

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



KURT KAWAFUCHI
DIRECTOR OF TAXATION

STANLEY SHIRAKI
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
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**HOUSE COMMITTEES ON CONSUMER PROTECTION & COMMERCE AND
ECONOMIC REVITALIZATION, BUSINESS & MILITARY AFFAIRS
TESTIMONY REGARDING HB 1889
RELATING TO THE CONSTRUCTION AUTHORITY**

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: JANUARY 27, 2010
TIME: 2PM
ROOM: 325

This measure, among other things, proposes a Construction Authority, as well as a special fund into which shall be deposited the general excise tax revenues generated by contractors.

The Department of Taxation ("Department") **takes no position on the concept** of this legislation; **however opposes the funding mechanism.**

THE DEPARTMENT CANNOT SUPPORT GET REVENUE DIVERSIONS—The Department is always cautious about policy that redirects general excise tax revenue away from the general fund and into specific special funds. The Department routinely opposes funding mechanisms such as this because the general excise tax represents over one-half of the State's overall operating revenue stream. The Department strongly prefers that a direct appropriation be the means for funding this program so that the amount may be budgeted and prioritized just as any other program.

WRITTEN ONLY

TESTIMONY BY GEORGINA K. KAWAMURA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEES ON CONSUMER PROTECTION AND COMMERCE
AND ECONOMIC REVITALIZATION, BUSINESS, AND MILITARY AFFAIRS
ON
HOUSE BILL NO. 1889

January 27, 2010

RELATING TO THE CONSTRUCTION AUTHORITY

House Bill No. 1889 establishes a construction authority attached to the Department of Accounting and General Services to oversee the: statewide procurement for construction; facilitation of permit processing; and professional and vocational licensing of contractors, electricians, plumbers, elevator mechanics, professional engineers, architects, surveyors, and landscape architects. The bill also creates a special fund with revenues coming from the professional licensing fees and the general excise tax imposed on contractors.

As a matter of general policy, this department does not support the creation of any special or revolving fund which does not meet the requirements of Sections 37-52.3 and 37-52.4 of the Hawaii Revised Statutes. Special or revolving funds should: 1) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program; 2) provide an appropriate means of financing for the program or activity; and 3) demonstrate the capacity to be financially self-sustaining. It is difficult to determine whether the fund will be self-sustaining.



LINDA LINGLE
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JAMES R. AIONA, JR.
LT. GOVERNOR

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LAWRENCE M. REIFURTH
DIRECTOR
RONALD BOYER
DEPUTY DIRECTOR

**PRESENTATION OF THE
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION**

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION & COMMERCE

AND

TO THE HOUSE COMMITTEE ON ECONOMIC REVITALIZATION,
BUSINESS, & MILITARY AFFAIRS

TWENTY-FIFTH LEGISLATURE
Regular Session of 2010

Wednesday, January 27, 2010
2:00 p.m.

**TESTIMONY ON HOUSE BILL NO. 1889, RELATING TO CONSTRUCTION
AUTHORITY.**

TO THE HONORABLE ROBERT N. HERKES, CHAIR, AND
TO THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Celia Suzuki, Acting Licensing Administrator of the Professional and Vocational Licensing Division of the Department of Commerce and Consumer Affairs ("PVLD/DCCA"). I appreciate the opportunity to present testimony in opposition to H.B. 1889, Relating to the Construction Authority.

The Department defers to the Department of Accounting and General Services ("DAGS") regarding those issues that impact that agency. However, PVLD/DCCA submits its opposition to the transference of certain of its licensing responsibilities to the newly created Construction Authority in DAGS.

While we recognize the significant role that the construction industry plays in the State's economy and the concept of a single entity being responsible for procuring all public contracts relating to construction and to facilitate permit processing relating to construction, we believe the impact of including the licensing function within the newly created Construction Authority will result in the diminishment of critical regulatory activities currently performed by the respective DCCA licensing boards (Contractors, Electricians and Plumbers, Elevator Mechanics, and Engineers, Architects, Surveyors and Landscape Architects) and the efficient and effective licensing, enforcement, and adjudicatory support services performed by DCCA.

The measure provides for the transfer of employees with their functions from PVLD/DCCA to the Authority. The measure assumes that there is a one-to-one relationship between the responsibilities of any particular PVLD/DCCA employee and the 4 boards identified for transfer from the Department to the Authority. However, PVLD/DCCA employees typically service more than one licensing area (as we have a total of 47 licensing boards and programs). If a particular employee were to be transferred, the impact will be negatively felt in the other licensing areas that the employee serviced. For those reasons it is not a simple solution to transfer PVLD/DCCA resources to staff the Authority.

In light of the above and the possibility that very few if any PVLD/DCCA employees could be transferred, the Authority may then need additional resources to implement just the licensing responsibility. With the Authority's new staff there is a genuine concern that license processing will not be timely or efficient. On behalf of our licensee clients, we feel this would be unacceptable.

Also, an important responsibility of the respective DCCA boards is enforcement for violations of the licensing law and to have an adjudicatory process to discipline licensees. On the boards behalf complaints, investigations, prosecution, and adjudicating license disciplinary cases are handled by two (2) separate divisions in DCCA, namely the Regulated Industries Complaints Office and Office of Administrative Hearings. By severing these boards from DCCA the Authority is then responsible for providing the enforcement and adjudicatory processes. We note however that nothing is stated in this measure that speaks to this issue.

