STAND. COM. REP. NO. 1421-22

Honolulu, Hawaii **MAR 2 4**, 2022 RE: S.B. No. 3372 S.D. 1 H.D. 2

Honorable Scott K. Saiki Speaker, House of Representatives Thirty-First State Legislature Regular Session of 2022 State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred S.B. No. 3372, S.D. 1, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC PROCUREMENT,"

begs leave to report as follows:

The purpose of this measure is to authorize, where it is determined that a solicitation or award of a contract is in violation of law, the government contract to be rescinded and awarded to the next lowest responsive, responsible bidder to whom the contract would have been awarded were it not for the violation of law.

Your Committee received testimony in support of this measure from the Department of Accounting and General Services. Your Committee received comments on this measure from the State Procurement Office.

Your Committee finds that under existing law, when the Office of Administrative Hearings determines that a public works contract was improperly awarded, the Office's only remedy is to terminate the contract. Terminating the contract delays the procurement process, as a department must then re-issue the solicitation. This measure is intended to ensure a fair process and prevent further delays by expanding the remedial powers of the Office of



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Administrative Hearings in situations where an award of a contract is in violation of the law.

Your Committee has amended this measure by:

- Clarifying that the ability of the Office of Administrative Hearings to terminate a contract applies only if the award, not the solicitation, is in violation of law;
- (2) Specifying the requirements for such a contract to be awarded, based on whether the solicitation was issued pursuant to the competitive sealed bidding process or competitive sealed proposal process; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3372, S.D. 1, H.D. 1, as amended herein, and recommends that it be referred to your Committee on Finance in the form attached hereto as S.B. No. 3372, S.D. 1, H.D. 2.

> Respectfully submitted on behalf of the members of the Committee on Consumer Protection & Commerce,

Chair



State of Hawaii House of Representatives The Thirty-first Legislature



## **Record of Votes of the Committee on Consumer Protection & Commerce**

Bill/Resolution No.: SB 3372, SD1, HD1			Date: 3 22 22		
The committee is reconsidering its p					
	ass, unamended (as is)	Pass, with amendmen commit for future pu			
CPC Members	Ayes	Ayes (WR)	Nays	Excused	
1. JOHANSON, Aaron Ling (C					
2. KITAGAWA, Lisa (VC)					
in an					
3. AQUINO, Henry J.C.					
4. HAR, Sharon E.					
5. HASHEM, Mark J.			n a state of the second state of the		
J. HASHEN, Mark J.					
6. KONG, Sam Satoru			Chief (All and an All All All and and an All All All All All All All All All Al		
7. MIZUNO, John M.	and the second provide second s				
8. MORIKAWA, Dee			· · · · · · · · · · · · · · · · · · ·		
9. ONISHI, Richard H.K.					
10. TARNAS, David A.					
11. MATSUMOTO, Lauren					
11. WAISOWOTO, Lauren	<b>v</b>				
<b>TOTAL (11)</b>	9	0	0	2	
The recommendation is:  Adopted  Not Adopted    If joint referral,					
Vice Chair's or designee's signature	- Trankthy	m			
Distribution: Original (White) – Co	mmittee Duplicate (Yello	w) – Chief Clerk's Of	fice Duplicate	(Pink) – HMSO	