

# ACEC

AMERICAN COUNCIL OF ENGINEERING COMPANIES  
of Hawaii

February 25, 2008

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**FAXED TESTIMONY TO:**

Senate Sargeant-At-Arms Fax No. 586-6659

Hearing Date: Tuesday, February 26, 2008, 9:30 a.m., Conference Room 016

Honorable Senator Brian T. Taniguchi, Chair, Senator Clayton Hee, Vice Chair, and Members of the Senate Committee on Judiciary and Labor

**Subject: SB 1, Relating to Hawaii Public Procurement Code**

Dear Chair Taniguchi, Vice Chair Hee, and Committee Members,

The American Council of Engineering Companies of Hawaii (ACECH), representing more than 70 consulting engineering firms in Hawaii, is in strong opposition of SB 1.

ACECH instead, strongly support qualifications-based selection (QBS) of engineering design services. This bill would circumvent HRS 103D by requiring bidding for drilling and soil testing services. We are concerned that this erosion of 103D-304 would result in all professional geotechnical/ environmental design services being competitively bid, since it is difficult to separate out the professional services from the drilling and testing efforts. This would violate the procurement code under HRS 103D-304 which requires that procurement of design professional services be based on the QBS process at a fair and reasonable price and not by competitive bidding.

We believe that drilling and soil testing are integral parts of geotechnical or environmental engineering design services. There are numerous reasons why it is not practical or desirable to separate out the integral drilling and soil testing portion of the design to bid that portion on a competitive bidding basis. Firstly, by having the State procure drilling and soil testing services directly on a competitive bid basis, the liability for such services would be moved from the professional design firm to the State. Secondly, the separate procurement of drilling/ testing services by competitive bid and the later procurement of design services would result in a longer construction process. Thirdly, the procurement of drilling/soil testing services separately would result in additional work burden to the procuring State agency, since they would have to prepare plans, specifications, and some preliminary design to provide the drilling/soil testing firm with sufficient information to perform their investigation. This is normally conducted as part of the design team's functions. Finally, we question the wisdom of utilizing the lowest-priced firm to conduct soils investigations, as historical knowledge indicates that low bidding can result in an inadequate soils investigation and subsequent construction complications and increased costs. We believe it is in the best interest of the State that these services be conducted under the purview of a licensed engineer as part of professional design services.

ACEC Hawaii appreciates the continuing efforts of your committee and the members of the Senate to provide a fair, open and transparent procurement process for businesses in Hawaii. Thank you for an opportunity to express our views and concerns regarding this bill.

Very truly yours,



Jon Nishimura, P.E.  
President

## COALITION OF HAWAII ENGINEERING AND ARCHITECTURAL PROFESSIONALS

Email to: [testimony@capitol.hawaii.gov](mailto:testimony@capitol.hawaii.gov)

Hearing Date: Tuesday, February 26, 2008 9:00am, CR 016

Honorable Senator Brian T. Taniguchi, Chair, Senator Clayton Hee, Vice  
Chair and Members of the Senate Committee on Judiciary and Labor

**Subject: SB 1 - Relating to Hawaii Public Procurement Code**

Coalition of Hawaii Engineering & Architectural Professionals represents several professional Engineering and Architectural organizations including American Council of Engineering Companies Hawaii; American Institute of Architects; Hawaii Chapter of the American Society of Civil Engineers; American Public Works Association Hawaii Chapter; Structural Engineering Association of Hawaii; and the Hawaii Society of Professional Engineers.

Our coalition is OPPOSED to SB 1 Relating to Hawaii Public Procurement Code. This bill proposes to exempt the small purchase order procedure for the procurement of drilling and soil testing from the State Procurement Code and to require competitive bidding. The problem we see with this bill is that many geotechnical design professionals have their own drilling equipment and include these services as part of their geotechnical investigation. Low bidding drilling and testing services as you would with construction will not give the geotechnical design professional (if done by others) any control over the selection of boring locations, sampling requirements, laboratory testing requirements and handling procedures. As a design professional, drilling and testing should be part of the geotechnical engineering services and should therefore follow the procurement requirements of HRS 103D-304 and not have an exemption from the Hawaii Public Procurement Code.

