

ACT 186

H.B. NO. 1660

A Bill for an Act Relating to Procurement.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that various efforts have been made in recent years to grant the University of Hawaii increased flexibility in fiscal and other matters to improve efficiency in its operations. Currently, the University of Hawaii must comply with the formal bidding and other procedural requirements of the State procurement code to purchase from its own bookstores. This Act exempts the University of Hawaii from the procurement code when making purchases from its bookstores, as long as the goods or services are those that are routinely stocked and marketed and not specially ordered.

In addition, this Act recognizes that the office of intercollegiate athletics at the University of Hawaii at Manoa (athletics office) is in the process of undergoing significant financial changes. For example, the athletics office plans to lose \$1,200,000 in general fund support over the fiscal biennium. After this reduction, its operations must become virtually self-sustaining, although it may continue to receive support for its overhead costs. As such, the athletics office must be provided with the tools to enable it to operate more entrepreneurially so that it can increase revenues from other sources. This Act exempts from the State procurement code the purchase of goods and services by the athletics office with moneys from the University of Hawaii at Manoa intercollegiate athletics revolving fund.

With the increased fiscal flexibility provided the athletic office comes greater responsibility and the need for accountability. Because of this responsibility the athletic office is directed to report annually to the legislature and to keep informed

the house committees on finance and higher education, and the senate committees on ways and means, education, and government operations and housing:

SECTION 2. Section 103D-102, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Notwithstanding subsection (a), this chapter shall not apply to contracts by governmental bodies:

- (1) Solicited or entered into before July 1, 1994, unless the parties agree to its application to a contract solicited or entered into prior to July 1, 1994;
- (2) To disburse funds, irrespective of their source:
 - (A) For grants, subsidies, or purchases of services as those terms are defined in section 42D-1, made in accordance with standards provided by law as required by article VII, section 4, of the State Constitution; or by the counties pursuant to their respective charters or ordinances;
 - (B) To make payments to or on behalf of public officers and employees for salaries, fringe benefits, professional fees, or reimbursements;
 - (C) To satisfy obligations [which] that the State is required to pay by law, including paying fees, permanent settlements, subsidies, or other claims, making refunds, and returning funds held by the State as trustee, custodian, or bailee;
 - (D) For entitlement programs, including public assistance, unemployment, and workers’ compensation programs, established by state or federal law;
 - (E) For dues and fees of organizations of which the State or its officers and employees are members, including the National Association of Governors, the National Association of State and County Governments, and the Multi-State Tax Commission;
 - (F) For deposit, investment, or safekeeping, including expenses related to their deposit, investment, or safekeeping;
 - (G) To governmental bodies of the State; and
 - (H) As loans, under loan programs administered by a governmental body;
- (3) To procure goods, services, or construction from a governmental body other than the University of Hawaii bookstores, from the federal government, or from another state or its political subdivision; provided that University of Hawaii departments and programs, without regard to this chapter, may procure goods and services from the University of Hawaii bookstores that are routinely stocked and marketed and not specially ordered;
- (4) To procure goods or services for the office of intercollegiate athletics of the University of Hawaii at Manoa with moneys from the University of Hawaii at Manoa intercollegiate athletics revolving fund;
- [(4)] (5) To procure goods or services, including the following:
 - (A) Services of expert witnesses for potential and actual litigation of legal matters involving the State, its agencies, and its officers and employees, including administrative quasi-judicial proceedings;
 - (B) Works of art for museum or public display;
 - (C) Research and reference materials including books, maps, periodicals, and pamphlets, which are published in print, video, audio, magnetic, or electronic form;

- (D) Meats and foodstuffs for the Kalaupapa settlement;
 - (E) Opponents for athletic contests;
 - (F) Utility services whose rates or prices are fixed by regulatory processes or agencies;
 - (G) Performances, including entertainment, speeches, and cultural and artistic presentations;
 - (H) Goods and services for commercial resale by the State;
 - (I) Services of printers, rating agencies, support facilities, fiscal and paying agents, and registrars for the issuance and sale of the State's or counties' bonds; and
 - (J) Travel arrangements purchased by the University of Hawaii for its intercollegiate athletic programs; which the policy office determines by rule or the chief procurement officer determines in writing is available from multiple sources but for which procurement by competitive means is either not practicable or not advantageous to the State; and
- [(5)] (6) Which are specific procurements expressly exempt from any or all of the requirements of this chapter by:
- (A) References in state or federal law to provisions of this chapter or a section of this chapter, or references to a particular requirement of this chapter; and
 - (B) Trade agreements, including the Uruguay Round General Agreement on Tariffs and Trade (GATT) which require certain non-construction and non-software development procurements by the comptroller to be conducted in accordance with its terms.'''

SECTION 3. The office of intercollegiate athletics of the University of Hawaii at Manoa shall submit an annual report to the legislature on the status of the University of Hawaii at Manoa intercollegiate athletics revolving fund, including a detailed accounting of expenditures made for goods and services made pursuant to section 2. Each annual report shall be submitted to the legislature no later than twenty days prior to the convening of the next regular legislative session.

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

SECTION 5. This Act shall take effect on July 1, 1997; provided that section 103D-102(b)(4), Hawaii Revised Statutes, shall be repealed on June 30, 1999.

(Approved June 16, 1997.)