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PRESENTATION OF
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
REGULATED INDUSTRIES COMPLAINTS OFFICE

TO THE HOUSE COMMITTEE ON
LABOR AND PUBLIC EMPLOYMENT

TWENTY-FOURTH STATE LEGISLATURE
REGULAR SESSION, 2008

TUESDAY, MARCH 18, 2008
9:15 A.M.

TESTIMONY ON SENATE BILL NO. 2896 S.D.2 – RELATING TO CONTRACTORS

TO THE HONORABLE ALEX M. SONSON, CHAIR,
AND TO THE HONORABLE BOB NAKASONE, VICE-CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify regarding Senate Bill No. 2896 S.D.2, Relating to Contractors. My name is Jo Ann Uchida of the Department's Regulated Industries Complaints Office ("RICO"). RICO requests the following two clarifying amendments:

1. Page 1, line 11, substitute the phrase "in good standing" for the phrase "to so act or engage".

The reason for this clarifying amendment is so that both the first and second

sentences of §444-10.5, Hawaii Revised Statutes ("HRS"), subsection (a) use the same qualifying term "without a license in good standing" when describing the conditions upon which a citation shall be issued. Use of consistent terminology will avoid confusion and ambiguity about when a citation shall be issued. Having two different qualifying terms will unnecessarily compromise the citation process. The "without a license in good standing" phrase is important because it addresses concerns raised in prior testimony about the use of citations against licensees in good standing who may have engaged in out-of-scope activity, and makes clear that citations would not be used for those purposes.

2. Page 2, lines 3-6, substitute the following new language for the current language:

Upon the issuance of a citation, the person cited shall cease work immediately and shall not resume work until said person holds the licenses required under this chapter.

The reason for this clarifying amendment is that while it appears from the Senate committee report that the intent of this language is that all work by the unlicensed person cease immediately, the current language may have the effect of precluding any further work on a jobsite until the unlicensed person is licensed, even if the developer or licensed general contractor wanted to replace the unlicensed person with a licensed person. RICO proposes the new language to avoid this unintended consequence.

Thank you for this opportunity to testify on Senate Bill No. 2896 S.D.2. I will be happy to answer any questions that members of the Committee may have.

SAH - Subcontractors Association of Hawaii

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March 18, 2008

Testimony To: House Committee on Labor & Public Employment
Representative Alex M. Sonson, Chair

Presented By: Tim Lyons, President

Subject: S.B. 2896, SD 2 - RELATING TO CONTRACTORS.

Chair Sonson 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

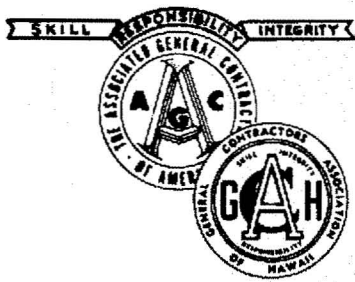
PACIFIC ELECTRICAL CONTRACTORS ASSOCIATION

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 2 addresses those concerns so we are now pleased to support this bill and recommend its adoption.

Thank you.



GENERAL CONTRACTORS ASSOCIATION OF HAWAII

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March 17, 2008

TO: THE HONORABLE REPRESENTATIVE ALEX SONSON, CHAIR AND
MEMBERS OF THE HOUSE COMMITTEE ON LABOR AND PUBLIC
EMPLOYMENT

SUBJECT: S. B. 2896, SD2 RELATING TO CONTRACTORS

NOTICE OF HEARING

DATE: Tuesday, March 18, 2008
TIME: 9:15 a.m.
PLACE: Conference Room 309

Dear Chair Sonson 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, SD2 and recommends that this bill not be passed.

S.B. 2896, SD2 Relating To Contractors, amends Section 444-10.5, on unlicensed activity, 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 required for the work.

The GCA is **opposed** to the passage of S.B. 2896, SD2 and recommends that this bill not be passed.

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

HAWAII BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO
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(808) 524-2249 - FAX (808) 524-6893

March 17, 2008

Honorable Representative Alex M. Sonson, Chair
Honorable Representative Bob Nakasone, Vice Chair
Members of the House Committee on Labor & Public Employment
Hawaii State Capital
415 South Beretania Street
Honolulu, HI 96813

RE: IN SUPPORT OF SB2896, SD2
RELATING TO CONTRACTORS
Hearing: Tuesday, March 18, 2008, 9:15 a.m.

Dear Chair Sonson, Vice Chair Nakasone and the House Committee on Labor & Public Employment:

For the Record my name is Buzz Hong the Executive Director for the Hawaii Building & Construction Trades Council, AFL-CIO. Our Council is comprised of 16-construction unions and a membership of 26,000 statewide.

The Council SUPPORTS the passage of SB2896, SD2, which amends §444-10.5, HRS, to prohibit the resumption of work for any person who is issued a citation for operating without a contractor's license in good standing until a hearing is conducted, and makes the issuance of citations and cease and desist orders mandatory.

The Council would like SD2 amended to reflect the penalty clause (j) as indicated in HB3300.

Thank you for the opportunity to submit this testimony in support of SB2896, SD2.

Sincerely,

William "Buzz" Hong

WBH/dg