

S.B. NO. 3114

JAN 28 2026

A BILL FOR AN ACT

RELATING TO GOVERNMENT CONTRACTING.

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

1 SECTION 1. Governmental contracting agencies must adhere
2 to established rules and requirements, known as procurement
3 standards, when acquiring goods, services, or works, ensuring
4 fairness, transparency, and value for money in their purchasing
5 processes. These standards may extend beyond basic price and
6 quality considerations to include social and economic criteria,
7 such as mandatory minimum wages for workers involved in the
8 contract and proof of valid contractor licensure to ensure
9 compliance with labor laws and professional competence.

10 Procurement standards must be balanced to allow for efficient
11 and timely project completion, while also ensuring
12 accountability and fair competition.

13 Current procurement standards are placing significant
14 administrative burdens on governmental contracting agencies,
15 causing delays for smaller, routine construction and repair
16 jobs. By raising the threshold for exemptions to these
17 procurement standards, governmental contracting agencies can
18 more quickly address critical construction issues. A higher

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1 threshold allows governmental contracting agencies to have
2 greater autonomy and flexibility, ensuring that funding is spent
3 more effectively on tangible improvements.

4 For example, a simple plumbing or electrical repair can
5 quickly exceed the current threshold, which leads to slower
6 project completion. By increasing the cap, governmental
7 contracting agency administrators would be allowed to swiftly
8 hire contractors for smaller-scale projects. This change would
9 not only save valuable time and resources but also allow
10 governmental contracting agencies such as the department of
11 education to address maintenance issues more promptly, creating
12 safer and more functional learning environments for its students
13 and staff.

14 In section 104-2, Hawaii Revised Statutes, the \$2,000
15 public work contract exemption for governmental contracting
16 agencies has not been raised since July 1, 2002, via Act 215,
17 Session Laws of Hawaii 2002. In section 444-2, Hawaii Revised
18 Statutes, the exemption threshold for construction projects
19 involving \$1,500 or less in labor and materials should be raised
20 for governmental contracting agency projects to align with
21 section 104-2, Hawaii Revised Statutes, as labor and materials
22 are often the largest cost for small construction projects.

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1 Based upon the department of business, economic development, and
2 tourism's Honolulu Construction Cost Index, raising the \$2,000
3 exemption threshold set in 2002 in section 104-2, Hawaii Revised
4 Statutes, to \$5,000 would be in line with inflation.
5 Governmental contracting agencies are governed by both sections
6 104-2 and 444-2 and would therefore require both sections to be
7 increased to establish a new procurement standard for small
8 construction projects.

9 SECTION 2. Section 104-2, Hawaii Revised Statutes, is
10 amended by amending subsection (a) to read as follows:

11 " (a) This chapter shall apply to every contract in excess
12 of ~~\$2,000~~ \$5,000 for construction of a public work project to
13 which a governmental contracting agency is a party; provided
14 that this chapter shall not apply to experimental and
15 demonstration housing developed pursuant to section 46-15 or
16 housing developed pursuant to chapter 201H if the cost of the
17 project is less than \$500,000 and the eligible bidder or
18 eligible developer is a private nonprofit corporation.

19 For the purposes of this subsection:

20 "Contract" includes but is not limited to any agreement,
21 purchase order, or voucher in excess of ~~\$2,000~~ \$5,000 for
22 construction of a public work project.

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1 "Governmental contracting agency" includes:

2 (1) Any person or entity that causes either directly or

3 indirectly the building or development of a public

4 work; and

5 (2) Any public-private partnership.

6 "Party" includes eligible bidders for and eligible

7 developers of any public work and any housing under chapter

8 201H; provided that this subsection shall not apply to any

9 housing developed under section 46-15 or chapter 201H if the

10 entire cost of the project is less than \$500,000 and the

11 eligible bidder or eligible developer is a private nonprofit

12 corporation."

13 SECTION 3. Section 444-2, Hawaii Revised Statutes, is

14 amended to read as follows:

15 "**§444-2 Exemptions.** This chapter shall not apply to:

16 (1) Officers and employees of the United States, the

17 State, or any county while in the performance of their

18 governmental duties;

19 (2) Any person acting as a receiver, trustee in

20 bankruptcy, personal representative, or any other

21 person acting under any order or authorization of any

22 court;

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- 1 (3) A person who sells or installs any finished products,
2 materials, or articles of merchandise that are not
3 actually fabricated into and do not become a permanent
4 fixed part of the structure, or to the construction,
5 alteration, improvement, or repair of personal
6 property;
- 7 (4) Any project or operation for which the aggregate
8 contract price for labor and materials is not more
9 than \$1,500. This exemption shall not apply in any
10 case where a building permit is required regardless of
11 the aggregate contract price, nor where the
12 undertaking is only a part of a larger or major
13 project or operation, whether undertaken by the same
14 or a different contractor or in which a division of
15 the project or operation is made in contracts of
16 amounts not more than \$1,500 for the purpose of
17 evading this chapter or otherwise;
- 18 (5) A registered architect or professional engineer acting
19 solely in the person's professional capacity;
- 20 (6) Any person who engages in the activities regulated in
21 this chapter as an employee with wages as the person's
22 sole compensation;

