



## GENERAL CONTRACTORS ASSOCIATION OF HAWAII

1085 AHUA STREET • HONOLULU, HAWAII 96819-4493 • PHONE 808-833-1681 • FAX 808-839-4167

E-MAIL ADDRESS: [gca@gcahawaii.org](mailto:gca@gcahawaii.org) • WEBSITE: [www.gcahawaii.org](http://www.gcahawaii.org)

February 21, 2008

TO: THE HONORABLE BRIAN TANIGUCHI, CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON JUDICIARY AND LABOR

SUBJECT: S. B. 2896, SD1 RELATING TO CONTRACTORS

DATE: Friday, February 22, 2008  
TIME: 10:00 a.m.  
PLACE: Conference Room 016

Dear Chair Taniguchi and members of the Committee:

The General Contractors Association of Hawaii (GCA), an organization comprised of over five hundred and forty (540) general contractors, subcontractors, and construction related firms, opposes to the passage of S.B. 2896, SD1 and recommends that this bill not be passed.

S.B. 2896, SD1 Relating To Contractors, amends Section 444-10.5, on unlicensed to require that all work cease upon the issuance of a citation until a hearing is held on the citation. The requirement that all work cease upon the issuance of a citation may create a problem for the legitimate licensed general contractor. The amendment may result in unintended job delays and financial consequences. For example, if a specialty subcontractor on a sewer construction job is cited for unlicensed activity, that job may be stopped for months causing major traffic disruptions and if there are liquidated damages clause in the contract may result in financial penalties to the general contractor.

A major problem with the proposed amendment is that the citation of alleged unlicensed activity may not be resolved for a long time depending on the schedule of the hearings officer and work load in the Department of Commerce and Consumer Affairs during which time no work can be done by the alleged violator. This will be true if a replacement subcontractor cannot be found due the special license require for the work.

A larger fine on the contractor found guilty of unlicensed activity may be a more appropriate action that will punish the violator but not the legitimate general contractor.

The GCA is **opposed** to the passage of S.B. 2896, SD1 and recommends that this bill not be passed.

Thank you for the opportunity to provide our views on this issue.

# IRON WORKERS STABILIZATION FUND

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February 21, 2008

Hon. Brian T. Taniguchi, Chair  
Senate Committee on Judiciary & Labor  
State Capitol – Room 219  
Honolulu, Hawaii 96813

Iron Workers Stabilization Fund – T. George Paris, Managing Director

Hearing Date – February 22, 2008, 10:00 a.m.

Support of SB 2896, S.D. 1, Relating to Contractors

The purpose of the bill is to reduce and deter unlicensed contractor activity in the state. Although we agree with the intent as expressed in S.D. 1 as passed by the Committee on Consumer Protection and Housing, we believe that the language should be *strengthened* to remove any ambiguity that may exist as to the mandatory nature of the measure. In S.D. 2 that we are proposing, section (a) would state as follows:

***“(a) In addition to any other remedy available, if the investigator determines that a person is acting in the capacity of or engaging in the business of a contractor within the State without having a license in good standing with this chapter and the rules adopted thereunder to so act or engage, the investigator shall issue a citation and cease and desist order to that person.” (emphasis added)***

We believe that our proposed amendment to section (a) would make it absolutely certain that such a person would be ordered to *cease and desist* as soon as the unlicensed activity is discovered, with the burden shifting to such person to prove that he or she has a proper license to carry out such activity. As the law is presently written, such a person would be permitted to continue operations until the lengthy hearing process ran its course.

S.D. 2, as proposed, would provide the necessary protection to the public that is needed in this area.

We urge the committee to pass S.B. 2896, S.D. 2, as we are proposing. Thank your for this opportunity to testify.

# ***SAH - Subcontractors Association of Hawaii***

***820 Mililani Street, Suite 810, Honolulu, Hawaii 96813-2938***

***Phone: (808) 537-5619 ✦ Fax: (808) 533-2739***

February 22, 2008

Testimony To: Senate Committee on Judiciary and Labor  
Senator Brian T. Taniguchi

Presented By: Tim Lyons, President

Subject: S.B. 2896, SD 1 - RELATING TO CONTRACTORS.

Chair Taniguchi and Members of the Committee:

I am Tim Lyons, President of the Subcontractors Association of Hawaii. The Subcontractors Association of Hawaii represents the following nine associations:

HAWAII FLOORING ASSOCIATION

ROOFING CONTRACTORS ASSOCIATION OF HAWAII

HAWAII WALL AND CEILING INDUSTRIES ASSOCIATION

TILE CONTRACTORS PROMOTIONAL PROGRAM

PLUMBING AND MECHANICAL CONTRACTORS ASSOCIATION OF HAWAII

SHEETMETAL CONTRACTORS ASSOCIATION OF HAWAII

PAINTING AND DECORATING CONTRACTORS ASSOCIATION

PACIFIC INSULATION CONTRACTORS ASSOCIATION

PACIFIC ELECTRICAL CONTRACTORS ASSOCIATION

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Typically we support almost any legislation that relates to a further "clamp down" of unlicensed activity. This is because the unlicensed underground affects our legitimate licensed contractors to a significant degree and they oftentimes seem to be able to operate without restraint and, in many cases, to the harm of the unknowing consumer.

Our original opposition was based on the fact that licensed contractors who do work outside of their scope of their license are charged with unlicensed activity. As we read this bill, it means that all "out of scope" work would then be subject to a fine of not less than \$10,000. Although the statutes provide for only three (3) licenses (A, B and C), the Administrative Rules provide for over seventy (70) different sub-classifications. It is difficult in many cases to determine which license is required in order to do the work legally. In fact, so much so, that the Contractors License Board maintains a "Scope of Activity" Committee in order to provide guidance in these types of situations. Sometimes, it is not so clear as to which license that particular work falls, or when it crosses into another license category. For instance, it is okay for a C-42 licensed Roofing Contractor to change some termite eaten roof deck wood, but it is not okay for them to fix the wooden stairs while they are there.

The amendments made to this bill in Senate Draft 1 addresses those concerns so we are now pleased to support this bill and recommend its adoption.

Thank you.