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# A BILL FOR AN ACT

RELATING TO CONSTRUCTION.

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

1        SECTION 1. The legislature finds that, although the Hawaii  
2 state building codes allow for the use of alternative materials,  
3 designs, and methods of construction, current practice by state  
4 and county building officials suggests that these code  
5 provisions are being narrowly interpreted to limit or prevent  
6 the use of alternative systems. This restricts competition,  
7 increases housing costs, and slows the availability of critical  
8 housing projects.

9        The legislature further finds that some affordable and  
10 efficient construction systems offered by vendors operating in  
11 the State meet building code requirements but are not considered  
12 or approved for construction despite their ability to provide  
13 the same or better safety and durability aspects at lower costs.

14       This problem is particularly acute in the rebuilding efforts in  
15 Lahaina and in other communities with urgent housing needs.

16       The legislature also finds that Hawaii's recovery and  
17 resilience depend on a building code and planning review process



1 that can effectively evaluate newer, safer, more efficient, and  
2 less costly technologies. Reliance on a narrow set of preferred  
3 construction systems or suppliers slows innovation, lengthens  
4 timelines, and contributes to higher construction costs.

5 Accordingly, the purpose of this Act is to provide greater  
6 flexibility for the use of alternative materials, designs, or  
7 methods of construction within the specifications of the Hawaii  
8 state building codes.

9 SECTION 2. Chapter 107, Hawaii Revised Statutes, is  
10 amended by adding a new section to be appropriately designated  
11 and to read as follows:

12 "§107- Hawaii state building codes; alternative  
13 materials, designs, and methods. (a) In adopting the Hawaii  
14 state building codes, the council shall include provisions  
15 requiring building officials, when evaluating proposed  
16 alternative materials, designs, or methods of construction for  
17 detached one- and two-family dwellings and townhouses, to  
18 approve alternatives that:

19 (1) Provide equal or greater fire resistance and life  
20 safety;



1           (2) Meet or exceed the applicable code's requirements for  
2           structural and material quality and durability; or  
3           (3) Are more economically feasible or capable of being  
4           constructed in a shorter time than prescriptive  
5           methods, while maintaining compliance with the intent  
6           of the applicable code.

7           (b) The approval of the proposed alternative materials,  
8           designs, or methods of construction may require a certification  
9           from an individual having an appropriate license from the State  
10           or an international body. An international certification based  
11           on metric measurements shall not be a basis for denying any  
12           proposed alternative material, design, or method of  
13           construction."

14           SECTION 3. Section 103D-302, Hawaii Revised Statutes, is  
15           amended to read as follows:

16           **"§103D-302 Competitive sealed bidding.** (a) Contracts  
17           shall be awarded by competitive sealed bidding except as  
18           otherwise provided in section 103D-301. Awards of contracts by  
19           competitive sealed bidding may be made after single or multi-  
20           step bidding. Competitive sealed bidding does not include  
21           negotiations with bidders after the receipt and opening of bids.



1 Award is based on the criteria set forth in the invitation for  
2 bids.

3 (b) An invitation for bids shall be issued, and shall  
4 include a purchase description and all contractual terms and  
5 conditions applicable to the procurement. If the invitation for  
6 bids is for construction, it shall specify that all bids include  
7 the name of each person or firm to be engaged by the bidder as a  
8 joint contractor or subcontractor in the performance of the  
9 contract and the nature and scope of the work to be performed by  
10 each. Construction bids that do not comply with this  
11 requirement may be accepted if acceptance is in the best  
12 interest of the State and the value of the work to be performed  
13 by the joint contractor or subcontractor is equal to or less  
14 than one per cent of the total bid amount.

15 (c) Adequate public notice of the invitation for bids  
16 shall be given a reasonable time before the date set forth in  
17 the invitation for the opening of bids. The policy board shall  
18 adopt rules which specify:

19 (1) The form that the notice is to take;  
20 (2) What constitutes a reasonable interim between  
21 publication and bid opening; and



1 (3) How notice may be published, including publication in  
2 a newspaper of general circulation, notice by mail to  
3 all persons on any applicable bidders mailing list,  
4 publication by any public or private telecommunication  
5 information network, or any other method of  
6 publication it deems to be effective.

16 (f) Bids shall be evaluated based on the requirements set  
17 forth in the invitation for bids. These requirements may  
18 include criteria to determine acceptability such as inspection,  
19 testing, quality, workmanship, delivery, and suitability for a  
20 particular purpose. Those criteria that will affect the bid  
21 price and be considered in evaluation for award shall be as



1 objectively measurable as possible, such as discounts,  
2 transportation costs, total or life cycle costs, and the  
3 bidder's past performance, if available. The invitation for  
4 bids shall set forth the evaluation criteria to be used. No  
5 criteria may be used in bid evaluation that are not set forth in  
6 the invitation for bids. Bids shall not be disqualified or  
7 deemed non-responsive solely because they utilize metric or  
8 standard measurement systems.

