

JAN 25 2006

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# A BILL FOR AN ACT

RELATING TO A CONSTRUCTION AUTHORITY.

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

1           SECTION 1. The legislature finds that there exists an  
2 inherent inequity in bidding capabilities between small and  
3 large construction companies, particularly involving the recent  
4 spate of military construction contracts. The legislature  
5 further finds that the larger companies, particularly those that  
6 transcend the State's borders, are frequently in violation of  
7 laws and regulations.

8           The purpose of this Act is to:

- 9           (1) Create a construction authority to ensure proper  
10 compliance with federal, state, and county laws  
11 concerning labor, contractors, and construction  
12 projects, as well as monitor the economic output of  
13 the industry;
- 14           (2) Create a construction authority special fund; and
- 15           (3) Make an appropriation.

16           SECTION 2. The Hawaii Revised Statutes is amended by  
17 adding a new chapter to be appropriately designated and to read  
18 as follows:



1 "CHAPTER

2 CONSTRUCTION AUTHORITY

3 § -1 Definitions. As used in this chapter:

4 "Authority" means the construction authority.

5 "Construction" means the process of building, altering,  
6 repairing, improving, or demolishing any public structure or  
7 building, or other public improvements of any kind to any real  
8 property. The term includes the routine operation, repair, or  
9 maintenance of existing structures, buildings, or real property.

10 "Contractor" means any person having a contract to perform  
11 design or construction of a project, and includes a  
12 subcontractor.

13 "Project" includes all design and construction of buildings  
14 and improvements, commercial spaces, residential homes,  
15 apartments, and condominiums, including the demolition of  
16 existing structures, reconstruction, renovation, alteration, and  
17 repair, and all other connected work.

18 § -2 Applicability. This chapter applies to any  
19 construction project having a project contract or subcontract  
20 value in excess of \$1,000. This chapter shall apply to all  
21 contractors on construction projects initiated by groundbreaking  
22 on or after July 1, 2006.



1           §    -3   **Construction authority; number; appointment;**  
2   **qualifications.**   (a)   There shall be a construction authority of  
3   nine members, who shall be appointed in the manner prescribed in  
4   section 26-34.   The authority is placed within the department of  
5   commerce and consumer affairs for administrative purposes.   All  
6   members shall be appointed for terms of four years each, with  
7   the initial appointments to be staggered as provided in section  
8   26-34.   The chair shall be elected among the members.   Each  
9   member shall hold office until the member's successor is  
10   appointed and qualified.

11           The authority members shall be selected by the governor as  
12   follows:

- 13           (1)   Three from a list submitted by the president of the  
14                 senate;
- 15           (2)   Three from a list submitted by the speaker of the  
16                 house of representatives;
- 17           (3)   One representing a labor organization;
- 18           (4)   One representing an employer organization; and
- 19           (5)   One representing the general public.

20   The collective experience of all of the authority's members  
21   shall be in construction, finance, housing, and commercial  
22   development.   A quorum of the members shall be necessary to



1 conduct business. The members shall serve without compensation  
2 but shall be reimbursed for expenses, including travel expenses,  
3 necessary for the performance of their duties. No person  
4 owning, having any interest in, or deriving any compensation  
5 from any builder, developer, or construction company shall be  
6 appointed a member.

7 (b) The authority may employ, without regard to chapters  
8 76 and 89, and at pleasure dismiss persons necessary for the  
9 performance of its functions and may fix their compensation.  
10 Such compensation shall be paid from the construction authority  
11 special fund under section -5.

12 § -4 General duties. (a) The authority shall have  
13 oversight authority to ensure that work on a construction  
14 project complies with applicable federal, state, and county  
15 laws, regulations, and rules pertaining to labor, contractors,  
16 and construction.

17 (b) The authority shall have the power to inquire into and  
18 investigate, as appropriate, a contractor. The authority may  
19 conduct a hearing pursuant to chapter 91 in a contested case.  
20 The authority shall have the same power as a board under section  
21 92-16.



1 (c) The authority shall have the power to enjoin any  
2 contractor in violation of subsection (a) and shall report any  
3 such contractor to the appropriate enforcement authority for  
4 further action.

5 § -5 Construction authority special fund. There is  
6 created in the state treasury the construction authority special  
7 fund, to be administered by the department of commerce and  
8 consumer affairs. Moneys derived from the percentage of general  
9 excise tax revenues attributable to construction, as provided in  
10 section 237- , shall be deposited into the fund. Moneys in  
11 the fund shall be expended for compensation of employees  
12 pursuant to section -3."

13 SECTION 3. Chapter 237, Hawaii Revised Statutes, is  
14 amended by adding a new section to be appropriately designated  
15 and to read as follows:

16 "§237- Set aside of general excise taxes for deposit  
17 into the construction authority special fund. The director of  
18 taxation shall deposit into the construction industry special  
19 fund established by section -5, an amount equal to per  
20 cent of tax revenues under this chapter that is collected from  
21 construction or renovation costs in the State. For purposes of  
22 this section, "construction or renovation costs" means any costs

1 incurred after July 1, 2006 for plans, design, construction, and  
 2 equipment related to new construction, alterations, or  
 3 modifications to any residential or commercial building or  
 4 structure."

5 SECTION 4. There is appropriated out of the general  
 6 revenues of the State of Hawaii the sum of \$ , or so  
 7 much thereof as may be necessary for fiscal year 2006-2007, for  
 8 expenses of creation of a construction authority, including the  
 9 hiring of staff.

10 The sum appropriated shall be expended by the department of  
 11 commerce and consumer affairs for the purposes of this Act.

12 SECTION 5. New statutory material is underscored.

13 SECTION 6. This Act shall take effect upon its approval;  
 14 provided that section 4 shall take effect on July 1, 2006.

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INTRODUCED BY: *Carol Fukumasa*

# SB. NO. 2536

**Report Title:**

Construction Authority; Creation; Appropriation

**Description:**

Creates a construction authority under DCCA to ensure proper compliance with laws concerning labor, contractors, and construction projects. Creates construction authority special fund from portion of GET taxes, to pay employee salaries. Makes appropriation.

