

S.B. NO. 1221

JAN 27 2021

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**A BILL FOR AN ACT**

RELATING TO PROCUREMENT FOR THE UNIVERSITY OF HAWAII.

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

1           SECTION 1. Act 87, Session Laws of Hawaii 2013, was  
2 enacted to: (1) remove the university president's full authority  
3 to act as chief procurement officer for the university for all  
4 procurement contracts under chapter 103D, Hawaii Revised  
5 Statutes, (2) transfer authority to the administrator of the  
6 state procurement office to act as chief procurement officer  
7 with respect to university construction contracts and university  
8 professional services contracts relating to construction, and  
9 (3) address concerns about the prudent and transparent  
10 management of public funds appropriated by the legislature and  
11 expended by the university for construction. Act 87 resulted in  
12 a bifurcated procurement system at the university wherein a  
13 different set of rules and procedures applied depending on  
14 whether the procurement involved construction or construction  
15 related professional services for university construction  
16 projects. Procurements for construction or professional  
17 services furnished by licensees under chapter 464, Hawaii  
18 Revised Statutes, were required to comply with the Hawaii public

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1 procurement code and procedures governing state executive branch  
2 agencies, while procurements for goods and services were  
3 required to comply with the Hawaii public procurement code and  
4 university executive and administrative procedures governing  
5 university transactions.

6 Furthermore, in January 2016, the state procurement office  
7 issued its report to the legislature as required under Act 87,  
8 which documented the extensive oversight, reviews, and  
9 coordination between the university and the state procurement  
10 office on procurements involving construction and professional  
11 services related to construction. The conclusion of the state  
12 procurement office in the report was that "based on SPO's review  
13 of 102 UH construction solicitations, UH's Administrative  
14 Procedures, and 14 post-award Site Visits, SPO finds that UH is  
15 conducting construction procurements in a compliant, efficient  
16 and transparent manner."

17 Furthermore, Act 42, Session Laws of Hawaii 2018, was  
18 enacted to recognize that the university made significant  
19 changes to its policies and procedures including engaging in  
20 some of what the State Procurement Office refers to as "best-  
21 practices" and thus established a trial-period during which the  
22 university, through the university president, was given the

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1 opportunity to again be fully in control of its own procurement.  
2 Act 42 is set to sunset on June 30, 2021.

3 The purpose of this Act is to repeal the sunset provision  
4 in Act 42, Session Laws of Hawaii 2018, in order to continue the  
5 authority of the university president to act as the university's  
6 chief procurement officer for all procurement contracts under  
7 chapter 103D, Hawaii Revised Statutes.

8 SECTION 2. Act 42, Session Laws of Hawaii 2018, is amended  
9 by amending Section 6 to read as follows:

10 "SECTION 6. This Act shall take effect upon its approval[+  
11 ~~provided that on June 30, 2021, this Act shall be repealed and~~  
12 ~~sections 103D-203(a) and 304A-2672, Hawaii Revised Statutes,~~  
13 ~~shall be reenacted in the form in which they read on the day~~  
14 ~~prior to the effective date of this Act]."~~

15 SECTION 3. Statutory material to be repealed is bracketed  
16 and stricken.

17 SECTION 4. This Act, upon its approval, shall take effect  
18 on June 29, 2021.

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INTRODUCED BY:



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BY REQUEST

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**Report Title:**

University of Hawaii; Chief Procurement Officer

**Description:**

Removes the sunset provision in Act 42, Session Laws of Hawaii 2018.

*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: University of Hawaii

TITLE: A BILL FOR AN ACT RELATING TO PROCUREMENT FOR THE UNIVERSITY OF HAWAII.

PURPOSE: Remove the sunset provision in Act 42, Session Laws of Hawaii 2018.

MEANS: Amend section 6 of Act 42, Session Laws of Hawaii 2018.

JUSTIFICATION: This bill would permanently establish the authority of the University of Hawaii President to act as Chief Procurement Officer for the University of Hawaii (University) for all procurement contracts under chapter 103D, HRS. Act 87, Session Laws of Hawaii (SLH) 2013, transferred the University's authority for the procurement of construction and construction related professional services to the Administrator of the State Procurement Office (SPO). This resulted in a bifurcated procurement system at the University wherein a different set of rules and procedures applied depending on whether the procurement involved construction and construction related professional services for University construction projects.

Act 87, SLH 2013, was enacted to address legislative concerns about the prudent and transparent management of public funds appropriated by the Legislature and expended by the University for construction. In January 2016, the SPO issued its report to the Legislature required under Act 87, SLH 2013. That report documented the extensive oversight, reviews, and coordination between the University and the SPO on procurements for construction and construction related

professional services. The conclusion to the report stated:

"Based on SPO's review of 102 UH construction solicitations, UH's Administrative Procedures, and 14 post-award Site Visits, SPO finds that UH is conducting construction procurements in a compliant, efficient and transparent manner."

The report set forth minimal recommendations for improvement and, in fact, lauded several University-specific procedures as "best-practices." Based on the SPO's findings, we believe that the University has proven that it is conducting its construction procurements in compliance with the State procurement code and in an efficient and transparent manner. In recognition of this, Act 42, Session Laws of Hawaii 2018, was enacted to reinstate the University President's full authority to act as the Chief Procurement Officer for all University procurements, including the procurement of construction and construction related professional services. Act 42 also included a sunset provision of June 30, 2021, which the University seeks to repeal in order to continue the procurement "best practices" established at the University of Hawaii.

Impact on the public: There should be no impact as this measure would allow the University of Hawaii to continue its current procurement practices beyond June 30, 2021.

Impact on the department and other agencies: This change will result in a positive impact on University departments and agencies by allowing the University to continue to streamline all procurement activities. If the sunset provision of June 30, 2021 were to take effect, all procurements for construction and architectural and engineering services would revert back to the State Procurement Office, imposing a

different set of internal procedures only for construction that differs from all other procurement procedures at the University for goods and services. As a result, departments and agencies would be faced with the burden of operating in two different systems with differing sets of forms and templates associated with chief procurement officer approval actions. Aggregating all chief procurement officer functions for the University under a sole chief procurement officer has eased the administrative burden not only on the University but also on the State Procurement Office.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: UOH-900.

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

EFFECTIVE DATE: June 29, 2021.