

JOSH B. GREEN, M.D.  
GOVERNOR  
KE KIA'ĀINA



BONNIE KAHAKUI  
ADMINISTRATOR  
DAYNA OMIYA  
ASSISTANT ADMINISTRATOR

**STATE OF HAWAII | KA MOKU'ĀINA O HAWAII'**  
**STATE PROCUREMENT OFFICE**  
P.O. Box 119  
Honolulu, Hawaii 96810-0119  
Tel: (808) 586-0554  
email: [state.procurement.office@hawaii.gov](mailto:state.procurement.office@hawaii.gov)  
<http://spo.hawaii.gov>

TESTIMONY  
OF  
BONNIE KAHAKUI, ADMINISTRATOR  
STATE PROCUREMENT OFFICE  
TO THE HOUSE COMMITTEE  
ON  
JUDICIARY & HAWAIIAN AFFAIRS  
MARCH 25, 2026, 2:00 PM  
SENATE BILL 2601, SD2  
RELATING TO PROCUREMENT

Chair Tarnas, Vice Chair Poepoe, and members of the committee, thank you for the opportunity to submit testimony on Senate Bill 2601, SD2. The State Procurement Office (SPO) respectfully provides the following comments.

### Comments

Section 103D-309, Hawaii Revised Statutes (HRS), promotes fiscal responsibility and effectively prevents the over-obligation of appropriated funds by requiring certification that sufficient appropriated funds – over and above all outstanding contracts – are available to cover the payments under the contract for the current fiscal year or the remaining portion of the fiscal year for each term of the multi-year contract before contracts are awarded through competitive sealed bidding, competitive sealed proposals, and sole source procurement.

Senate Bill 2601, SD2, stipulates that **any** intentional violation of the Hawaii Public Procurement Code (HRS Chapter 103D) is subject to a petty misdemeanor for a first offense and a misdemeanor for second and subsequent offenses, thereby shifting enforcement of such violations from administrative to criminal penalties. The SPO is concerned that enforcement of criminal penalties in the Hawaii Public Procurement Code may raise significant concerns regarding how, when, and to whom the penalties will be assessed. If the penalties are assessed to an employee, the public labor unions are likely to challenge this issue. Imposing criminal liability for Chapter 103D violations affects employment under HRS Chapter 89, particularly in roles where procurement decisions rely on sound business judgment rather than intentional criminal misconduct.

Though the misdemeanor provision is not applied often, its existence reinforces the seriousness of compliance with procurement requirements and serves as an important deterrent to intentional, egregious violators of procurement law. Retaining this provision preserves an enforcement tool for the most serious cases, while still allowing agencies to rely primarily on administrative remedies for routine compliance issues.

## Recommendations

To address the aforementioned concerns, the SPO recommends adding language to SECTION 2, Page 3, lines 1-13:

- " (a) Any person who intentionally violates this chapter or any rules adopted pursuant to this chapter shall be:
- (1) Subject to removal from office;
  - (2) Liable to the State or the appropriate county for any sum paid by it in connection with the violation, and that sum, together with interest and costs, shall be recoverable by the State or county;
  - (3) Subject to imposition of an administrative fine under subsection (b); and
  - ~~[(4) Guilty of:~~
    - ~~(A) A petty misdemeanor for the first offense; and~~
    - ~~(B) A misdemeanor for any subsequent offense.]~~
  - (4) Subject to prosecution for a misdemeanor in cases of egregious violations of the procurement code."

Senate Bill 2601, SD2, also amends this statute by adding that the awarded contract amount does not exceed ten per cent of the amount of the available appropriation or balance of an appropriation. The SD2 version further proposes that any contract exceeding the ten per cent threshold require approval from the Chief Procurement Officer (CPO). To address the resulting administrative burdens and delays, the SD2 version proposes adding permanent full-time equivalent (FTE) positions within the State Procurement Office.

Hawaii Administrative Rules (HAR) already impose limitations on contract increases. For example, HAR Section 3-122-82, Sole source approvals and amendments, subsection (d), states that an amendment to a contract that would change the original scope of the contract, or increase the original contract price by ten per cent or more, may only be made with the approval of the Chief Procurement Officer. HAR Chapter 125, Modifications and Terminations of Contracts, also addresses price adjustments for various contracts.

The SPO recommends increasing the threshold to **fifteen per cent**, which provides purchasing agencies greater flexibility to address project requirements while minimizing administrative burdens. Therefore, the SPO recommends the following revision to SECTION 3, Page 4, lines 5-10:

" (1) The awarded contract amount does not exceed [~~ten~~ **fifteen** per cent of the amount of the available appropriation or balance of an appropriation; provided further that a contract that exceeds this [~~ten~~ **fifteen** per cent threshold shall require approval from the chief procurement officer to become binding for the purposes of this section; and"

Furthermore, this measure does not fully address the operational impacts statewide. Procurement authority is decentralized across 22 jurisdictions, each with its own Chief Procurement Officer. Because the bill requires approval from the CPO, it is unclear what the legislative intent is in providing the State Procurement Office with additional funding and permanent positions, given that procurement authority is delegated to the CPOs across multiple jurisdictions. In addition to the CPO of the Executive Branch, the other 21 CPOs will also need additional resources to carry out the intent of the bill.

The required scope for the FTE positions, particularly the specialized fiscal auditing of procurements, does not directly align with any existing state position classification. Additional research and analysis will be required to define and formalize the scope, duties, and structure of these positions.

Thank you for the opportunity to submit testimony on this measure.

**SB-2601-SD-2**

Submitted on: 3/23/2026 6:22:50 PM

Testimony for JHA on 3/25/2026 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Johnnie-Mae L. Perry	Individual	Comments	Written Testimony Only

Comments:

I, Johnnie-Mae L. Perry, Comment 2601 SB RELATING TO PROCUREMENT.

IRAN WAR IS COSTING TAXPAYERS 1BILLION \$ A DAY. HOW WILL FEDERAL FUNDING IMPACT THE SOH BUDGET?