

JAN 26 2022

---

---

# 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 during challenging  
2 economic times, it is necessary for the State to investigate and  
3 employ digital technology and other innovative ways of  
4 maintaining and improving state services and infrastructure,  
5 ensure input by stakeholders, and ensure the prudent and cost-  
6 effective expenditure of public moneys.

7           The purposes of this Act are to improve procurement  
8 efficiency, minimize risks, and save taxpayer dollars by:

- 9           (1) Streamlining the nomination process for the  
10           procurement policy board;
- 11           (2) Adjusting the membership of the procurement policy  
12           board;
- 13           (3) Defining procurement automation system;
- 14           (4) Authorizing the administrator of the state procurement  
15           office to develop and administer procurement  
16           automation systems and to charge and collect a

1 transaction fee from all vendors using the procurement  
2 automation systems to fund the development,  
3 implementation, and maintenance of the systems;

4 (5) Creating a procurement automation system special fund;

5 (6) Amending section 103D-1010 to conform with the  
6 amendment made to section 103D-1001 by Act 55, Session  
7 Laws of Hawaii 2021; and

8 (7) Adding one position to manage the procurement  
9 automation systems and another four positions to  
10 ensure oversight over state and county procurement and  
11 complex procurement issues.

12 The state procurement office is responsible for reviewing  
13 the solicitation, award, and administration of contracts,  
14 advising government agencies on procurement issues, and  
15 providing procurement training to the State's decentralized  
16 procurement staff.

17 The state procurement office also supports the procurement  
18 policy board, which has the authority to adopt rules governing  
19 procurement and consider applicants for the position of the  
20 state procurement administrator. The procurement policy board  
21 has been unable to meet because it cannot achieve quorum due to  
22 a number of vacant positions. This Act streamlines the  
23 nomination process for procurement policy board applicants by

1 eliminating the procurement policy board nominating committee  
2 and changing the membership of the procurement policy board from  
3 seven to five members.

4       The state procurement office administers statewide, multi-  
5 agency contracts that take advantage of the State's aggregated  
6 purchasing power to leverage better pricing and value for the  
7 State and the counties. In fiscal year 2018-2019, these  
8 contracts saved the State of Hawaii and its political  
9 subdivisions approximately \$19,000,000 in goods and services,  
10 plus savings in personnel, purchasing, and subject matter expert  
11 hours.

12       Government purchasing offices for several states operate  
13 using a self-funded model derived from a transaction fee ranging  
14 from one per cent to two-and-a-half per cent charged to all  
15 contracts in their respective procurement automation systems.  
16 Beginning in fiscal year 2022-2023, the Hawaii state procurement  
17 office would assess all vendors a transaction fee not to exceed  
18 two-and-a-half per cent on each order the vendor receives on the  
19 procurement automation systems. This transaction fee will be  
20 used to pay for the development, implementation, legacy  
21 transition, maintenance, system training, configuration, and  
22 management of procurement automation systems. To manage the

1 systems, the state procurement office requests the addition of  
2 one position.

3 The special committee on State of Hawaii procurement, which  
4 has been reviewing state procurement policies and procedures,  
5 informally informed the state procurement office that additional  
6 oversight over complex procurement issues, such as construction  
7 procurement for the State, is necessary. To provide adequate  
8 guidance and oversight to state and county agencies, the state  
9 procurement office will require qualified procurement personnel  
10 and thus seeks the addition of four positions.

11 SECTION 2. Chapter 103D, Hawaii Revised Statutes, is  
12 amended by adding to part II a new section to be appropriately  
13 designated and to read as follows:

14 **"§103D- State procurement automation system special**  
15 **fund.** (a) There is established in the state treasury the state  
16 procurement automation system special fund to be administered by  
17 the state procurement office, into which shall be deposited:

18 (1) All revenues from the operation of the state  
19 procurement automation systems, including transaction  
20 fees collected from all vendors using the procurement  
21 automation systems;

22 (2) Interest earned on money in the state procurement  
23 automation system special fund; and

1        (3) Appropriations made by the legislature to the fund.

2        (b) Moneys in the state procurement automation system

3 special fund shall be used by the state procurement office for

4 the development, implementation, management, and operation of

5 the state procurement automation systems."

6        SECTION 3. Section 103D-104, Hawaii Revised Statutes, is  
7 amended by adding a definition:

8        "Procurement automation system" means an eProcurement,

9 accounting-oriented, multi-module, data-based system that

10 integrates procurement activities from solicitation to contract

11 management."

12        SECTION 4. Section 103D-201, Hawaii Revised Statutes, is  
13 amended to read as follows:

14        **" §103D-201 Creation and membership of the procurement**

15 **policy board.** (a) There is hereby created an autonomous state

16 procurement policy board. The policy board shall be [~~assigned,~~]

17 placed, for administrative purposes only, [~~to~~] within the

18 department of accounting and general services.

