

1 necessary, and limit supplier qualifications to those
2 that are "essential" to the performance of the
3 contract;

4 (3) The governor and not the legislature has chosen to
5 bind the State to the terms of various international
6 trade agreements upon the request of the United States
7 Trade Representative;

8 (4) The legislature has an important role to play in
9 preserving state authority over procurement policy.
10 These critical decisions should be made only with the
11 involvement of the legislature and only after the
12 public has been adequately informed and has openly
13 debated the issues involved;

14 (5) It is critical for residents, state agencies, the
15 legislature, and other elected officials in the State
16 to have access to information about how trade impacts
17 legislative authority, the State's economy, and
18 existing state laws in order to participate in an
19 informed debate about international trade issues;

20 (6) The current encroachment on state regulatory authority
21 by international commercial and trade agreements has
22 been exacerbated because United States trade policy is



1 being formulated and implemented under "fast track"
2 United States Trade Authority procedures. The current
3 grant of fast track is scheduled to sunset in July
4 2007; and

5 (7) Fast track, first established in 1974 by then-
6 President Richard Nixon, is outdated and
7 inappropriate, given the diverse range of nontrade
8 issues now affected by trade agreements. These
9 agreements broadly affect federal and state regulatory
10 authority over nontrade areas, such as public health
11 and procurement policies. Fast track should be
12 replaced with a more democratic model for negotiating
13 and implementing trade agreements so that an elected
14 legislature and ordinary residents can have a
15 meaningful voice in determining the content of trade
16 policies.

17 § -3 **Legislature; role in trade policy.** (a) It shall
18 be the policy of the State of Hawaii that approval for the State
19 to be bound by any trade agreement requires the consent of the
20 legislature.

21 (b) The majority and minority leaders of the Senate and
22 the majority and minority leaders of the house of



1 representatives shall select two legislators, respectively, as
2 points of contact at the beginning of each regular legislative
3 session. The legislature declares that the purposes of the
4 points of contact shall be to:

- 5 (1) Serve as the State's official liaisons with the
6 federal government and as the legislature's liaisons
7 with the governor on trade-related matters;
- 8 (2) Serve as the designated recipients of federal requests
9 for consent or consultation regarding investment,
10 procurement, services, or other provisions of
11 international trade agreements that impinge on state
12 law or regulatory authority reserved to the State;
- 13 (3) Transmit information regarding federal consultation
14 with the States to the governor, the attorney general,
15 all appropriate legislative committees, and the office
16 of trade enforcement;
- 17 (4) Issue a formal request to the office of trade
18 enforcement and other appropriate state agencies to
19 provide analysis of all proposed trade agreements'
20 impact on state legislative authority and the economy
21 of the State;



1 (5) Inform the legislature on a regular basis about
2 ongoing trade negotiations and dispute settlement
3 proceedings with implications for the State more
4 generally;

5 (6) Communicate the interests and concerns of the
6 legislature to the United States Trade Representative
7 regarding ongoing and proposed trade negotiations; and

8 (7) Notify the United States Trade Representative of the
9 outcome of any legislative action.

10 (c) The following actions shall be required before the
11 State shall consent to the terms of a trade agreement:

12 (1) In a timely fashion, concurrent with trade
13 negotiations, the governor, majority or minority
14 leader, or ranking member of the appropriate committee
15 of jurisdiction, shall submit to the legislature
16 during a regular session, a copy of the final legal
17 text of the agreement, together with:

18 (A) A report by the office of trade enforcement
19 including an analysis of how the agreement of the
20 State to the specific provisions of the trade
21 agreement will change or affect existing state
22 law;



1 (B) A statement of any administrative action proposed
2 to implement these trade agreement provisions in
3 the State; and

4 (C) A draft of legislation authorizing the State to
5 agree to the specific listed provisions of the
6 trade agreement in question;

7 (2) A public hearing shall be held before the legislature
8 votes on the bill; and

9 (3) The bill authorizing the State to agree to specific
10 listed provisions of an agreement is enacted into law.

11 (d) It is the intent of the legislature that the Congress
12 of the United States should pass legislation instructing the
13 United States Trade Representative to fully and formally consult
14 individual state legislatures regarding procurement, services,
15 investment, or any other trade agreement rules that impact state
16 laws or authority before negotiations begin and as they develop,
17 and to seek consent from state legislatures in addition to
18 governors prior to binding states to conform their laws to the
19 terms of international commercial agreements. Such legislation
20 is necessary to ensure the prior informed consent of the State
21 with regard to future international trade and investment
22 agreements.