We urge you to Oppose SB 1 - Relating to Hawaii Public Procurement Code.  
Mahalo for this opportunity to express our business concerns.

Sincerely,

Coalition of Hawaii Engineering & Architectural Professionals  
Lester H. Fukuda, P.E., FACEC



**MASA FUJIOKA & ASSOCIATES***Environmental, Geotechnical, and Hydrogeological Consultants*

98-021 Kamehameha Hwy, Suite 337, Aiea, Hawaii 96701-4914

Telephone: 808.484.5366 Facsimile: 808.484.0007

February 25, 2008

**FAXED TESTIMONY TO:**

Senate Sergeant-At-Arms Fax No. 586-6659

Hearing Date: Tuesday, February 26, 2008, 9:30 a.m., Conference Room 016

**Honorable Senator Brian T. Taniguchi, Chair, Senator Clayton Hee, Vice Chair, and Members of the Senate Committee on Judiciary and Labor****Subject: SB 1, Relating to Hawaii Public Procurement Code**

Dear Chair Taniguchi, Vice Chair Hee, and Committee Members,

Masa Fujioka & Associates is a locally owned and managed small business geotechnical/ environmental engineering firm. Our firm is an active member of the American Council of Engineering Companies of Hawaii (ACECH) and various local professional organizations. As a small business engineering firm in Hawaii, we strongly support qualifications-based selection of engineering design services.

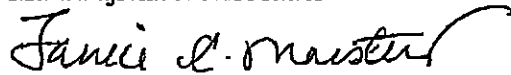
This bill would circumvent HRS 103D by allowing competitive bidding for drilling and soil testing services. We are concerned that this erosion of 103D-304 would result in all professional geotechnical/ environmental design services being competitively bid, since it is too difficult to separate out one portion. This would violate the procurement code under HRS 103D-304 which requires that procurement of design professional services be based on a qualifications based selection (QBS) process at a fair and reasonable price and not by competitive bidding.

We believe that drilling and soil testing are integral parts of geotechnical or environmental engineering design services. There are numerous reasons why is not practical or desirable to separate out the integral drilling and soil testing portion of the design to bid that portion on a competitive bidding basis. Firstly, by having the State procure drilling and soil testing services directly on a competitive bid basis, the liability for such services would be moved from the professional design firm to the State. Secondly, the separate procurement of drilling/ testing services by competitive bid and the later procurement of design services would result in a longer construction process. Thirdly, the procurement of drilling/soil testing services separately would result in additional work burden to the procuring State agency, since they would have to prepare plans, specifications, and some preliminary design to provide the drilling/soil testing firm with sufficient information to perform their investigation. This is normally conducted as part of the design team's functions. Finally, we question the wisdom of utilizing the lowest-priced firm to conduct soils investigations, as historical knowledge indicates that low bidding can result in an inadequate soils investigation and subsequent construction complications and increased costs. We believe it is in the best interest of the State that these services be conducted under the purview of a licensed engineer as part of professional design services.

As a small business, Masa Fujioka & Associates appreciates the continuing efforts of your committee and the members of the Senate to provide a fair, open and transparent procurement process for businesses in Hawaii. We strongly recommend that SB 1 be held. Thank you for an opportunity to express our views and concerns regarding this bill.

Sincerely,

Masa Fujioka &amp; Associates



Janice C. Marsters

Principal



February 25, 2008

**FAXED TESTIMONY TO:**

Senate Sargeant-At-Arms Fax No. 586-6659

Hearing Date: Tuesday, February 26, 2008, 9:30a.m., Conference Room 016

Honorable Senator Brian T. Taniguchi, Chair, Senator Clayton Hee, Vice Chair, and Members of the Senate Committee on Judiciary and Labor

**Subject: SB 1, Relating to Hawaii Public Procurement Code**

Dear Chair Taniguchi, Vice Chair Hee, and Committee Members:

I am a Principal of Yogi Kwong Engineers, LLC and have over 30 years experience in geotechnical and geologic engineering in Hawaii and the Pacific Basin, and is in strong opposition of SB 1.