Also included among DCCA's enforcement process for the respective boards is the prosecution of unlicensed activity by the Regulated Industries Complaints Office. This too, with severing these boards from DCCA, will rest with the Authority to assume.

In closing, PVLD/DCCA believes that while this measure may have merits to creating a one stop shop to procure all public contracts relating to construction and to facilitate permit processing relating to construction, the licensing responsibility should remain with the respective individual licensing boards and these boards should remain administratively attached to DCCA. Thank you for the opportunity to testify.

**PRESENTATION OF THE
CONTRACTORS LICENSE BOARD**

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION & COMMERCE

AND

TO THE HOUSE COMMITTEE ON ECONOMIC REVITALIZATION,
BUSINESS, & MILITARY AFFAIRS

TWENTY-FIFTH LEGISLATURE
Regular Session of 2010

Wednesday, January 27, 2010
2:00 p.m.

**TESTIMONY ON HOUSE BILL NO. 1889, RELATING TO THE CONSTRUCTION
AUTHORITY.**

TO THE HONORABLE ROBERT N. HERKES, CHAIR, AND
TO THE HONORABLE ANGUS L. K. MCKELVEY, CHAIR,
AND MEMBERS OF THE COMMITTEES:

My name is Denny Sadowski, Legislative Committee Chair of the Contractors License Board ("Board"). The Board appreciates the opportunity to present testimony on House Bill No. 1889, Relating to the Construction Authority.

House Bill No. 1889 proposes to create a 13-member Construction Authority to procure all public contracts relating to construction, administer a facilitated permit application process, and provide for the licensing of contractors, in addition to other construction related trades and professions.

Although the Board has not had an opportunity to meet to discuss this bill, an informal poll of its members indicates that the Board is opposed to relinquishing its duties and responsibilities to the Construction Authority. These duties include reviewing license applications, granting licenses, disciplining licensees, adopting rules, enforcing its statutes, issuing informal interpretations and declaratory rulings, and conducting

contested case proceedings. The Board questions whether the Construction Authority will be able to adequately fulfill these responsibilities. Furthermore, we believe that creating a new licensing body, at a time of limited resources, is not a sound pursuit when an established and qualified entity is already performing this function.

The Board also questions how the license requirements will be enforced under the Construction Authority. Currently, the enforcement of the licensing statute is through the Department of Commerce and Consumer Affairs' Regulated Industries Complaints Office and the Office of Administrative Hearings. These enforcement duties will end when the licensing function is taken over by the Construction Authority, and the bill does not appear to provide for a comparable enforcement body.

Thank you for the opportunity to testify on this bill.

**PRESENTATION OF THE
BOARD OF ELECTRICIANS
AND PLUMBERS**

TO THE HOUSE COMMITTEE ON CONSUMER
PROTECTION AND COMMERCE

AND

TO THE HOUSE COMMITTEE ON ECONOMIC
REVITALIZATION, BUSINESS, AND
MILITARY AFFAIRS

TWENTY-FIFTH LEGISLATURE
Regular Session of 2010

Wednesday, January 27, 2010
2:00 p.m.

**TESTIMONY ON HOUSE BILL NO. 1889, RELATING TO THE CONSTRUCTION
AUTHORITY.**

TO THE HONORABLE ROBERT N. HERKES, CHAIR, AND
TO THE HONORABLE ANGUS L. K. MCKELVEY, CHAIR,
AND MEMBERS OF THE COMMITTEES:

My name is Norman Ahu, Chair and Public Member of the Board of Electricians and Plumbers ("Board"). The Board has not been able to meet as a whole to discuss House Bill No. 1889, but will at its next scheduled meeting on Tuesday, February 9, 2010.

House Bill No. 1889 proposes to create a 13-member Construction Authority to procure all public contracts relating to construction, administer a facilitated permit application process, and provide for the licensing of electricians and plumbers in addition to other construction related trades and professions.

While not a formal position of the Board, an informal poll of its members indicates that the majority oppose the removal of the licensing of electricians and plumbers from the Board of Electrician and Plumbers currently under the Department of Commerce and Consumer Affairs ("DCCA") and to transfer this responsibility to the proposed Construction Authority under the

Department of Accounting and General Services ("DAGS"). Members related the following concerns:

1. There are no licensed electrician or plumber members proposed to the Construction Authority thereby raising concerns of expertise to determine license qualifications;
2. The creation of the Construction Authority will require DAGS to establish licensing functions which already exists at DCCA. This is an ineffective use of resources at a time of limited resources;
3. The loss of DCCA's expertise in licensing functions and the loss of synergy gained from commonalities of other licensed professions and vocations is a detriment to all licensed electricians and plumbers; and
4. The bill fails to include a licensing enforcement component as a responsibility of the Construction Authority. Currently as a Board administratively attached to the DCCA, the enforcement component (complaints, investigation, prosecution, administrative hearings on license denials and violations of licensed and unlicensed activity) is by statute handled by DCCA's Regulated Industries Complaints Office and Office of Administrative Hearings. House Bill No. 1889 does not provide any comparable enforcement under the Construction Authority.

