



Testimony in Opposition of HB1887  
Relating to Motor Carriers  
*Submitted by Glenn Kawamura, VP, Finance, Polynesian Adventure Tours*  
To the Joint Committee on Consumer Protection and Transportation  
Wednesday, January 27, 2009

Dear Chairs Herkes and Souki and members of the Joint Committee:

Polynesian Adventure Tours has operated a transportation business in the State of Hawaii for over thirty years, under an Island-wide license granted by the Public Utilities Commission (PUC). We believe that regulation of the passenger motor carrier industry is very important to the State. Hawaii's number one industry is tourism and tourism is dependent upon a safe and efficient ground transportation system that will provide the visitor an excellent guest experience. The regulation of motor carriers ensures that only reputable and safe operators are allowed to carry passengers. Additionally, regulation also requires that pricing charged to the consumer is equivalent to the tariffs filed with the PUC. Maintaining PUC regulation will ensure that passenger transportation services are provided in a safe and ethical manner, and that the customer is charged a fair price.

The elimination of regulation and the absence of standard pricing could lead to operators entering the marketplace and under-cutting established pricing on the higher volume routes. This situation could result in predatory pricing, as operators focus only on high volume and low pricing. In this environment larger carriers, who currently service all routes, and have the adequate size to handle large meeting and incentive groups, would suffer. These carriers would have to reduce their fleet size if they could not compete on the basis of price with smaller low-cost operators, as they have higher overhead costs. If the large carriers slowly reduce their fleet size there would be very few companies able handle large incentive groups, such as the recent ADA convention. The industry would become very fragmented and could result in 20 to 30 operators having to coordinate to handle large size incentive groups. This could impact the State's ability to attract large conventions to Hawaii, as ground transportation services can be a significant determining factor as to whether or not a group will consider Hawaii as a meeting destination.

Finally, it is also important to recognize the importance of the passenger carriers in time of emergency. Passenger carriers are a valuable resource that has been used in the past during natural disasters. After Hurricane Iniki, our company assisted with the transportation of recovery workers in rebuilding Kauai. Throughout the state, it is important to have healthy and vibrant private transportation providers that can assist in times of natural disaster or evacuation. The municipal bus system does not have the capacity to perform disaster relief on its' own.



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It is for the above reasons outlined we oppose House Bill 1887 which would exclude ground transportation of passengers and freight from regulations by the Public Utilities Commission.

Thank you for the opportunity to submit these comments.

Respectfully submitted,

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TESTIMONY  
OF  
RUSS K. SAITO, COMPTROLLER  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
TO THE  
COMMITTEES ON  
CONSUMER PROTECTION & COMMERCE  
AND  
ECONOMIC REVITALIZATION, BUSINESS & MILITARY AFFAIRS  
ON  
January 27, 2010

RELATING TO THE CONSTRUCTION AUTHORITY

Chair Herkes, Chair McKelvey, and members of the Committees, thank you for the opportunity to testify on H.B. 1889.

The Department of Accounting and General Services (DAGS) opposes this bill because it will require funding to implement that is not available and may impact on the priorities set forth in the Executive Supplemental Budget for Fiscal Year 2010-2011. In addition, it will eliminate the separation of duties necessary to ensure compliance of procurement, licensing and permitting activities with relevant Federal, State, and County laws, regulations, and rules, and increase the level of government bureaucracy.

To ensure full, open, and fair competition for construction projects, checks and balances must exist within the procurement framework. H.B. 1889 which establishes a Construction Authority, consolidates the procurement of all public construction projects, gives the Authority

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the power to facilitate the permitting process relating to such contracts, and governs the licensing of professionals who work on such contracts. The Construction Authority, although administratively attached to DAGS, would have overreaching power without any external oversight to answer to.

With the ability to control the procurement of all public construction contracts and to facilitate the permitting of such projects, the Authority may apply priorities that differ from that of the Governor, and thereby impinge on the Governor's authority to manage the operations of the State.

Further, by allowing the Construction Authority the power to both procure all State construction contracts and control the licensing of professionals who work on construction contracts, this bill creates an environment where the ability of a construction professional to earn a livelihood is dependent on the Construction Authority. We believe that this is not conducive to fair and transparent procurements.

DAGS also has comments on the specific provisions of this bill.

PART I. GENERAL PROVISIONS, Sub-Section 1 proposes that the Construction Authority be made responsible to procure all public contracts related to construction. This would require a consolidation of employees from all departments that procure construction contracts, most of whom spend only part of their time on procurement. It would also require consolidation of all resources that support such activities. This will require undetermined implementation costs.

The bill also proposes that the construction authority administer the facilitation of permit processing relating to construction. This is not a function that is being performed regularly by

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any of the agencies that procure construction contracts. Implementation of this function will create a need for additional human resources and support that the State cannot pay for.

The bill proposes that the construction authority provide for the licensing of: contractors; electricians and plumbers; elevator mechanics; professional engineers, architects, surveyors, and landscape architects. This licensing function is currently being performed by the Department of Labor and Industrial Relations (DLIR) or the Department of Commerce and Consumer Affairs (DCCA). Putting it under the construction authority would eliminate the separation of duties between the contracting agency and the agencies that provide regulatory oversight. There is obvious conflict of interest when the agency that does the contracting must also rule on the validity of the contractor's licensing qualifications, especially when questioned by the contractor's competitors or aggrieved parties.

The bill, in PART I, GENERAL PROVISIONS, Section 1, proposes that the construction authority consist of thirteen (13) members, but does not include representation from knowledgeable agencies such as the Department of Health (DOH) for applicable Federal and State environmental impact-related issues, the Department of Land and Natural Resources (DLNR) for applicable Federal and State historic preservation or cultural preservation issues the DLIR for applicable Federal and State labor law issues or the he DCCA for applicable Federal and State licensing and professional certification issues.

The bill, pursuant to PART 1, GENERAL PROVISIONS, Section 4, creates a Construction Special Fund Account for use by the construction authority. There is no funding level specified, no indication as to how the excise tax payments by construction companies will be extracted from the excise tax revenue to the State, and no clear description of what these funds may and may not be used for.

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The bill, pursuant to PART II, FACILITATION OF PERMIT PROCESSING, Section 12, Facilitated Application Process, requires state agencies and allows County agencies to participate in a facilitated application process. The permissive nature of the County participation and the non-existent nature of federal participation may severely hamper the construction authority's fulfillment of this responsibility.

The bill, Pursuant to PART II, GENERAL PROVISIONS, Section 13, requires the construction authority to operate a permit information and coordination center for public use and maintain and update a repository of the laws, rules, procedures, permit requirements, and criteria of Federal, State, and County agencies having control or regulatory power over land and water use for development or the control or regulatory power over natural, cultural, or environmental resources. This center and capability does not exist, and creating it will take funding that the State does not have.

Thank you for the opportunity to testify on this matter.

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