

STAND. COM. REP. NO. 1243

Honolulu, Hawaii

March 16, 2007

RE: S.B. No. 17  
S.D. 2  
H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Fourth State Legislature  
Regular Session of 2007  
State of Hawaii

Sir:

Your Committee on Economic Development & Business Concerns,  
to which was referred S.B. No. 17, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO PROCUREMENT,"

begs leave to report as follows:

The purpose of this bill is to make government contracting less burdensome for small design professional firms by prohibiting government contracts under \$5,000,000 for design professional services from requiring that the contractor defend the government against any liability, while reserving the government's right to contractually require indemnification for any liability resulting from the contractor's negligence.

The American Institute of Architects, Masa Fujioka & Associates, American Society of Civil Engineers, SSFM International, Inc., Gray, Hong, Nojima & Associates, Coalition of Hawaii Engineering and Architectural Professionals, Engineering Solutions, Inc., Fukunaga & Associates, Inc., and several concerned individuals supported this bill. KAI Hawaii, Inc., supported the measure with an amendment. The Department of the Corporation Counsel of the City and County of Honolulu and Department of the Attorney General opposed this bill.

Your Committee finds that requiring design professionals to defend the government against any liability, regardless of the professional's negligence, not only makes it very difficult for

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small firms to enter into government contracts, but also unfairly shifts the risk of public works projects to the private contractor.

Your Committee has amended this bill by:

- (1) Changing the bill's effective date to upon approval; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency and style.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 17, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 17, S.D. 2, H.D. 1, and be referred to the Committee on Judiciary.

Respectfully submitted on  
behalf of the members of the  
Committee on Economic  
Development & Business  
Concerns,



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KYLE T. YAMASHITA, Chair