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

**PRESENTATION OF THE
ELEVATOR MECHANICS LICENSING BOARD**

**TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION & COMMERCE**

AND

**TO THE HOUSE COMMITTEE ON
ECONOMIC REVITALIZATION, BUSINESS, & MILITARY AFFAIRS**

**TWENTY-FIFTH LEGISLATURE
Regular Session of 2010**

**Wednesday, January 27, 2010
2:00 p.m.**

**TESTIMONY ON HOUSE BILL NO. 1889 – RELATING TO THE CONSTRUCTION
AUTHORITY.**

**TO THE HONORABLE ROBERT N. HERKES, CHAIR, AND
TO THE HONORABLE ANGUS L. K. MCKELVEY, CHAIR,
AND MEMBERS OF THE COMMITTEES:**

My name is Marc Yamane and I am the Vice Chairperson of the Elevator Mechanics Licensing Board ("Board"). Thank you for the opportunity to provide testimony in opposition to H.B. No. 1889, relating to the Construction Authority.

This bill proposes to abolish the Board and place the licensing of elevator mechanics under the jurisdiction of the Department of Accounting and General Services ("DAGS").

The Board's last meeting was on January 8, 2010 and at that time we were not aware of H.B. No. 1889. For this reason, the Board members were polled and every member opposes the abolishment of the Board. The Board believes that public safety is our foremost concern and eliminating the Board jeopardizes the safety of the general

public as this bill does not address how the Construction Authority will ensure that only qualified persons are in the field.

The Board also believes that its composition of licensed elevator mechanics and public members is best suited to review prospective license applicants.

The Board understands that with its abolishment, there will be no licensing enforcement which is currently under the purview of the Regulated Industries Complaints Office. Thus, the enforcement component (complaints, investigating, prosecution, administrative hearings on license denials and violations of licensed activity, and prosecution of unlicensed activity) will no longer exist.

For these reasons, the Board opposes H.B. No. 1889 and thanks you for the opportunity to provide testimony.

**PRESENTATION OF THE
BOARD OF PROFESSIONAL ENGINEERS, ARCHITECTS,
SURVEYORS AND LANDSCAPE ARCHITECTS**

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION & COMMERCE

AND

TO THE HOUSE COMMITTEE ON ECONOMIC REVITALIZATION,
BUSINESS, & MILITARY AFFAIRS

TWENTY-FIFTH LEGISLATURE
Regular Session of 2010

Wednesday, January 27, 2010
2:00 p.m.

**TESTIMONY ON HOUSE BILL NO. 1889, RELATING TO THE CONSTRUCTION
AUTHORITY.**

TO THE HONORABLE ROBERT N. HERKES, CHAIR, AND
TO THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR,
AND MEMBERS OF THE COMMITTEES:

My name is Michael Chu, Landscape Architect Member of the Board of Professional Engineers, Architects, Surveyors and Landscape Architects ("Board"). The Board appreciates the opportunity to present testimony in opposition to House Bill No. 1889, Relating to the Construction Authority.

House Bill No. 1889 proposes to create a 13-member Construction Authority ("Authority") to oversee statewide procurement for construction, administer a facilitated permit application process, and provide for the licensing of professional engineers, architects, surveyors, and landscape architects, in addition to other construction related vocations and professions.

Although the Board has not had an opportunity to meet and discuss this bill, an informal poll of its members indicates that the Board is opposed to being under the

proposed jurisdiction of the Authority and the Department of Accounting and General Services. The primary purpose of a licensing board is to protect the health, safety, and welfare of the public. As such, the Board establishes criteria to qualify for licensure as a professional engineer, architect, surveyor, and landscape architect, including a person's education, experience and examination. The Board is composed of 14 members, including 11 licensed professionals who have expertise in their area of licensure and are able to evaluate an applicant's credentials for licensure. Moreover, the Board proposes legislation, adopts rules, enforces the statutes and disciplines licensees, issues informal interpretations and declaratory rulings. The Board questions how two design professionals on the Authority will have the appropriate expertise and knowledge to evaluate applications from professional engineers, architects, surveyors, and landscape architects. Also, the Board questions whether the Authority would have the expertise to fulfill the other responsibilities of the Board, as mentioned above.

In addition, the Board believes that it is more appropriate to be under the jurisdiction of the Department of Commerce and Consumer Affairs ("DCCA") as DCCA currently has 47 boards and programs under its jurisdiction and has done a very effective job. The purpose of a board to protect the health, safety, and welfare of the public fits more appropriately with the mission of DCCA.

Furthermore, DCCA already has in place an investigation branch, Regulated Industries Complaints Office ("RICO"), and an administrative hearings office, Office of Administrative Hearings, to investigate, prosecute and hear cases for disciplinary

Testimony on H.B. No. 1889
Wednesday, January 27, 2010
Page 3

sanctions of licensees, as well as for unlicensed activities. As proposed in the bill, these extremely important functions would not be available.

Thank you for the opportunity to testify in opposition to House Bill No. 1889.

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, Disposition for construction authority special fund

BILL NUMBER: HB 1889

INTRODUCED BY: Herkes and McKelvey

BRIEF SUMMARY: Amends HRS section 237-31 to provide that ___ from all general excise tax revenues realized by the state under HRS section 237-13(3) as a tax on contractors shall be deposited into the credit of the construction authority special fund.