19        (b) The policy board shall consist of [~~seven~~] five

20 members. Notwithstanding the limitations of section 78-4, the

21 members of the board shall include:

22        (1) The comptroller;

- 1 (2) A county employee with significant high-level  
2 procurement experience; and
- 3 (3) [~~Five~~] Three persons who shall not otherwise be full-  
4 time employees of the State or any county; provided  
5 that [~~at least~~] one member shall be a [~~certified~~]  
6 professional in the field of procurement, [~~at least~~]  
7 one member shall have significant [~~high-level~~] federal  
8 procurement experience, and [~~at least two members~~] one  
9 member shall have significant experience in the field  
10 of health and human services.

11 Each appointed member shall have demonstrated sufficient  
12 business or professional experience to discharge the functions  
13 of the policy board. The initial and subsequent members of the  
14 policy board, other than the comptroller, shall be [~~appointed by~~  
15 ~~the governor from a list of three individuals for each vacant~~  
16 ~~position, submitted by a nominating committee composed of four~~  
17 ~~individuals chosen as follows: two persons appointed by the~~  
18 ~~governor; one person appointed by the president of the senate;~~  
19 ~~and one person appointed by the speaker of the house.] nominated  
20 and, by and with the advice and consent of the senate, appointed  
21 by the governor for terms of four years each, provided that each  
22 member shall hold office until the member's successor is  
23 appointed and qualified. Except as provided in this section,~~

1 the selection and terms of the policy board members shall be  
2 subject to the requirements of section 26-34. No member of the  
3 policy board shall act concurrently as a chief procurement  
4 officer. The members of the policy board shall devote such time  
5 to their duties as may be necessary for the proper discharge  
6 thereof."

7 SECTION 5. Section 103D-206, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "**§103D-206 Additional duties of the administrator of the**  
10 **procurement office.** In addition to the duties referred to in  
11 section 103D-205, the administrator shall:

- 12 (1) Perform periodic review of the procurement practices  
13 and procedures of all governmental bodies, in  
14 collaboration with the state procurement policy board,  
15 for compliance with the procurement code;
- 16 (2) Assist, advise, and guide governmental bodies in  
17 matters relating to procurement;
- 18 (3) Determine corrective actions; provided that if a  
19 procurement officer under the jurisdiction of the  
20 administrator of the state procurement office or a  
21 chief procurement officer of any of the other state  
22 entities under section 103D-203, fails to comply with  
23 any determination rendered by the administrator within

1 thirty days from the date of the issuance of the  
 2 determination, or longer if permitted by the  
 3 administrator upon request by the procurement officer  
 4 or a chief procurement officer, the procurement  
 5 officer or chief procurement officer shall be subject  
 6 to an administrative fine under section 103D-106, for  
 7 every day of noncompliance;

8 (4) Develop and administer a statewide procurement  
 9 orientation and training program;

10 (5) Develop, distribute, and maintain a procurement manual  
 11 for all state procurement officials; [~~and~~]

12 (6) Develop, distribute, and maintain a procurement guide  
 13 for vendors wishing to do business with the State and  
 14 its counties[~~-~~];

15 (7) Develop and administer procurement automation systems;  
 16 and

17 (8) Assess, charge, and collect a transaction fee for the  
 18 use of the procurement automation systems to cover  
 19 procurement automation system costs."

20 SECTION 6. Section 103D-1010, Hawaii Revised Statutes, is  
 21 amended by amending subsection (a) to read as follows:

22 "[~~+~~]**\$103D-1010**[~~+~~] **Purchases from qualified community**  
 23 **rehabilitation programs.** (a) Any governmental body, without

1 advertising or calling for bids, may purchase goods or services  
2 provided by qualified community rehabilitation programs serving  
3 persons with disabilities that have indicated an interest in  
4 supplying the goods or services and on an equitable basis may  
5 apportion the business among the interested programs; provided  
6 that the goods and services meet the specifications and needs of  
7 the purchasing agency and are purchased at a fair market price  
8 as determined by the appropriate public agency; and provided  
9 further that the programs [~~comply with the following:~~

- 10       ~~(1) Meet~~] meet all of the requirements of a qualified  
11                   community rehabilitation program under section 103D-  
12                   1001[~~; and~~
- 13       ~~(2) Maintain a disabled to non-disabled employee ratio~~  
14                   ~~equal to or greater than three to one for work hours~~  
15                   ~~of direct labor at all times on the work~~  
16                   ~~contracted]."~~

17       SECTION 7. There is appropriated out of the general  
18 revenues of the State of Hawaii the sum of \$350,000 or so much  
19 thereof as may be necessary for fiscal year 2022-2023 to fund  
20 five purchasing specialist positions, which includes one  
21 position to manage the procurement automation system, in the  
22 state procurement office.

1           The sums appropriated shall be expended by the state  
2 procurement office for the purposes of this Act.

3           SECTION 8. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5           SECTION 9. This Act shall take effect upon its approval.

6

7

INTRODUCED BY:

A handwritten signature in black ink, appearing to be 'M. D. M.', written over a horizontal line.

