

JAN 23 2026

---

# 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 all procurement  
2 activities should be conducted in a manner that ensures  
3 transparency, fiscal responsibility, and accountability.  
4 The legislature further finds that section 103D-309, Hawaii  
5 Revised Statutes, requires a certification that there are  
6 sufficient funds available to cover the cost of a contract  
7 before that contract becomes binding. However, this section  
8 does not include a specific threshold of funds that must be  
9 available, nor does it adequately address the disposition of  
10 contract awards that exceed appropriated amounts. The  
11 legislature therefore finds that this law should be amended to  
12 address these issues by establishing a threshold amount and  
13 requiring contracts that exceed that amount to be approved by  
14 the chief procurement officer.  
15 The legislature finds that the current requirement that the  
16 state procurement office administrator provide written  
17 attestation for recommendations and solicitations under section



1 103D-309, Hawaii Revised Statutes, is necessary to ensure proper  
2 oversight of state resources. Accordingly, the legislature  
3 affirms this requirement.

4 The purpose of this Act is to promote transparency, fiscal  
5 responsibility, and fair procurement practices by:

- 6 (1) Ensuring that awarded contracts are supported by  
7 sufficient appropriations by requiring that an awarded  
8 contract amount not exceed ten per cent of the amount  
9 of the available appropriation or balance of an  
10 appropriation;
- 11 (2) Requiring a contract that exceeds the ten per cent  
12 threshold to be approved by the chief procurement  
13 officer to become binding; and
- 14 (3) Repealing criminal penalties in the Hawaii public  
15 procurement code, thereby requiring penalties to be  
16 imposed through administrative processes.

17 SECTION 2. Section 103D-106, Hawaii Revised Statutes, is  
18 amended by amending subsection (a) to read as follows:

19 "(a) Any person who intentionally violates this chapter or  
20 any rules adopted pursuant to this chapter ~~[shall be guilty of a~~  
21 ~~misdemeanor and]~~ shall be:



8 SECTION 3. Section 103D-309, Hawaii Revised Statutes, is  
9 amended by amending subsection (a) to read as follows:

10         "(a) Contracts awarded pursuant to section 103D-302, 103D-  
11         303, or 103D-306, shall neither be binding nor have any force  
12         and effect of law unless the comptroller, the director of  
13         finance of a county, or the respective chief financial officers  
14         of the department of education, the judiciary, or the  
15         legislative branches of the State or county, as the case may be,  
16         endorses thereon a certificate that there is an appropriation or  
17         balance of an appropriation over and above all outstanding  
18         contracts, sufficient to cover the amount required by the  
19         contract; provided that [if]:

20 (1) The awarded contract amount does not exceed ten per  
21 cent of the amount of the available appropriation or



1                   balance of an appropriation; provided further that a  
2                   contract that exceeds this ten per cent threshold  
3                   shall require approval from the chief procurement  
4                   officer to become binding for the purposes of this  
5                   section; and

6                (2) If the contract is a multi-term contract, the  
7                   comptroller, director of finance, or chief financial  
8                   officer shall only be required to certify that there  
9                   is an appropriation or balance of an appropriation  
10                  over and above all outstanding contracts[7] that is  
11                  sufficient to cover the amount required to be paid  
12                  under the contract during the fiscal year or remaining  
13                  portion of the fiscal year of each term of the multi-  
14                  year contract; [provided further that the] and  
15                (3) The administrator of the state procurement office  
16                  shall attest in writing to any recommendation or  
17                  solicitations.

18                  This section shall not apply to any contract under which the  
19                  total amount to be paid to the contractor cannot be accurately  
20                  estimated at the time the contract is to be awarded, or to any  
21                  contract for which consideration is in kind or forbearance, or



1 to any contract awarded pursuant to section 103D-306 that is a  
2 one-time payment through a purchase order."

3 SECTION 4. This Act does not affect rights and duties that  
4 matured, penalties that were incurred, and proceedings that were  
5 begun before its effective date.

6 SECTION 5. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 6. This Act shall take effect upon its approval.

9

INTRODUCED BY: Dan Kildee



# S.B. NO. 2601

**Report Title:**

Procurement; Certification of Available Funds; Threshold Amount; Chief Procurement Officer; Penalties

**Description:**

Ensures that awarded contracts are supported by sufficient appropriations by requiring that the contract amount does not exceed 10% of the amount of the appropriation or balance of an appropriation that is available to cover the cost of the contract. Requires a contract that exceeds the 10% threshold to be approved by the chief procurement officer. Repeals criminal penalties in the Hawaii Public Procurement Code.

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