Adds a new chapter to establish a construction authority, within the department of accounting and general services for administrative purposes. The authority shall procure all public contracts relating to construction, administer the facilitation of permit processing relating to construction, and provide for the licensing of contractors, electricians and plumbers, elevator mechanics, and professional engineers, architects, surveyors, and landscape architects. Establishes a construction authority special fund into which shall be deposited: (1) revenues from the general excise tax levied upon contractors as provided in section 237-31; (2) fees and penalties relating to the licensing of contractors, electricians and plumbers, elevator mechanics, and professional engineers, architects, surveyors, and landscape architects; (3) appropriations by the legislature to the construction authority special fund. Delineates provisions for the facilitation of permit processing.

Makes various nontax amendments to update references to the proposed construction authority, changing the licensing of various professions from the DCCA to the construction authority, and repeal of the HRS chapter 201, part IV and transfer of duties relating to the facilitation of permit processing from DBEDT to the construction authority.

EFFECTIVE DATE: July 1, 2010

STAFF COMMENTS: The proposed measure earmarks an unspecified amount of general excise tax revenues derived from the tax on contractors into a newly created construction authority special fund to oversee the statewide procurement for construction. It would also transfer the permit processing and regulation and licensing of contractors, electricians, plumbers, elevator mechanics, professional engineers, architects, surveyors, and landscape architects from the various departments and the DCCA to the construction authority. It should be noted that as with any earmarking, the legislature will be giving their stamp of approval for another "automatic funding" mechanism. Funds would be diverted to the construction authority special fund without any legislative intervention. Without legislative scrutiny, it would be difficult to ascertain the effectiveness of this program and whether or not the fund has too little or too much revenue. If the proposed construction authority special fund does not receive sufficient revenue to perform its duties, the amount of general excise taxes earmarked may be increased without much scrutiny but more importantly, the diversion of general excise tax revenues, as proposed, would mean that there would be that much less in general funds for other programs and services.

The danger in adopting this measure is that it may generate additional requests for funding of other programs or entities through the earmarking of general excise tax revenues as well as establishing another special fund.

How soon lawmakers have forgotten how earmarking general fund revenues can get the state into trouble. It was only 1989 when lawmakers approved earmarking \$90 million for educational facilities as the "commitment" to education and only three years later took back the earmarking because general fund revenues started to dwindle. Further, rather than spurring on construction of classrooms, the earmarking merely created apathy as school officials knew they would receive \$90 million off the top and they didn't have to justify a request for funding. Instead of proposing measures like this, lawmakers should go back and read a little of their own history and learn from their mistakes.

Rather than perpetuating the earmarking of general funds, lawmakers should repeal all earmarking and utilize the appropriation process which would be more accountable than any earmarking scheme. At least lawmakers will be able to evaluate how the program is working and whether not the program is being fully utilized. Advocates for other state programs and services should be insulted as the earmarking process means that this particular program, the construction authority, will not be held to the same scrutiny that their general fund financed programs are held. Indeed, the creation of special fund financed programs through earmarked resources is one of the major reasons why the state is in such dire financial condition as more and more programs are financed through the back door, out of sight of the taxpaying public.

Finally, this measure proposes that this authority oversee the procurement of all public construction contracts as well as the licensing of contracting professionals. One has to ask why such an authority is needed when there is a public procurement code? Is this a new authority or another layer of bureaucracy for which government is so well noted? Instead of streamlining the process, it appears this is yet another layer of bureaucracy with which the construction industry must overcome in providing public infrastructure.

Digested 1/26/10

BIA-HAWAII

BUILDING INDUSTRY ASSOCIATION

94-487 Akoki Street
Waipahu, Hawaii 96797

January 27, 2010

Representative Robert Herkes, Chair
Committee on Consumer Protection and Commerce
Representative Angus McKelvey, Chair
Committee on Economic Revitalization, Business and
Military Affairs
State Capitol, Room 325
Honolulu, Hawaii 96813


RE; HB 1889 "Relating to the Construction Authority"

Chair Herkes and Chair McKelvey and Members of the Respective Committees:

I am Karen Nakamura, Executive Vice President and Chief Executive Officer of the Building Industry Association of Hawaii (BIA-Hawaii). BIA-Hawaii strongly opposes this bill because it seeks to establish an entity that would oversee a multitude of functions that are already being performed by established agencies in the city and state. While it is often a good idea to try to streamline operations, it is also prudent to provide a system of checks and balances. . The proposed authority would be in the Department of Accounting and General Services, an agency that already oversees procurement. As for the facilitation of the permitting process, that function is a City function. The regulation of licensing of various professions and vocations in the industry should continue to be the duty of the Department of Commerce and Consumer Affairs. If the desire of the legislature is to Support a more efficient oversight of the construction industry, they should provide greater funding for DAGS and DCCA.

The establishment of the Construction Authority would cause a systemic administrative nightmare. This will end up like the Board of Education; School Superintendent and Governor situation. The establishment of a Construction Authority is inefficient; costly, without accountability and will lead to finger pointing. All of the functions proposed for the Construction Authority are already being handled by DAGS; Contractor's Licensing Board, etc. At a time when we should be cutting back on expenses in state government, we cannot afford the duplication of functions. It would truly be a waste of state money (taxpayers' money) to create another layer of bureaucracy.

Thank you for the opportunity to share our views with you.


