

STAND. COM. REP. NO. 2470

Honolulu, Hawaii

FEB 19 2026

RE: S.B. No. 2075
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Third State Legislature
Regular Session of 2026
State of Hawaii

Sir:

Your Committee on Government Operations, to which was referred S.B. No. 2075 entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC PROCUREMENT,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require purchasing agencies to apply a local preference to Hawaii businesses in evaluating bids or proposals;
- (2) Establish criteria for a Hawaii business to qualify for a local preference;
- (3) Establish tiered local preference percentages to be applied based on a bid price; and
- (4) Establish procedures that must be followed by contract awardees who fail to meet or maintain the preference criteria.

Your Committee received testimony in support of this measure from the Office of Economic Revitalization of the City and County of Honolulu, Economic Revitalization Commission of the City and County of Honolulu, Hawai'i Farm Bureau, Holomua Collaborative, Hawaii Food Industry Association, Maui Chamber of Commerce,



Kapolei Chamber of Commerce, Title Guaranty of Hawai'i, HPM Building Supply, aio Family of Companies, and three individuals.

Your Committee received comments on this measure from the Department of the Attorney General and State Procurement Office.

Your Committee finds that public procurement represents a significant expenditure of public funds and that, when expending its own funds, the State acts as a market participant. Your Committee further finds that a carefully structured and moderate local bidder preference can strengthen the State's economic resiliency, enhance workforce development, promote supply chain stability, and retain public dollars within the State, while preserving fairness, transparency, and fiscal responsibility in the procurement process.

Your Committee acknowledges that, while the measure received broad support for its economic development objectives, testifiers raised concerns regarding potential challenges under the United States Constitution; additional administrative burdens; lack of clarity in the definitions, verification procedures, application to small purchases, and relation to other preferences, including application of reciprocal preferences against a non-Hawaii bidder or offeror, and potential conflicts with federal funding requirements. Therefore, amendments to this measure are necessary to address these concerns and improve clarity, administrative workability, and legal defensibility. As amended, this measure narrows the scope of application, establishes objective eligibility standards, provides a defined evaluation formula and cap on the preference amount, requires affidavit certification and pre-award verification, incorporates enforcement mechanisms, and clarifies the relationship to federal funding requirements.

Specifically, your Committee has amended this measure by:

- (1) Clarifying that the local preference for Hawaii businesses does not apply to small purchases under section 103D-105, Hawaii Revised Statutes, by:
 - (A) Deleting language that would have created a new section establishing the local preference for Hawaii businesses in part X of chapter 103D, Hawaii Revised Statutes; and



- (B) Inserting language amending sections 103D-302 and 103D-303, Hawaii Revised Statutes, to establish a preference for Hawaii bidders and Hawaii offerors;
- (2) Clarifying the eligibility standards, procedural requirements, preference limit, compliance safeguards, and enforcement mechanisms by:
- (A) Requiring qualified bidders and offerors to submit a Hawaii bidder preference certification or Hawaii offeror preference certification at or before the time set for bid opening or receipt of proposals;
 - (B) Setting the preference to a flat reduction of five percent from the bid price or proposal price, rather than a tiered amount;
 - (C) Limiting the total preference amount to \$500,000;
 - (D) Allowing the preference to be applied only when the total bid price or total contract value is less than \$10,000,000; the application of the preference does not conflict with federal law, federal regulation, or a condition for the allocation of federal funds to the procurement; and a Hawaii bidder or Hawaii offeror competes against a bidder or offeror that does not qualify as a Hawaii bidder or Hawaii offeror;
 - (E) Prohibiting the preference to be applied between two Hawaii bidders;
 - (F) Requiring the award to be made at the original bid price or contract price and not at the reduced evaluated price;
 - (G) Requiring a bidder or offeror receiving the preference to certify, under penalty of perjury, that not less than fifty-one percent of the total direct labor hours required for performance of the contract will be performed within the State and the bidder or offeror will maintain qualification as a



Hawaii bidder or Hawaii offeror throughout contract performance;

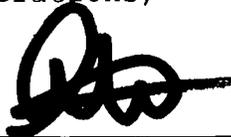
- (H) Before award of a contract to a bidder or offeror receiving a preference, requiring the procurement officer to verify that the bidder or offeror satisfies all eligibility requirements; provided that any bidder or offeror who does not satisfy the requirements shall be given a reasonable time to cure the deficiency;
 - (I) Establishing that failure to maintain qualification as a Hawaii bidder or Hawaii offeror shall subject the awarded contract to price adjustment equal to the value of the preference applied and may constitute cause for debarment pursuant to section 103D-702, Hawaii Revised Statutes; and
 - (J) Establishing that the preference for Hawaii bidders and Hawaii offerors does not limit the authority of the Chief Procurement Officer to apply a reciprocal preference against a nonresident bidder or offeror;
- (3) Inserting language establishing that the causes for debarment or suspension under section 103D-702, Hawaii Revised Statutes, include knowingly making, or causing to be made, a false or misleading statement or certification of material fact for the purposes of obtaining or retaining preference for Hawaii bidders and Hawaii offerors;
 - (4) Deleting language that would have defined "Hawaii business" to mean any person, agency, corporation, or other business entity with its principal place of business located in the State;
 - (5) Inserting language defining "Hawaii bidder", "Hawaii bidder preference certification", "Hawaii offeror", and "Hawaii offeror preference certification";
 - (6) Inserting language authorizing the Procurement Policy Board to adopt rules to implement and administer the preference;



- (7) Amending section 1 to reflect its amended purpose;
- (8) Inserting a savings clause;
- (9) Inserting an effective date of July 1, 2525, to encourage further discussion; and
- (10) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2075, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2075, S.D. 1, and be referred to your Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Government
Operations,



ANGUS L.K. MCKELVEY, Chair



