

**PROCUREMENT POLICY BOARD (PPB)**  
1151 Punchbowl Street, Conference Room 410  
Honolulu, Hawaii 96813

Regular Meeting  
October 15, 2009  
1:00 pm

AGENDA

- I. Call to Order.
- II. Approval of Minutes – Meeting of July 16, 2009.
- III. Request by PPB Member Russ Saito: Discussion on administrative rules implementation requirements for ACT 10 (A Bill for an Act Relating to Labor) and ACT 17 (A Bill for an Act Relating to Procurement), Special Session 2009.
- IV. Request by PPB Member Keith Matsumoto for an executive session in follow up on the previous discussion on July 16, 2009, on the Board's powers and liabilities relative to on-going matters in litigation.
- V. Announcements.
- VI. Adjournment.

Agenda and available agenda items may be viewed at <http://hawaii.gov/spo/procurement-policy-board-minutes-of-meeting>. Individuals may present testimony on matters on the Procurement Policy Board's agenda when the agenda item is being discussed by the Board. Individuals intending to testify should contact the State Procurement Office at (808) 587-4700 at least 48 hours before the scheduled meeting. Written testimonies will be accepted through e-mail at [procurement.policy.board@hawaii.gov](mailto:procurement.policy.board@hawaii.gov) or faxed to (808) 587-4703 until 1:00 pm, October 13, 2009. Testimonies received after the October 13, 2009 deadline will be forwarded to the board as time permits. Individuals submitting written testimony at the meeting and would like the written testimony distributed to the board at this meeting, are requested to provide 12 copies.

Individuals requiring special assistance or services may call (808) 587-4700 by 1:00 p.m., October 12, 2009 to discuss accommodation arrangements.

# Agenda Item III

**A BILL FOR AN ACT**

**VETO OVERRIDE**

RELATING TO LABOR.

Act No. 10  
Approved: [Signature]  
Dated: July 15, 2009

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. Section 104-3, Hawaii Revised Statutes, is  
2 amended by amending subsections (a) and (b) to read as follows:  
3 "(a) Every [~~such~~] contract subject to this chapter and the  
4 specifications for [~~such contract~~] those contracts shall contain  
5 a provision that a certified copy of all payrolls and a  
6 certified copy of a fringe benefit reporting form supplied by  
7 the department or any certified form that contains all of the  
8 required fringe benefit information shall be submitted weekly to  
9 the governmental contracting agency for review. The fringe  
10 benefit reporting form shall itemize the cost of fringe benefits  
11 paid by the general contractor or subcontractor for:  
12 (1) Health and welfare benefits;  
13 (2) Pension and annuity benefits;  
14 (3) Vacation benefits;  
15 (4) Continuing education and training benefits; and  
16 (5) Other fringe benefit costs paid by the general  
17 contractor or subcontractor.



1 The general contractor shall be responsible for the submission  
2 of certified copies of the payrolls of all subcontractors. The  
3 certification shall affirm that the payrolls are correct and  
4 complete, that the wage rates contained therein are not less  
5 than the applicable rates contained in the wage determination  
6 decision of the director of labor and industrial relations  
7 attached to the contract, and that the classifications set forth  
8 for each laborer or mechanic conform with the work the laborer  
9 or mechanic performed. Any certification discrepancy found by  
10 the contracting agency shall be reported to the general  
11 contractor and the director to effect compliance.

12 (b) Payroll records for all laborers and mechanics working  
13 at the site of the work shall be maintained by the general  
14 contractor and the general contractor's subcontractors, if any,  
15 during the course of the work and preserved for a period of  
16 three years thereafter. The records shall contain the name of  
17 each employee, the employee's correct classification, rate of  
18 pay, the itemized fringe benefit reporting form pursuant to  
19 subsection (a), daily and weekly number of hours worked,  
20 deductions made, and actual wages paid."



1 SECTION 2. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 3. This Act shall take effect on October 1, 2009.



**A BILL FOR AN ACT**

**VETO OVERRIDE**

RELATING TO PROCUREMENT.

ACT No. 17

Approved: [Signature] / Cha

Dated: July 15, 2009

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. Chapter 103, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:  
4 "§103- Public works construction; apprenticeship  
5 agreement. (a) A governmental body, as defined in section  
6 103D-104, that enters into a public works contract under this  
7 chapter having an estimated value of not less than \$250,000,  
8 shall decrease the bid amount of a bidder by five per cent if  
9 the bidder is a party to an apprenticeship agreement registered  
10 with the department of labor and industrial relations for each  
11 apprenticeable trade the bidder will employ to construct the  
12 public works, and in conformance with chapter 372. The lowest  
13 total bid, taking the preference into consideration, shall be  
14 awarded the contract unless the solicitation provides for  
15 additional award criteria. The contract amount awarded,  
16 however, shall be the amount of the price offered, exclusive of  
17 the preference.



OT3V

1        (b) For purposes of subsection (a), in determining whether  
2 there is conformance with chapter 372, the procurement officer  
3 shall consider the actual number of apprentices enrolled in and  
4 the annual number of graduates of the apprenticeship program.

5        (c) At the time of submission of a competitive sealed bid  
6 or a competitive sealed proposal by a bidder, the bidder shall  
7 furnish written proof of being a party to a registered  
8 apprenticeship agreement for each apprenticeable trade the  
9 bidder will employ to construct the public works and, if awarded  
10 the contract, shall continue to certify monthly in writing that  
11 the bidder is a party to a registered apprenticeship agreement  
12 for each apprenticeable trade the bidder will employ to  
13 construct the public works for the entire duration of the  
14 bidder's work on the project. This subsection shall be deemed  
15 to be incorporated into a public works contract. A bidder who  
16 is awarded a contract shall be subject to the following  
17 sanctions if, after commencement of work, the bidder at any time  
18 during the construction is no longer a party to a registered  
19 apprenticeship agreement for each apprenticeable trade the  
20 bidder will employ to construct the public works:

21        (1) Temporary or permanent cessation of work on the  
22 project, without recourse to breach of contract claims



1           by the bidder; provided that the governmental body  
2           shall be entitled to restitution for nonperformance or  
3           liquidated damages, as appropriate; or

4           (2) Proceedings to debar or suspend under section  
5           103D-702.

6           (d) For purposes of this section, "bidder" means an entity  
7           that submits a competitive sealed bid under section 103D-302 or  
8           submits a competitive sealed proposal under section 103D-303."

9           SECTION 2. New statutory material is underscored.

10          SECTION 3. This Act shall take effect upon its approval.