Executive Vice President
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GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

January 27, 2010

TO: THE HONORABLE REPRESENTATIVE ROBERT N. HERKES, CHAIR AND
MEMBERS OF THE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

THE HONORABLE REPRESENTATIVE ANGUS L. K. MCKELVEY, CHAIR AND
MEMBERS OF THE COMMITTEE ON ECONOMIC REVITALIZATION,
BUSINESS, & MILITARY AFFAIRS

SUBJECT: H.B.1889, RELATING TO THE CONSTRUCTION AUTHORITY

NOTICE OF HEARING

DATE: Wednesday, January 27, 2010
TIME: 2:00 p.m.
PLACE: Conference Room 325

Dear Chairs and Members of the Committees:

The General Contractors Association (GCA), an organization comprised of over five hundred and seventy (570) general contractors, subcontractors, and construction related firms, is **opposed** to the passage of. H. B. 1889, Relating To Construction Authority.

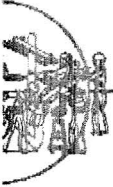
The GCA believes that the creation of another agency as proposed in HB No. 1889 is unnecessary and not in the best interest of the State or the construction industry. The proposed authority will not streamline or facilitate the award and processing of state construction contracts. In fact it will create another layer of government red tape.

Given the current condition of the states' coffers, the additional cost for the creation of another governmental body is not warranted and unnecessary. Although the current organization and division of authority for the design and bidding on capital improvements projects is by no means perfect, it works and gives each department and agency input into the design of capital improvements that affects its work. Policing an investigation of alleged violations of state and federal labor laws should be conducted by the Department of Labor and Industrial Relation.

The GCA also believes that the contractor's license board is the proper agency to review and determine the licensing of contractors. We do not believe that a thirteen member board as proposed in HB 1889 would have the expertise and knowledge to review licensing and disciplining of contractors, design professionals and other licensed tradespersons.

The GCA is **opposed** to the passage of H.B.1889 and request that the bill not be passed.

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



HAWAII ELECTRICIANS TRAINING FUND

1935 HAU STREET, ROOM 301 • HONOLULU, HAWAII 96819-5003 • PHONE (808) 847-0628 • FAX (808) 843-8818

TESTIMONY AGAINST HB1889, RELATING TO THE CONSTRUCTION AUTHORITY

TO: **HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE**
(VIA FAX 843-8818)

For Hearing on Wednesday, January 27, 2010, at 2:00 P.M., in Conference Room 325

RE: **ADAMANTLY AGAINST FOR HB1889**

Honorable Chair Herkes, Vice Chair Wakai, and Consumer Protection & Commerce Committee members.

My name is David Lovelace. I am a Training Coordinator for the Hawaii Electricians Training Fund. We are a non-profit organization that provides substantial training for all our beneficiaries of the International Brotherhood of Electrical Workers Local Union 1186 and, thru contract, others requiring electrical education for the safety and well-being of the industry. Our training involves electrical theory, practical applications, and electrical and construction safety as presented through apprenticeship programs and skilled upgrade training for journeyworkers. We base all our training and education on the national electrical standards and OSHA regulations. Just recently the State of Hawaii adopted, as it does each and every three years (as it is updated), the National Electrical Code as the standard for safe electrical installations. Within that code Article 80 addresses "Administration and Enforcement" to which the scope is as follows:

80.1 Scope. The following functions are covered:

- (1) The inspection of electrical installations as covered by 90.2
- (2) The investigation of fires caused by electrical installations
- (3) The review of construction plans, drawings, and specifications for electrical systems
- (4) The design, alteration, modification, construction, maintenance, and testing of electrical systems and equipment
- (5) The regulation and control of electrical installations at special events including but not limited to exhibits, trade shows, amusement parks, and other similar special occupancies

Within that article the establishment of an Electrical Board is spelled out to include the members and the authority of that board. In review of the list of appointments, all members are well versed in the electrical installation practices or the outcome of unsafe electrical practices and how the general public is adversely affected by improper installations. The makeup of the electrical board as stated in the 2008 National Electrical Code is as follows:

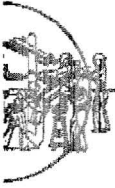
80.15 Electrical Board.

(A) Creation of the Electrical Board. There is hereby created the Electrical Board of the _____ of _____, hereinafter designated as the Board.

(B) Appointments. Board members shall be appointed by the Governor with the advice and consent of the Senate (or by the Mayor with the advice and consent of the Council, or the equivalent).

- (1) Members of the Board shall be chosen in a manner to reflect a balanced representation of individuals or organizations. The Chair of the Board shall be elected by the Board membership.
- (2) The Chief Electrical Inspector in the jurisdiction adopting this Article authorized in (B)(3)(a) shall be the nonvoting secretary of the Board. Where the Chief Electrical Inspector of a local municipality serves a Board at a state level, he or she shall be permitted to serve as a voting member of the Board.
- (3) The board shall consist of not fewer than five voting members. Board members shall be selected from the following:
 - a. Chief Electrical Inspector from a local government (for State Board only)
 - b. An electrical contractor operating in the jurisdiction

1/2



HAWAII ELECTRICIANS TRAINING FUND

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- c. A licensed professional engineer engaged primarily in the design or maintenance of electrical installations
 - d. A journeyman electrician
- (4) Additional membership shall be selected from the following:
- a. A master (supervising) electrician
 - b. The Fire Marshal (or Fire Chief)
 - c. A representative of the property/casualty insurance industry
 - d. A representative of an electric power utility operating in the jurisdiction
 - e. A representative of electrical manufacturers primarily and actively engaged in producing materials, fittings, devices, appliances, luminaires, or apparatus used as part of or in connection with electrical installations
 - f. A member of the labor organization that represents the primary electrical workforce
 - g. A member from the public who is not affiliated with any other designated group
 - h. A representative of a telecommunications utility operating in the jurisdiction