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- 1 (7) Owner-builders exempted under section 444-2.5;
- 2 (8) Any joint venture if all members thereof hold licenses
- 3 issued under this chapter;
- 4 (9) Any project or operation where it is determined by the
- 5 board that less than ten persons are qualified to
- 6 perform the work in question and that the work does
- 7 not pose a potential danger to public health, safety,
- 8 and welfare; [or]
- 9 (10) Any public works project that requires additional
- 10 qualifications beyond those established by the
- 11 licensing law and which is deemed necessary and in the
- 12 public interest by the contracting agency[.]; or
- 13 (11) Any project or operation for the construction or
- 14 repair of a public work, as defined in chapter 104, to
- 15 which a governmental contracting agency is a party, in
- 16 which the aggregate contract price for labor and
- 17 materials is not more than \$5,000. This exemption
- 18 shall not apply in any case where a building permit is
- 19 required regardless of the aggregate contract price,
- 20 nor where the undertaking is only a part of a larger
- 21 or major project or operation, whether undertaken by
- 22 the same or a different contractor or in which a

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1 division of the project or operation is made in
2 contracts of amounts not more than \$5,000 for the
3 purpose of evading this chapter or otherwise."

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

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

7
8 INTRODUCED BY: Mun. M.
9 BY REQUEST

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Report Title:

Governmental Contracting Agencies; Procurement Standards; Prevailing Wages; Contractors Licensing Exemption

Description:

Raises the ceiling for the prevailing wages exemption on public works construction projects from \$2,000 to \$5,000 for governmental contracting agencies. Creates exemption to contractors licensing laws for public works construction projects valued up to \$5,000 for governmental contracting agencies.

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

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JUSTIFICATION SHEET

DEPARTMENT: Education

TITLE: A BILL FOR AN ACT RELATING TO GOVERNMENT CONTRACTING.

PURPOSE: To increase the ceiling for the prevailing wages exemption for public works construction from \$2,000 to \$5,000; and to create an exemption to contractors licensing laws for public works construction projects valued up to \$5,000.

MEANS: Amend sections 104-2(a) and 444-2, Hawaii Revised Statutes (HRS).

JUSTIFICATION: The Department faces a hardship in maintaining its facilities which has led to deferred maintenance, causing more expensive emergency repairs down the line. As Hawaii's schools grow older, the number of repairs will increase.

Governmental contracting agencies must adhere to established rules and requirements, known as procurement standards, when acquiring goods, services, or works, ensuring fairness, transparency, and value for money in their purchasing processes. These standards may extend beyond basic price and quality considerations to include social and economic criteria, such as mandatory minimum wages for workers involved in the contract and proof of valid contractor licensure to ensure compliance with labor laws and professional competence. Procurement standards must be balanced to allow for efficient and timely project completion, while also ensuring accountability and fair competition.

Current procurement standards are placing significant administrative burdens on governmental contracting agencies, causing delays for smaller, routine construction and

repair jobs. By raising the threshold for exemptions to these procurement standards, governmental contracting agencies can more quickly address critical construction issues. A higher threshold allows governmental contracting agencies to have greater autonomy and flexibility, ensuring that funding is spent more effectively on tangible improvements.

For example, a simple plumbing or electrical repair can quickly exceed the current threshold which leads to slower project completion. By increasing the cap, governmental contracting agency administrators would be allowed to swiftly hire contractors for smaller-scale projects. This change would not only save valuable time and resources but also allow agencies such as the Department to address maintenance issues more promptly, creating safer and more functional learning environments for its students and staff.

In section 104-2, the \$2,000 public work contract exemption has not been raised since July 1, 2002, via Act 215, Session Laws of Hawaii 2002. In section 444-2, the exemption threshold for construction projects involving \$1,500 or less in labor and materials should be raised for governmental contracting agency projects to align with section 104-2, as labor and materials are often the largest cost for small construction projects. Without changing section 444-2 to match section 104-2, governmental contracting agencies would in practice only be able to use the lower of the two amounts. Based upon the Department of Business, Economic Development, and Tourism's Honolulu Construction Cost Index, raising the threshold from \$2,000 to \$5,000 would be in line with inflation.

Impact on the public: The public wants greater efficiency, faster project completion, and better use of taxpayer money

in the repair of school and other state agency facilities. Through the inflation-adjusted increases in construction related cost for procurement standard exemptions, the public will see improved school and other state agency facilities, which will directly impact the quality of education and student well-being.

Impact on the department and other agencies:
By raising the procurement standard thresholds, governmental contracting agencies, including the Department, will be better able to address backlogs of facility needs for small-scale construction and repair projects. This flexibility is crucial for reducing administrative burdens and addressing immediate health and safety concerns.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: Any governmental contracting agency with construction procurement standards.

EFFECTIVE DATE: Upon approval.