

Honolulu, Hawaii

MAR 03 2023

RE: S.B. No. 1135

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 1135 entitled:

"A BILL FOR AN ACT RELATING TO PROCUREMENT,"

begs leave to report as follows:

The purpose and intent of this measure is to require cash or protest bonds to be returned to an unsuccessful initiating party, minus administrative costs, except in cases where the appeal is found to be frivolous or made in bad faith.

Your Committee received testimony in support of this measure from the General Contractors Association of Hawaii; Hawaii Operating Engineers Industry Stabilization Fund Political Action Committee; Ralph S. Inouye Co., Ltd.; Subcontractors Association of Hawaii; and one individual.

Your Committee finds that only seven states in the county impose a bond requirement to submit a bid protest or seek an appeal of a bid protest decision. Of these seven states, Hawaii is the only one to impose immediate forfeitures of the bond to the State's general fund if a protestor loses an appeal. Your Committee further finds that a policy designed to deter appeals has the effect of deterring legitimate appeals, which works at the disservice of the public. Thus, this measure incorporates an approach recommended by the National Association of State Procurement officials to fairly evaluate bid protests and help ensure a level playing field for all vendors.



As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1135 and recommends that it pass Third Reading.

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



JARRETT KEOHOKALOLE, Chair



The Senate
 Thirty-Second Legislature
 State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:* SB1135	Committee Referral: GVO, CPN	Date: 2/21/23
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The Committee is reconsidering its previous decision on this measure.
 If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended 2312 Pass, with amendments 2311 Hold 2310 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
KEOHOKALOLE, Jarrett (C)	✓			
FUKUNAGA, Carol (VC)	✓			
MCKELVEY, Angus L.K.				✓
RICHARDS, III, Herbert M. "Tim"	✓			
AWA, Brenton	✓			
TOTAL	4	0	0	1

Recommendation: Adopted Not Adopted

Chair's or Designee's Signature:
Carol Fukunaga

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*Only one measure per Record of Votes