We feel that the need for a continued separation of "Powers and Duties" involving the control of electrical installations and practices for the State of Hawaii is very necessary to which the adoption of a Construction Authority would adversely affect the safe well-being of the people of Hawaii in misrepresenting the needed knowledge base to properly administer the standards and regulations of both the Federal Government (OSHA) and the State of Hawaii (adoption of 2008 NEC). We further feel that with the onset of several electrical arch injuries that have occurred recently in Hawaii that a Construction Authority would not advance the need for additional safety training in the electrical field to include the NFPA 70 E "Electrical Safety in the Workplace".

The Hawaii Electricians Training Fund adamantly opposes HB1889.

Thank you for providing me with the opportunity to testify.

Thank you,

David Lovelace
Hawaii Electricians Training Fund
Training Coordinator



International Brotherhood of Electrical Workers

LOCAL UNION NO. 1186 • Affiliated with AFL-CIO

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TELEPHONE (808) 847-5341 • FAX (808) 847-2224

TESTIMONY OPPOSING HB1889, RELATING TO THE CONSTRUCTION AUTHORITY

TO: **HOUSE COMMITTEES ON: CONSUMER PROTECTION & COMMERCE,
and ECONOMIC REVITALIZATION, BUSINESS & MILITARY AFFAIRS**

For Hearing on Wednesday, January 27, 2010, at 2:00 p.m., in Conference Room 325

RE: **OPPOSITION TO PORTIONS OF HB1889**

Honorable Chairs Herkes & McKelvey, Vice Chairs Wakai & Choy, and Committee members,

My name is **Damien Kim**, and I am the Business Manager – Financial Secretary for the **International Brotherhood of Electrical Workers Local Union 1186**. We represent over 3,500 members working in electrical construction, telecommunications, and Oceanic Cable. Our members include civil service employees at Pearl Harbor, Kaneohe, Hickam, and every military installation in Hawaii. IBEW Local 1186 also represents over 120 signatory electrical contractors that perform most of the electrical work in the state of Hawaii.

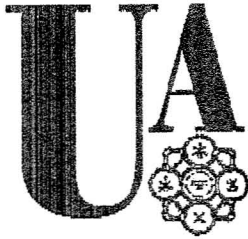
Due to the dangerous and specialized nature of the electrical industry, we oppose the elimination or transfer of the functions of the Board of Electricians and Plumbers to any Construction Authority.

The **2008 National Electrical Code** has specific professional qualification requirements for members of any Electrical Board. These member requirements include possession of valid journeyman licenses, contractor's licenses, or specific industry credentials and training.

Recent incidents of major electrical accidents in Hawaii highlight the danger to public safety from those performing improper electrical work. The special knowledge and skills required of those responsible for the electrical industry cannot be adequately covered by just any supervisory board made up of generalists, and would endanger public safety. For these reasons we oppose any language in HB1889 that would weaken the expertise or qualifications for the state's existing Board of Electricians and Plumbers.

Mahalo and aloha,

Damien Kim
Business Manager – Financial Secretary
International Brotherhood of
Electrical Workers, Local Union 1186



Founded 1889

PLUMBERS AND FITTERS LOCAL 675 UNITED ASSOCIATION



January 27, 2010

TESTIMONY OPPOSING HB 1889, RELATING TO THE CONSTRUCTION AUTHORITY

TO: HOUSE COMMITTEES ON: CONSUMER PROTECTION & COMMERCE, and
ECONOMIC REVITALIZATION, BUSINESS & MILITARY AFFAIRS

For Hearing on Wednesday, January 27, 2010, at 2:00 p.m., in Conference Room 325

RE: OPPOSING HB 1889

Honorable Chairs Herkes & McKelvey, Vice Chairs Wakai & Choy, and Committee members

My name is Reginald Castanares, and I am the Business Manager, Financial Secretary for the UNITED ASSOCIATION OF PLUMBERS AND FITTERS OF HAWAII, Local 675. We represent over 2,000 members working in the Plumbing, Pipefitting, Air Conditioning, and Fire Sprinkler construction and building trades industry in Hawaii.

With the increasing awareness and concerns over threats to our basic infrastructure, such as clean water and air conditioning systems, it would be irresponsible at this time to reduce the level of accountability required of "licensed" plumbers whose work is tied directly to the health and safety of our citizens.

Thus, we strongly oppose any efforts which would essentially undermine the strict regulatory protocol governing the expertise or qualification for the state's existing Board of Electricians and Plumbers and allow unlicensed individuals access to and work on some of the most important of our "life support" systems.

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



KURT KAWAFUCHI
DIRECTOR OF TAXATION

STANLEY SHIRAKI
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809

PHONE NO: (808) 587-1510
FAX NO: (808) 587-1560

**HOUSE COMMITTEES ON CONSUMER PROTECTION & COMMERCE AND
ECONOMIC REVITALIZATION, BUSINESS & MILITARY AFFAIRS
TESTIMONY REGARDING HB 1889
RELATING TO THE CONSTRUCTION AUTHORITY**

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: JANUARY 27, 2010
TIME: 2PM
ROOM: 325

This measure, among other things, proposes a Construction Authority, as well as a special fund into which shall be deposited the general excise tax revenues generated by contactors.