8

BY REQUEST

# SB. NO. 3040

**Report Title:**

Procurement; Automation System; Special Fund; Procurement Policy Board

**Description:**

Amends the nomination process and the number of the members for the Procurement Policy Board; authorizes the State Procurement Administrator to develop and administer procurement automation systems and assess, charge, and collect a transaction fee from all vendors using the procurement automation systems; establish a procurement automation system special fund; and amends section 103D-1010, Hawaii Revised Statutes (HRS), to conform with the amendments made to section 103D-1001, HRS.

*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

**SB. NC 3040**

DEPARTMENT: Accounting and General Services

TITLE: A BILL FOR AN ACT RELATING TO PROCUREMENT.

PURPOSE: To improve procurement efficiency, minimize risk, and save taxpayer dollars by (1) streamlining the nomination process for the Procurement Policy Board; (2) adjusting the membership of the Procurement Policy Board; (3) defining procurement automation system; (4) authorizing the State Procurement Administrator to develop and administer procurement automation systems, and charge and collect a transaction fee from vendors using the procurement automation systems to fund the development, implementation, and maintenance of the systems; (5) creating a procurement automation system special fund to pay for the development, implementation, and maintenance of the systems; (6) amending language for consistency; and (7) adding a position to manage the procurement automation systems and another four positions to ensure oversight and provide guidance on complex procurement issues such as construction procurement.

MEANS: Add a new section to part II of chapter 103D, Hawaii Revised Statutes (HRS), amend sections 103D-104, 103D-201, 103D-206, and 103D-1010(a), HRS, and add five procurement positions.

JUSTIFICATION: The Procurement Policy Board, which has the authority to adopt rules governing procurement and review the applicants for the position of the State Procurement Administrator, currently does not have enough members to achieve quorum and thus is unable to meet to adopt or revise administrative rules.

The State Procurement Office (SPO) seeks to improve the delivery of its procurement services with less reliance on general funds

through implementation of procurement automation systems to manage contracts. The procurement automation system is an accounting-oriented, multi-module, data-based system that integrates all procurement activities from solicitation to contract management.

The SPO evaluated procurement automation systems that operate on a self-funding business model successfully used by states such as Minnesota, Missouri, New Mexico, Texas, Utah, Virginia, and Washington, which charge vendors transaction fees ranging from one per cent to two-and-a-half per cent on sales. Based on its past contract usage and estimated costs to develop, implement, and operate the statewide procurement automation systems, the SPO would assess each vendor using the systems a transaction fee not to exceed two-and-a-half percent on each order placed on the procurement automation systems by a State or county agency beginning in fiscal year 2022-2023.

All transaction fees paid by vendors using the procurement automation systems will be deposited in a special fund established by the bill. The fund will be used to pay for the development, implementation, legacy transition, maintenance, system training, configuration, and management of the automation systems to manage all contracts.

The bill would give the Administrator of the State Procurement Office the authority to administer the special fund and charge and receive a transaction fee from vendors.

Section 103D-1010, HRS, needs to be amended so it does not conflict with the new section 103D-1001, HRS, as amended by Act 55, SLH 2021. This will clarify that the 3:1 ratio of disabled employees required in section 103D-1010, HRS, is no longer in effect.

To manage the procurement automation systems and to provide the state and county agencies

the high-level procurement guidance and oversight recommended by the Senate Special Committee on State of Hawaii Procurement, the SPO requires the addition of five procurement positions. The addition of skilled procurement personnel will ensure that complex solicitations are prepared by experienced procurement specialists, and specialized expertise is available to assist with construction procurement.

Impact on the public: Streamlining the nomination process will save on state personnel resources, which may result in savings on taxpayer dollars. With enough members, the Procurement Policy Board will have quorum and will be able to hold meetings to adopt rules and get input through public hearings.

The procurement automation systems will increase efficiency and speed up response for user-agencies, thereby realizing a cost-savings of greater than \$1,000,000 of taxpayer dollars.

This bill will also provide clarity for organizations that employ individuals with disabilities by eliminating contradictory language pertaining to qualified community rehabilitation programs.

The addition of five positions with skilled procurement personnel, which includes one position to manage the procurement automation systems, will ensure that tax dollars are spent responsibly, ethically, and in the best interest of the community.

Impact on the department and other agencies: State agencies will benefit from more timely adoption of administrative rules governing the procurement, management, control, and disposal of any and all goods, services, and construction.

The procurement automation systems would be implemented for all eighteen executive

branch departments, who would realize a reduction of costs for purchased goods, elimination of unnecessary purchases, enhancement of supplier participation, increased efficiency through streamlined processes, minimized risk and error, increased accuracy, reduction of cycle times and re-work, and availability of reporting.

The addition of five positions are vital resources the SPO needs to maintain its position as an authority that provides guidance, oversight, troubleshooting, and training to its stakeholders/agencies in a timely manner, with continuous process improvement to eliminate waste and improve efficiencies. One of the positions will manage the procurement automation systems.

GENERAL FUND: \$350,000 for one position to manage the procurement automation systems and four positions to ensure oversight over state and county procurement processes.

OTHER FUNDS:

PPBS PROGRAM  
DESIGNATION:

OTHER AFFECTED  
AGENCIES: All state agencies.

EFFECTIVE DATE: Upon approval.