This bill would circumvent HRS 103D by requiring bidding for drilling and soil testing services. Drilling and soil testing are integral parts of geotechnical engineering design services and quality, not price should be the key consideration. By having the State procure drilling and soil testing services directly on a competitive bid basis, the liability for such services would be moved from the professional design firm to the State. Secondly, the separate procurement of drilling/testing services by competitive bid will render the State responsible for extended field engineering supervision costs if the lowest bidder fails to perform or complete in a timely manner. Thirdly, the procurement of drilling/soil testing services separately would result in additional work burden to the procuring State agency, since they would have to prepare plans, specifications, and prediction of anticipated subsurface conditions and drilling depths to provide the drilling/soil testing firm with sufficient information to perform their investigation. Fourth, if the lowest bidder fails to provide quality samples and information for testing and design, will the State be liable for defective design?

I appreciate the continuing efforts of the Senate to provide a fair and open procurement process for businesses in Hawaii. Thank you for an opportunity to express our views and concerns regarding this bill.

Very truly yours,

James Kwong, Ph.D., P.E.  
Principal

Yogi Kwong Engineers, LLC  
615 Piikoi Street, Suite 1605  
Honolulu, HI 96814  
Tel: (808) 596-2928  
Fax: (808) 596-2409

**LATE**

LINDA LINGLE  
GOVERNOR



RUSS K. SAITO  
COMPTROLLER

BARBARA A. ANNIS  
DEPUTY COMPTROLLER

**STATE OF HAWAII**  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
P.O. BOX 119, HONOLULU, HAWAII 96810

TESTIMONY  
OF  
RUSS K. SAITO, COMPTROLLER  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
TO THE  
SENATE COMMITTEE  
ON  
JUDICIARY AND LABOR  
ON  
February 26, 2008

S.B. 1

RELATING TO HAWAII PUBLIC PROCUREMENT CODE

Chair Taniguchi and members of the Committee, thank you for the opportunity to testify on S.B. 1.

The Department of Accounting and General Services (DAGS) understands the intent of this bill but opposes it because it would prevent the State from procuring its services in the most effective manner.

Drilling work and soil testing, if they are desired directly by the State, would be procured using one of the source selection methods in 103D-HRS, including competitive sealed bidding (103D-302) or small purchases (103D-305). For these situations the bill is not necessary.

In most instances, the State has a need for general work or construction, of which drilling work and/or soil testing would be sub-parts. It is not practical or beneficial for the State to procure the rest of the work from a general contractor, and the drilling and

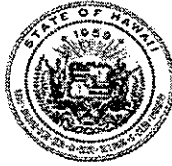
soil testing from another. The State would want the ability to procure the total work and to have the awarded contractor sub-contract the work that can be most effectively done by sub-contractors, including the drilling and soil testing. In these situations, the bill would be disadvantageous to the State and prevent its efficient operation.

DAGS recommends that this bill be held.

Thank you for the opportunity to testify on this matter.

**LATE**

LINDA LINGLE  
GOVERNOR



PROCUREMENT POLICY BOARD  
DARRYL W. BARDOUSCH  
LESLIE S. CHINEN  
DARYLE ANN HO  
GREGORY L. KING  
KEITH T. MATSUMOTO  
RUSS K. SAITO  
PAMELA A. TORRES

AARON S. FUJIOKA  
ADMINISTRATOR

**STATE OF HAWAII  
STATE PROCUREMENT OFFICE**

P.O. Box 119  
Honolulu, Hawaii 96810-0119  
Tel: (808) 587-4700 Fax: (808) 587-4703  
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TESTIMONY  
OF  
AARON S. FUJIOKA  
ADMINISTRATOR  
STATE PROCUREMENT OFFICE

TO THE  
SENATE COMMITTEE  
ON  
JUDICIARY AND LABOR

February 26, 2008

SB 1

RELATING TO HAWAII PUBLIC PROCUREMENT CODE.