The Department of Taxation ("Department") **takes no position on the concept** of this legislation; **however opposes the funding mechanism.**

THE DEPARTMENT CANNOT SUPPORT GET REVENUE DIVERSIONS—The Department is always cautious about policy that redirects general excise tax revenue away from the general fund and into specific special funds. The Department routinely opposes funding mechanisms such as this because the general excise tax represents over one-half of the State's overall operating revenue stream. The Department strongly prefers that a direct appropriation be the means for funding this program so that the amount may be budgeted and prioritized just as any other program.

WRITTEN ONLY

TESTIMONY BY GEORGINA K. KAWAMURA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEES ON CONSUMER PROTECTION AND COMMERCE
AND ECONOMIC REVITALIZATION, BUSINESS, AND MILITARY AFFAIRS
ON
HOUSE BILL NO. 1889

January 27, 2010

RELATING TO THE CONSTRUCTION AUTHORITY

House Bill No. 1889 establishes a construction authority attached to the Department of Accounting and General Services to oversee the: statewide procurement for construction; facilitation of permit processing; and professional and vocational licensing of contractors, electricians, plumbers, elevator mechanics, professional engineers, architects, surveyors, and landscape architects. The bill also creates a special fund with revenues coming from the professional licensing fees and the general excise tax imposed on contractors.

As a matter of general policy, this department does not support the creation of any special or revolving fund which does not meet the requirements of Sections 37-52.3 and 37-52.4 of the Hawaii Revised Statutes. Special or revolving funds should: 1) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program; 2) provide an appropriate means of financing for the program or activity; and 3) demonstrate the capacity to be financially self-sustaining. It is difficult to determine whether the fund will be self-sustaining.



LINDA LINGLE
GOVERNOR
JAMES R. AIONA, JR.
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
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LAWRENCE M. REIFURTH
DIRECTOR
RONALD BOYER
DEPUTY DIRECTOR

**PRESENTATION OF THE
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION**

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION & COMMERCE

AND

TO THE HOUSE COMMITTEE ON ECONOMIC REVITALIZATION,
BUSINESS, & MILITARY AFFAIRS

TWENTY-FIFTH LEGISLATURE
Regular Session of 2010

Wednesday, January 27, 2010
2:00 p.m.

**TESTIMONY ON HOUSE BILL NO. 1889, RELATING TO CONSTRUCTION
AUTHORITY.**

TO THE HONORABLE ROBERT N. HERKES, CHAIR, AND
TO THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Celia Suzuki, Acting Licensing Administrator of the Professional and Vocational Licensing Division of the Department of Commerce and Consumer Affairs ("PVLD/DCCA"). I appreciate the opportunity to present testimony in opposition to H.B. 1889, Relating to the Construction Authority.

The Department defers to the Department of Accounting and General Services (“DAGS”) regarding those issues that impact that agency. However, PVLD/DCCA submits its opposition to the transference of certain of its licensing responsibilities to the newly created Construction Authority in DAGS.

While we recognize the significant role that the construction industry plays in the State’s economy and the concept of a single entity being responsible for procuring all public contracts relating to construction and to facilitate permit processing relating to construction, we believe the impact of including the licensing function within the newly created Construction Authority will result in the diminishment of critical regulatory activities currently performed by the respective DCCA licensing boards (Contractors, Electricians and Plumbers, Elevator Mechanics, and Engineers, Architects, Surveyors and Landscape Architects) and the efficient and effective licensing, enforcement, and adjudicatory support services performed by DCCA.

The measure provides for the transfer of employees with their functions from PVLD/DCCA to the Authority. The measure assumes that there is a one-to-one relationship between the responsibilities of any particular PVLD/DCCA employee and the 4 boards identified for transfer from the Department to the Authority. However, PVLD/DCCA employees typically service more than one licensing area (as we have a total of 47 licensing boards and programs). If a particular employee were to be transferred, the impact will be negatively felt in the other licensing areas that the employee serviced. For those reasons it is not a simple solution to transfer PVLD/DCCA resources to staff the Authority.

In light of the above and the possibility that very few if any PVLD/DCCA employees could be transferred, the Authority may then need additional resources to implement just the licensing responsibility. With the Authority's new staff there is a genuine concern that license processing will not be timely or efficient. On behalf of our licensee clients, we feel this would be unacceptable.

Also, an important responsibility of the respective DCCA boards is enforcement for violations of the licensing law and to have an adjudicatory process to discipline licensees. On the boards behalf complaints, investigations, prosecution, and adjudicating license disciplinary cases are handled by two (2) separate divisions in DCCA, namely the Regulated Industries Complaints Office and Office of Administrative Hearings. By severing these boards from DCCA the Authority is then responsible for providing the enforcement and adjudicatory processes. We note however that nothing is stated in this measure that speaks to this issue.

Also included among DCCA's enforcement process for the respective boards is the prosecution of unlicensed activity by the Regulated Industries Complaints Office. This too, with severing these boards from DCCA, will rest with the Authority to assume.

