



The Judiciary, State of Hawaii

Testimony to the Senate Committee on Government Operations
Senator Donna Mercado Kim

Thursday, February 4, 2016, 1:15 p.m.
State Capitol, Conference Room 414

By
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Bill No. and Title: Senate Bill No. 2499, Relating to Construction Contracts.

Purpose: Mandate federal statutory requirements relating to construction contracts.

Judiciary's Position:

The Judiciary neither supports nor opposes Senate Bill No. 2499 but offers the following comments on this measure:

1. The bill does not appear to provide for a transition plan. Section 19 states this Act shall take effect upon its approval. A transition plan would provide for comparison of systems and reasonable and orderly migration of policies, procedures and paperwork to implement a Federal system at the State level. Review during such transition should examine whether there might be implications for application of State case law. Limited transition time may result in loss of funding for current Capital Improvement Projects and/or delay of completion.
2. The bill also does not appear to provide for or address the following areas:
 - **Capital Works in Progress.** Lack of guidelines in this bill make it unclear as to which ongoing projects the new requirements might apply or at what stage they would transition.



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- **Organizational Structure.** Without providing for an organizational structure to administer construction under Federal requirements, it is unclear how education/training would be fulfilled under the new Federal system to the State staff who procure and administer capital improvement programs.
- **Emergency Procurement.** How would construction be procured in an emergency to deal with natural disasters, unforeseen infrastructure failures or other emergencies? Any delay in repairs could pose a threat to the health and safety of employees and/or the public.
- **Design/Build.** Design/build does not appear to be recognized as an option for future consideration.

Thank you for this opportunity to testify on Senate Bill No. 2499.