1 (e) The attorney general shall notify the United States
2 Trade Representative of the policies set forth in subsection (d)
3 in writing no later than September 30, 2007 and shall provide
4 copies of the notice to the president of the senate, speaker of
5 the house of representatives, the governor and Hawaii's
6 congressional delegation.

7 § -4 Office of trade enforcement and citizens'
8 commission on globalization. (a) There is established the
9 office of trade enforcement and a citizens' commission on
10 globalization to be placed administratively within the
11 department of business, economic development, and tourism.

12 (b) The office of trade enforcement shall:

13 (1) Monitor trade negotiations and disputes impacting the
14 state economy;

15 (2) Analyze pending trade agreements the State is
16 considering signing and provide the analysis to the
17 governor, the legislature, the citizens' commission,
18 and the public;

19 (3) Provide technical assistance to workers and firms
20 impacted by unfair trade practices;

21 (4) Provide a trade impact report to the governor, the
22 legislature, the citizens' commission, and the public



1 no later than December 31, 2007 and annually

2 thereafter; and

3 (5) Provide additional research and analysis as requested
4 by the governor, the legislature, and the citizens'
5 commission.

6 (c) Each annual trade impact report required under
7 subsection (b)(4) shall include:

8 (1) An audit of the amount of public contract work being
9 performed overseas;

10 (2) An audit of government goods being procured from
11 overseas;

12 (3) A study of the impacts of trade on state and local
13 employment levels, tax revenues, and retraining and
14 adjustment costs;

15 (4) An analysis of the constraints trade rules place on
16 state regulatory authority, including but not limited
17 to the State's ability to preserve the environment,
18 protect public health and safety and workers' rights,
19 and provide high-quality public services; and

20 (5) Findings and recommendations of specific actions for
21 the State to take in response to the impacts of trade



1 on the State. These actions may include, but shall
2 not be limited to:

3 (A) Revocation of the State's consent to be bound by
4 the procurement rules of international trade
5 agreements;

6 (B) Prohibition of offshore performance of state
7 contract work and preferences for domestic
8 content in state purchasing;

9 (C) State support for cases brought under federal
10 trade laws by residents of the State;

11 (D) State advocacy for reform of trade agreements and
12 trade laws at the federal level; and

13 (E) Implementation of an ethical growth strategy
14 formulated with business, labor, and community
15 participation. Such a strategy may include, but
16 not be limited to:

17 (i) More effective early warning and layoff
18 aversion measures;

19 (ii) Increased assistance and adjustment
20 programs for displaced workers and trade-
21 impacted communities;



- 1 (iii) Stronger standards and accountability for
 - 2 recipients of state subsidies and
 - 3 incentives;
 - 4 (iv) Investments in workforce training and
 - 5 development;
 - 6 (v) Investments in technology and
 - 7 infrastructure; and
 - 8 (vi) Increased access to capital for local
 - 9 producers.
- 10 (d) Within thirty days of receipt of the annual trade
- 11 impact report:
- 12 (1) The governor shall review the report and issue a
 - 13 public statement explaining which of the report's
 - 14 recommendations for specific action under subsection
 - 15 (c) (5) the governor shall act upon in the next thirty
 - 16 days, whether through executive action or proposed
 - 17 legislation; and
 - 18 (2) The legislature shall review the report, hold public
 - 19 hearings on the report's recommendations for specific
 - 20 action under subsection (c) (5), and introduce
 - 21 legislation to enact those recommendations accepted by
 - 22 the legislature.



1 (e) A citizens' commission on globalization shall be
2 appointed by the governor. The governor shall ensure that the
3 following stakeholders shall be equally represented on the
4 citizens' commission: employers, labor organizations, community
5 organizations, and government.

6 The citizens' commission shall:

- 7 (1) Assess the legal and economic impacts of trade
8 agreements;
- 9 (2) Provide input on the annual trade impact report;
- 10 (3) Hold public hearings on the impacts of trade on the
11 State as well as on the annual trade impact report;
12 and
- 13 (4) Make policy recommendations to the governor,
14 legislature, Hawaii's congressional delegation, and
15 United States trade negotiators.

16 SECTION 2. The governor shall notify the revisor of
17 statutes of the obligations of the State specified in
18 international trade agreements to which the State is a
19 consenting party. The revisor of Statutes shall annotate the
20 Hawaii Revised Statutes in regards to these obligations, as
21 deemed necessary."

22



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

2

INTRODUCED BY:

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Report Title:

International Trade Agreements; State Approval

Description:

Requires legislative consent to bind State to international trade agreements. Creates legislative points of contact to serve as liaisons with the federal government. Creates office of trade enforcement to monitor, analyze, and assess trade and creates citizens' commission on globalization to make recommendations.