9 (g) Correction or withdrawal of inadvertently erroneous  
10 bids before or after award, or cancellation of invitations for  
11 bids, awards, or contracts based on such bid mistakes, shall be  
12 permitted in accordance with rules adopted by the policy board.  
13 After bid opening no changes in bid prices or other provisions  
14 of bids prejudicial to the interest of the public or to fair  
15 competition shall be permitted. Except as otherwise provided by  
16 rule, all decisions to permit the correction or withdrawal of  
17 bids, or to cancel awards or contracts based on bid mistakes,  
18 shall be supported by a written determination made by the chief  
19 procurement officer or head of a purchasing agency.

20 (h) The contract shall be awarded with reasonable  
21 promptness by written notice to the lowest responsible and



1 responsive bidder whose bid meets the requirements and criteria  
2 set forth in the invitation for bids. In the event all bids  
3 exceed available funds as certified by the appropriate fiscal  
4 officer, the head of the purchasing agency responsible for the  
5 procurement in question is authorized in situations where time  
6 or economic considerations preclude resolicitation of work of a  
7 reduced scope to negotiate an adjustment of the bid price,  
8 including changes in the bid requirements, with the low  
9 responsible and responsive bidder, in order to bring the bid  
10 within the amount of available funds.

11 (i) In cases of awards for a construction project made  
12 under this section, non-selected offerors may submit to the  
13 procurement officer a written request for debriefing within  
14 three working days after the posting of the award of the  
15 contract. Thereafter, the procurement officer shall provide the  
16 non-selected offeror a prompt debriefing, including a  
17 comprehensive written technical and cost evaluation report, that  
18 articulates specific findings demonstrating that the awarded bid  
19 was either:

20 (1) Technically superior, as evidenced by the superior  
21 quality of materials, enhanced hurricane and fire



1                   resistance, or fitness for purpose and site-specific  
2                   context, in conformance with International Code  
3                   Council standards, Construction Specifications  
4                   Institute guidelines, and standards under section  
5                   107- ; or  
6                   (2) Lower in cost while meeting or exceeding minimum  
7                   safety criteria under section 107- and as defined  
8                   by the Construction Specifications Institute.  
9                   Any protest by the non-selected offeror pursuant to section  
10                  103D-701 shall be filed in writing with the procurement officer  
11                  within five working days after the date on which the debriefing  
12                  is received.

13                  [+i+] (j) When it is not practicable to initially prepare  
14                  a purchase description to support an award based on price, an  
15                  invitation for bids, which requests the submission of unpriced  
16                  offers to be followed by an invitation for bids limited to those  
17                  bidders whose offers have been qualified under the criteria set  
18                  forth in the first solicitation, may be used. If a multi-step  
19                  sealed bidding process is used, the notice and the invitation  
20                  for bids shall describe each step to be used in soliciting,  
21                  evaluating, and selecting unpriced offers."

1 SECTION 4. Section 103D-701, Hawaii Revised Statutes, is  
2 amended by amending subsection (c) to read as follows:

3 "(c) The chief procurement officer or a designee shall  
4 resolve any protest as expeditiously as possible. If the  
5 protest is not resolved by mutual agreement, the chief  
6 procurement officer or a designee shall issue a written decision  
7 to uphold or deny the protest. The decision shall:

8 (1) State the reasons for the action taken; and  
9 (2) Inform the protestor of the protestor's right to an  
10 administrative proceeding as provided in this part, if  
11 applicable.

12 If the protest of a construction contract or airport contract  
13 that is awarded pursuant to section 103D-302 or 103D-303 is not  
14 resolved by mutual agreement, the chief procurement officer or a  
15 designee shall issue a written decision to uphold or deny the  
16 protest within seventy-five calendar days of receipt of the  
17 protest; provided that the chief procurement officer or a  
18 designee may grant an extension based on written justification  
19 of the extenuating circumstances; provided further that the  
20 extension shall not exceed forty-five calendar days.

1       If a debriefing under section 103D-302(i) is requested by a  
2       non-selected offeror and:

3           (1)   The debriefing does not include a report in compliance  
4           with that subsection, and  
5           (2)   The protest is not resolved by mutual agreement,  
6       the protester shall have the right to require a mandatory  
7       re-assessment of all bids wherein the state representative and  
8       senator of the district in which the project is located shall  
9       each cast a binding vote in the re-award process."

10           SECTION 5. This Act does not affect rights and duties that  
11       matured, penalties that were incurred, and proceedings that were  
12       begun before its effective date.

13           SECTION 6. Statutory material to be repealed is bracketed  
14       and stricken. New statutory material is underscored.

15           SECTION 7. This Act shall take effect upon its approval.

16

INTRODUCED BY:

  
JAN 28 2026



# H.B. NO. 2553

**Report Title:**

SBCC; Alternative Methods of Construction; Procurement; Protests

**Description:**

Requires the State Building Code Council to provide greater flexibility for the use of alternative materials, designs, or methods of construction within the specifications of the Hawaii state building codes. Authorizes procurement debriefing and award protests for awards that do not account for the alternatives.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

