "(e) The party initiating a proceeding falling within
4 subsection (d) shall pay to the department of commerce and
5 consumer affairs a cash or protest bond in the amount of:

6 (1) [~~\$1,000 for a contract with an estimated value of~~] One
7 per cent of the estimated value of the contract if the
8 estimated value of the contract is less than \$500,000;

9 (2) [~~\$2,000 for a contract with an estimated value of~~] Two
10 and one-half per cent of the estimated value of the
11 contract if the estimated value of the contract is
12 \$500,000 or more, but less than \$1,000,000; or

13 (3) [~~One-half~~] Four and one-half per cent of the estimated
14 value of the contract if the estimated value of the
15 contract is \$1,000,000 or more[~~; provided that in no~~
16 ~~event shall the required amount of the cash or protest~~
17 ~~bond be more than \$10,000].~~

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1 If the initiating party prevails in the administrative
2 proceeding, the cash or protest bond shall be returned to that
3 party. If the initiating party does not prevail in the
4 administrative proceeding, the cash or protest bond shall be
5 deposited into the general fund."

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 Statutory material to be repealed is bracketed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. J. H.

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BY REQUEST

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Report Title:

Procurement; Administrative Proceedings; Protest Bond; and
Estimated Value of Contract

Description:

Amends section 103D-709, Hawaii Revised Statutes, Administrative proceedings for review, to replace the protest bond amount for a contract with an estimated value of less than \$500,000 from \$1,000 to one per cent; to replace the protest bond amount for a contract with an estimated value of less than \$1,000,000 from \$2,000 to two and one-half per cent; to replace the protest bond amount when the estimated value of the contract is \$1,000,000 or more from one-half per cent to four and one-half per cent; and to delete the \$10,000 cap on the protest bond amount.

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-709, Hawaii Revised Statutes, Administrative proceedings for review, to replace the protest bond amount for a contract with an estimated value of less than \$500,000 from \$1,000 to one per cent; to replace the protest bond amount for a contract with an estimated value of less than \$1,000,000 from \$2,000 to two and one-half per cent; to replace the protest bond amount when the estimated value of the contract is \$1,000,000 or more from one-half per cent to four and one-half per cent; and to delete the \$10,000 cap on the protest bond amount.

MEANS: Amend section 103D-709(e), Hawaii Revised Statutes.

JUSTIFICATION: The current cap on the protest bond amount is too low for public works projects that have estimated value exceeding millions of dollars. The State Procurement Code was established to allow for fairness to the public, to increase public confidence, to foster broad-based competition, fiscal responsibility and efficiency in the procurement process. Unfounded and frivolous protests impact procuring agencies by project delays, lapsed funding, and project cost increases.

Impact on the public: Timely delivery of public works projects after procurement and award.

Impact on the department and other agencies: Reduced project delays, funding lapses, and project cost increases.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: TRN 995.

OTHER AFFECTED
AGENCIES: State Procurement Office, Department of
Accounting and General Services, and
Department of Commerce and Consumer Affairs.

EFFECTIVE DATE: Upon approval.