Chair Taniguchi, Vice Chair Hee and committee members, thank you for the opportunity to testify on SB 1. The purpose of HRS section 103D-305 on small purchases is to provide a process for procurements of less than \$50,000.

Section 103D-305 does not prohibit a competitive bidding process for a construction project. However, that determination should be the responsibility of the project engineer because of the coordination effort that must be expended and the need to meet construction deadlines to prevent costly delays.

Drilling and soil testing work are typically an integral component that licensed geotechnical engineering firms conduct to ensure their analysis/determination on soil stability considerations are conducted properly. If drilling and soil-testing work is handled separately from the overall construction project, there may be an adverse affect to the cost as well as the timely completion of construction projects.

The State Procurement Office recommends this bill be held. Thank you.

**LATE**

# LESLIE'S DRILLING

SUBSTRATA INVESTIGATION – GROUTING – CONTRACT DRILLING  
P.O. BOX 22 – MT. VIEW, HI 96771 – PHONE: (808) 968-6294  
Is a Native Hawaiian Company  
Disadvantaged Small Business

Senate Bill #1

H.B. 2582

(Companion Bill)

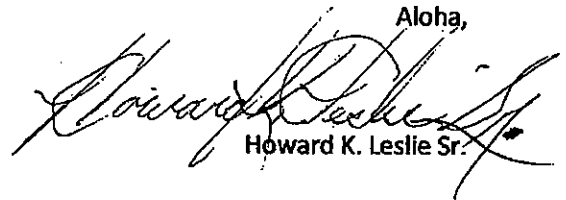
Aloha,

My name is Howard Leslie. I am the owner of "Leslie's Drilling." I am a Native Hawaiian and DBE certified small business. This bill I am trying to get passed will benefit all small businesses like myself. As a taxpayer, I am trying to get fair and competitive bidding practices reinstated as it was done in previous years. The drilling jobs used to be put out for public bid. However, in recent years the drilling has been combined with the engineering and given out right to a handful of engineers. These practices not only deprive companies like mine of a fair chance at jobs, but also breed corruption. The drilling is part of construction and not a specialty like the engineering. You do not need a formal education, just a strong back and the knowledge of heavy equipment. In past years, the engineers came to the table and bid with us on the drilling jobs. That practice helped keep the prices low and also provided us with an opportunity to bid. We are not asking for jobs to be given to us outright, but instead to be put out for public bid which is supposed to be the "American way," "Equal Opportunity." At the same time it will protect the taxpayers. Voting for this bill will help restore our confidence in the fairness of government in the handling of taxpayers' money. It will also help discourage the "under the table" contributions. Please pass this bill and help us small businesses support our families plus thrive in our own back yard.

I thank you lawmakers for this opportunity and privilege to express myself. The state capital I believe is the heart of the state. It is like the home to our veterans of all wars, "The Memorial." My brother, Wendell Wayne Leslie is one of them – 1969 Vietnam, Silver star, etc. – Roosevelt graduate-1961; 25 years old.

Thank you again.

Aloha,



Howard K. Leslie Sr.

*RE: LESLIE'S DRILLING Co. Hawaiian & R.R. Co. (C11)*



# LESLIE'S DRILLING

SUBSTRATA INVESTIGATION – GROUTING – CONTRACT DRILLING  
P.O. BOX 22 – MT. VIEW, HI. 96771 – PHONE: (808) 968-6294

Senator Brian Taniguchi,

21 February 2008

I, Howard K. Leslie DBA Leslie's Drilling, would like Senate Bill #1 Scheduled. Competitive bidding on soil test drilling at public works is in the best interest for our tax payers. This transparency protects any foul or mishandling of our hard-earned taxpayers' money. It would also prove a point that our lawmakers are doing a good job up and above the challenges for a government. "Good" It's never too late for improvements. Anything less is not civil and acceptable in today's society, especially for a quality Hawaii.

This bill guarantees no qualified drilling contractor is eliminated. My background makes it very easy to share an honest view of this Senate Bill #1 passed with Amendments.

Thank You for this privilege.

Aloha,



Howard K. Leslie Sr.