

AUTISM SOCIETY OF HAWAII
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LATE

THE SENATE
THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2009
COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS
COMMITTEE ON LABOR
COMMITTEE ON WAYS AND MEANS
Comments to SB 21, SD1 Proposed, Relating to Government
Thursday, March 5, 2009, 10:00 a.m.
Conference Room 211

Dear Chairs Taniguchi, Takamine, Kim and Members of the Committees:

My name is Naomi Grossman, and I am the president of the Autism Society of Hawai'i. The Autism Society of Hawai'i is an affiliate chapter of the Autism Society of America. Its members are composed of families who deal with living with the effects of autism and the professionals and paraprofessionals who serve them.

The Autism Society of Hawai'i will provide leadership in the field of autism dedicated to supporting families who advocate on behalf of their children and are committed to reducing the consequences of autism through education, research and advocacy.

The Autism Society of Hawai'i appreciates the opportunity to comment on the proposed SB 21, SD 1. As parents and friends of children with autism and other related disorders, we know that our children have the potential and hunger to learn. Research shows that autism is treatable. States where parents are involved in their children's individualized educational program promotes positive change and outcomes for children. These children have the potential to become contributing, competent and caring citizens.

Under the federal Individuals with Disabilities Education Act (IDEA), children and their families need to access appropriate service programming in order to meet the mandates of a free appropriate public education (FAPE). Many of our special needs children are served under the State's procurement *request for proposal* process.

Section 2 paragraph (1) of this bill is intended to expedite contract awards of less than \$150,000 for health and human services by requiring that awards be made to the "lowest responsive, responsible offeror" or, if that is not practicable, "to the offeror whose quotation provides the best value to the State."

Under section 103F-404 of the Hawai'i Revised Statutes, "treatment services" designed to alleviate physical or mental illness or behavioral problems are purchased from the provider who is the "most qualified" on a list of pre-qualified providers. This bill would require State agencies to select the low bidder, who may not be appropriately qualified. Chapter 103F contains other provisions for the crisis purchase of services and the restrictive procurement of services that focus on the needs of the beneficiary and reasonable costs, rather than the automatic selection of a low bidder.

Autism is a mystifying and complex disorder. Children and their families need contract providers who are specialized and experienced in autism and other related disorders in order to serve these unique needs on a day-to-day basis. When needs are not met, behaviors can escalate to become exacerbated unless qualified providers are in place. It will be more cost effective to award contract providers and agencies with specialized credentialing standards who promote specialized training and program staff/service development within their agencies. Awarding contracts to the lowest bidder will affect the quality of services of our most vulnerable children, and in this case, with autism.

We strongly oppose using the "low bidder" standard and the "best value to the State" standard to purchase services when our children's lives and welfare are at stake. We are their voice because they are not able to speak for themselves. For many of them, essential windows of developmental opportunity besides dealing with the behaviors are at stake especially when providers are not credentialed and trained to treat their unique needs.

Through the IDEA, Congress has acted to improve the lives of children and their families through education provided to children with disabilities and to ensure that they receive the needed services. Please don't place our children at risk.

We respectfully request that the committee amend this bill by (1) exempting Chapter 103F purchases from Section 2 and (2) amending Chapter 103F to require that contracts funded under the American Recovery and Reinvestment Act of 2009 be entered into within the time required by such Act.

Thank you for the opportunity to testify on SB 21, SD 1.

Sincerely,



Naomi Grossman

Autism Society of Hawai'i, president



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
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The Twenty-Fifth Legislature, State of Hawaii
Hawaii State Senate
Committee on Ways and Means

Testimony by
Hawaii Government Employees Association
March 5, 2009

S.B. 21 (Proposed, S.D. 1) –
RELATING TO GOVERNMENT

The Hawaii Government Employees Association supports the intent of S.B. 21 (Proposed S.D. 1), but opposes Section 3 of the bill which appears to exempt public works projects funded through the federal economic stimulus package from certain provisions in Chapters 103 and 104, HRS. The Davis-Bacon Act, at both the federal and state levels, is designed to outlaw wage exploitation in public construction contracts by preventing the undercutting of local standards.

Because public works contracts usually go to the lowest bidder, lawmakers decided it was in the best interests of the government and the general public to make sure that tax dollars are not spent on contractors that pay substandard wages to obtain contracts. "Prevailing wage" standards were established, which are set by surveys of actual wages paid in local communities, and anyone awarded a government contract must pay at least those prevailing wages.

If our reading of the bill is correct, this would mean that before a bidder enters into a contract for construction of a public work project, they would not have to certify existing labor law requirements prior to the contract being awarded. These include prevailing wage, overtime compensation and full compliance with the applicable laws of the state and federal governments related to workers' compensation, unemployment compensation, payment of wages and safety.

The national and local economic problems we confront should not be used to waive these requirements that protect employees. Chapters 103 and 104, HRS, are an essential foundation of a decent standard of living for those working in the construction industry. Even the temporary suspension of certain provisions within Chapters 103 and 104, HRS, will have negative consequences for construction workers, their industry and the larger community. The suspension of safety requirements is particularly troublesome because it could put pressure on employers to cut corners in safety and

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health protections. This may lead to additional workplace injuries and more lost work days.

The HGEA opposes any attempt to weaken our state's "Little Davis-Bacon" law or to exempt certain public projects from prevailing wage standards. When contractors compete on the basis of skill and productivity, we all benefit. When they compete to have the lowest wages or labor standards, we all lose. Unless Section 3 of the bill is amended, we cannot support S.B. 21 (Proposed S.D. 1).

Thank you for the opportunity to provide testimony on this measure.

Respectfully submitted,



Nora A. Nomura
Deputy Executive Director

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The Senate
Committees on Judiciary and Government Operations,
Labor and Ways and Means
March 5, 2009, 10:00 a.m.
Conference Room 211

Statement of the Hawaii Carpenters Union on S.B. 21

The Hawaii Carpenters Union strongly opposes in Section 3 of S.B. 21, the waiver of 103-55.5, and urges it's deletion from the Bill.

103.55-5, Wages and hours of employees on public works construction contracts, provides that a bidder or offeror affirm the intent to comply with Chapter 104, prior to entering into a contract for a public works project.

The projects covered by S.B. 21 will clearly be public works. They will not be exempt from Chapter 104. The affirmation is important to 1) fairly inform bidders, and 2) to prevent challenges and charges. Lack of knowledge of the requirements of Chapter 104 has been used as a defense for noncompliance.

The affirmation pursuant to 103-55.5 is straightforward, and will not delay the procurement process.

The American Recovery and Reinvestment Act of 2009 provides that all construction projects funded in any way by the Act, including via tax credits, shall be public works subject to prevailing wage requirements.

Delete the reference to 103.55-5, to avoid the creation of a seeming loophole that will lead to confusion and possibly administrative and court disputes.

We appreciate the effort to put the Federal funds provided to work. However, we would be compelled to oppose it in its current form. We may have further comment after further review of the impact of the Bill on fair procurement.