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# A BILL FOR AN ACT

RELATING TO PROCUREMENT PROTESTS.

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

1           SECTION 1. The legislature finds that construction costs  
2 are increasing, due in part to prolonged protests during the  
3 procurement process. To address this issue, the legislature  
4 enacted:

5           (1) Act 224, Session Laws of Hawaii 2021, which increased  
6 the amount of cash or protest bond required to  
7 initiate an administrative proceeding from one-half  
8 per cent to one per cent of the estimated value of the  
9 contract; and

10          (2) Act 162, Session Laws of Hawaii 2024, which provided  
11 for the return of the cash or protest bond to the  
12 initiating party, less administrative costs, unless  
13 the initiating party does not prevail and the claim is  
14 determined to be frivolous or made in bad faith.

15          To expedite the construction of projects and minimize  
16 delays due to protest claims, the legislature further finds that  
17 it would be in the best interests of the State for the cash or



1 protest bond, less administrative costs, to be deposited into  
2 the general fund in all cases where the initiating party does  
3 not prevail.

4 Accordingly, the purpose of this Act is to require the  
5 forfeiture of half of the cash or protest bond if an initiating  
6 party does not prevail in an administrative proceeding.

7 SECTION 2. Section 103D-709, Hawaii Revised Statutes, is  
8 amended by amending subsection (e) to read as follows:

9 "(e) The party initiating a proceeding falling within  
10 subsection (d) shall pay to the department of commerce and  
11 consumer affairs a cash or protest bond in the amount of one per  
12 cent of the estimated value of the contract.

13 The cash or protest bond shall be returned to that party,  
14 minus administrative costs as determined by the office of  
15 administrative hearings of the department of commerce and  
16 consumer affairs; provided that ~~[full]~~ forfeiture of half of the  
17 cash or protest bond shall occur if the initiating party does  
18 not prevail in the administrative proceeding and the office of  
19 administrative hearings finds that the appeal was ~~[frivolous or]~~  
20 made in bad faith, in which case the cash or protest bond shall  
21 be deposited into the general fund."



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

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 on January 1, 2525.



S.B. NO. 3249  
S.D. 1

**Report Title:**

Procurement; Protests; Administrative Proceedings; Cash or  
Protest Bonds; Forfeiture

**Description:**

Requires the forfeiture of half of the cash or protest bond for review of procurement-related disputes if the initiating party does not prevail in an administrative proceeding and the Office of Administrative Hearings finds that the appeal was made in bad faith. Effective 1/1/2525. (SD1)

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