

ACT 42

S.B. NO. 2831

A Bill for an Act Relating to Procurement for the University of Hawaii.

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

SECTION 1. The legislature finds that Act 87, Session Laws of Hawaii 2013, was enacted to: (1) remove the university president's full authority to act as chief procurement officer for the university for all procurement contracts under chapter 103D, Hawaii Revised Statutes, (2) transfer authority to the administrator of the state procurement office to act as chief procurement officer with respect to university construction contracts and university professional services contracts relating to construction, and (3) address concerns about the prudent and transparent management of public funds appropriated by the legislature and expended by the university for construction. Since its enactment, Act 87 has resulted in a bifurcated procurement system at the university wherein a different set of rules and procedures applies depending on whether the procurement involves construction or construction related professional services for university construction projects. Requirements for construction or professional services furnished by licensees under chapter 464, Hawaii Revised Statutes, must comply with the Hawaii public procurement code and procedures governing state executive branch agencies, while requirements for goods and services must comply with the Hawaii public procurement code and university executive and administrative procedures governing university transactions.

In January 2016, the state procurement office issued its report to the legislature as required under Act 87, which documents the extensive oversight, reviews, and coordination between the university and the state procurement office on procurements involving construction and professional services related to construction. The conclusion of the state procurement office in the report was that "based on SPO's review of 102 UH construction solicitations, UH's Administrative Procedures, and 14 post-award Site Visits, SPO finds that UH is conducting construction procurements in a compliant, efficient and transparent manner." In the report, the state procurement office further set forth minimum recommendations for improvement and mentioned several university specific procedures as "best-practices."

The purpose of this Act is to reinstate and restore full authority to the university president to act as the university's chief procurement officer for all procurement contracts under chapter 103D, Hawaii Revised Statutes.

SECTION 2. Section 103D-203, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The chief procurement officer for each of the following state entities shall be:

- (1) The judiciary—the administrative director of the courts;
- (2) The senate—the president of the senate;

- (3) The house of representatives—the speaker of the house of representatives;
- (4) The office of Hawaiian affairs—the chairperson of the board;
- (5) The University of Hawaii—the president of the University of Hawaii; ~~[provided that, except as specified in section 304A-2672(2), for contracts for construction and professional services furnished by licensees under chapter 464, the administrator of the state procurement office of the department of accounting and general services shall serve as the chief procurement officer;]~~
- (6) The department of education, excluding the Hawaii public library system—the superintendent of education;
- (7) The Hawaii health systems corporation—the chief executive officer of the Hawaii health systems corporation; and
- (8) The remaining departments of the executive branch of the State and all governmental bodies administratively attached to them—the administrator of the state procurement office of the department of accounting and general services.”

SECTION 3. Section 304A-2672, Hawaii Revised Statutes, is amended to read as follows:

“§304A-2672 Powers of the board. Notwithstanding any law to the contrary, the board may:

- (1) Designate as a university project, any undertaking, improvement, or facility on any one or more of the areas in one or more of the educational institutions under the jurisdiction of the board;
- (2) Construct and maintain university projects, including a university project included or to be in a university system; ~~[provided that all procurements for professional services furnished by licensees under chapter 464 for construction projects shall be coordinated with the department of accounting and general services on behalf of the board; provided further that the department of accounting and general services shall not be responsible for procurements determined by both the University of Hawaii and the department of accounting and general services to be professional services furnished by licensees under chapter 464 for repair and maintenance;]~~
- (3) Combine two or more university projects into a university system on one or more of the areas on any one or more of the educational institutions under the jurisdiction of the board, and to maintain the system;
- (4) Combine two or more university projects, university systems, or university projects and university systems into a network, on any one or more of the areas on any one or more of the educational institutions under the jurisdiction of the board, and to maintain the network;
- (5) Prescribe and collect rents, fees, and charges for the use of or services furnished by any university project and the facilities thereof, and pledge any appropriation to any university project and the facilities thereof that in aggregate, produces revenue of the university at least sufficient to comply with section 304A-2681;
- (6) With the approval of the governor, issue revenue bonds under this subpart in such principal amount as may be authorized by the legislature from time to time to finance in whole or in part the cost of construction or the cost of maintenance of any university project, including funding reserves therefor;

- (7) Pledge to the punctual payment of revenue bonds and interest thereon, all or any part of the revenue of the university, including any appropriation, in an amount sufficient to pay the revenue bonds and interest as the same become due and to create and maintain reasonable reserves therefor;
- (8) Establish a loan program or a commercial paper program upon terms and conditions that the board may determine; and
- (9) Advance moneys of the university, not otherwise required, and do any and all other lawful acts as may be necessary, convenient, or desirable, for carrying into execution and administering this subpart.”

SECTION 4. The University of Hawaii shall submit an annual report to the legislature detailing a list of all capital improvement projects approved by the board of regents prioritized by each campus no later than twenty days prior to the convening of each regular session.

SECTION 5. Statutory material to be repealed is bracketed and stricken.

SECTION 6. This Act shall take effect upon its approval; provided that on June 30, 2021, this Act shall be repealed and sections 103D-203(a) and 304A-2672, Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day prior to the effective date of this Act.

(Approved June 12, 2018.)