

STAND. COM. REP. NO.

2907

Honolulu, Hawaii

MAR 30 2010

RE: S.R. No. 49  
S.D. 1

Honorable Colleen Hanabusa  
President of the Senate  
Twenty-Fifth State Legislature  
Regular Session of 2010  
State of Hawaii

Madam:

Your Committee on Commerce and Consumer Protection, to which was referred S.R. No. 49 entitled:

"SENATE RESOLUTION REQUESTING A STUDY OF THE CONTRACTING LICENSING LAWS OF OTHER STATES TO CLARIFY WHAT CONSTITUTES "INCIDENTAL AND SUPPLEMENTAL" WORK IN THE CONTEXT OF CONTRACTOR LICENSING, "

begs leave to report as follows:

The purpose of this measure is to request the Legislative Reference Bureau to submit a study on how other states' contractor licensing laws define and address "incidental and supplemental" work with the aim of determining to what extent specialty contracting work should be performed by a contractor not licensed to perform that work.

Testimony in support of this measure was received from the Iron Workers Stabilization Fund and the Subcontractors Association of Hawaii. The Contractors License Board submitted testimony commenting on this measure. Written testimony presented to the Committee may be reviewed on the Legislature's website.

Your Committee finds that there has been a great deal of confusion over the meaning of the phrase "incidental and supplemental" as used in chapter 444, Hawaii Revised Statutes, and as interpreted in the *Okada Trucking Co., Ltd. V. Board of Water Supply, City and County of Honolulu and Inter Island Environmental Services, Inc.*, 97 Hawai'i 450 (2002). This confusion has cost significant time and money and your Committee hopes that a report

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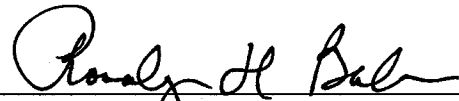
from the Legislative Reference Bureau focusing on how "supplemental and incidental" is treated both in Hawaii Revised Statutes and by other states will help them to find a clearer method of legislating situations where general and special contractors undertake work "incidental and supplemental" to their job but outside the scope of their contractors license.

Your Committee has amended this measure by:

- (1) Requesting the Legislative Reference Bureau to conduct a report, rather than a study, and making changes to the title and throughout the measure to reflect this;
- (2) Replacing "bid proposals" with "bids"; and
- (3) Removing a reference to the Contractors License Board's application of the phrase "incidental and supplemental" in a manner contradicting the holding and dicta in *Okada Trucking Co., Ltd. V. Board of Water Supply, City and County of Honolulu and Inter Island Environmental Services, Inc.*, 97 Hawai'i 450 (2002).

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 49, as amended herein, and recommends that it be referred to the Committee on Ways and Means, in the form attached hereto as S.R. No. 49, S.D. 1.

Respectfully submitted on  
behalf of the members of the  
Committee on Commerce and  
Consumer Protection,



ROSALYN H. BAKER, Chair