In closing, PVLD/DCCA believes that while this measure may have merits to creating a one stop shop to procure all public contracts relating to construction and to facilitate permit processing relating to construction, the licensing responsibility should remain with the respective individual licensing boards and these boards should remain administratively attached to DCCA. Thank you for the opportunity to testify.

**PRESENTATION OF THE
CONTRACTORS LICENSE BOARD**

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION & COMMERCE

AND

TO THE HOUSE COMMITTEE ON ECONOMIC REVITALIZATION,
BUSINESS, & MILITARY AFFAIRS

TWENTY-FIFTH LEGISLATURE
Regular Session of 2010

Wednesday, January 27, 2010
2:00 p.m.

**TESTIMONY ON HOUSE BILL NO. 1889, RELATING TO THE CONSTRUCTION
AUTHORITY.**

TO THE HONORABLE ROBERT N. HERKES, CHAIR, AND
TO THE HONORABLE ANGUS L. K. MCKELVEY, CHAIR,
AND MEMBERS OF THE COMMITTEES:

My name is Denny Sadowski, Legislative Committee Chair of the Contractors License Board ("Board"). The Board appreciates the opportunity to present testimony on House Bill No. 1889, Relating to the Construction Authority.

House Bill No. 1889 proposes to create a 13-member Construction Authority to procure all public contracts relating to construction, administer a facilitated permit application process, and provide for the licensing of contractors, in addition to other construction related trades and professions.

Although the Board has not had an opportunity to meet to discuss this bill, an informal poll of its members indicates that the Board is opposed to relinquishing its duties and responsibilities to the Construction Authority. These duties include reviewing license applications, granting licenses, disciplining licensees, adopting rules, enforcing its statutes, issuing informal interpretations and declaratory rulings, and conducting

contested case proceedings. The Board questions whether the Construction Authority will be able to adequately fulfill these responsibilities. Furthermore, we believe that creating a new licensing body, at a time of limited resources, is not a sound pursuit when an established and qualified entity is already performing this function.

The Board also questions how the license requirements will be enforced under the Construction Authority. Currently, the enforcement of the licensing statute is through the Department of Commerce and Consumer Affairs' Regulated Industries Complaints Office and the Office of Administrative Hearings. These enforcement duties will end when the licensing function is taken over by the Construction Authority, and the bill does not appear to provide for a comparable enforcement body.

Thank you for the opportunity to testify on this bill.

**PRESENTATION OF THE
BOARD OF ELECTRICIANS
AND PLUMBERS**

TO THE HOUSE COMMITTEE ON CONSUMER
PROTECTION AND COMMERCE

AND

TO THE HOUSE COMMITTEE ON ECONOMIC
REVITALIZATION, BUSINESS, AND
MILITARY AFFAIRS

TWENTY-FIFTH LEGISLATURE
Regular Session of 2010

Wednesday, January 27, 2010
2:00 p.m.

**TESTIMONY ON HOUSE BILL NO. 1889, RELATING TO THE CONSTRUCTION
AUTHORITY.**

TO THE HONORABLE ROBERT N. HERKES, CHAIR, AND
TO THE HONORABLE ANGUS L. K. MCKELVEY, CHAIR,
AND MEMBERS OF THE COMMITTEES:

My name is Norman Ahu, Chair and Public Member of the Board of Electricians and Plumbers ("Board"). The Board has not been able to meet as a whole to discuss House Bill No. 1889, but will at its next scheduled meeting on Tuesday, February 9, 2010.

House Bill No. 1889 proposes to create a 13-member Construction Authority to procure all public contracts relating to construction, administer a facilitated permit application process, and provide for the licensing of electricians and plumbers in addition to other construction related trades and professions.

While not a formal position of the Board, an informal poll of its members indicates that the majority oppose the removal of the licensing of electricians and plumbers from the Board of Electrician and Plumbers currently under the Department of Commerce and Consumer Affairs ("DCCA") and to transfer this responsibility to the proposed Construction Authority under the

Department of Accounting and General Services ("DAGS"). Members related the following concerns:

1. There are no licensed electrician or plumber members proposed to the Construction Authority thereby raising concerns of expertise to determine license qualifications;
2. The creation of the Construction Authority will require DAGS to establish licensing functions which already exists at DCCA. This is an ineffective use of resources at a time of limited resources;
3. The loss of DCCA's expertise in licensing functions and the loss of synergy gained from commonalities of other licensed professions and vocations is a detriment to all licensed electricians and plumbers; and
4. The bill fails to include a licensing enforcement component as a responsibility of the Construction Authority. Currently as a Board administratively attached to the DCCA, the enforcement component (complaints, investigation, prosecution, administrative hearings on license denials and violations of licensed and unlicensed activity) is by statute handled by DCCA's Regulated Industries Complaints Office and Office of Administrative Hearings. House Bill No. 1889 does not provide any comparable enforcement under the Construction Authority.

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

**PRESENTATION OF THE
ELEVATOR MECHANICS LICENSING BOARD**

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION & COMMERCE

AND

TO THE HOUSE COMMITTEE ON
ECONOMIC REVITALIZATION, BUSINESS, & MILITARY AFFAIRS

TWENTY-FIFTH LEGISLATURE
Regular Session of 2010

Wednesday, January 27, 2010
2:00 p.m.

**TESTIMONY ON HOUSE BILL NO. 1889 – RELATING TO THE CONSTRUCTION
AUTHORITY.**

TO THE HONORABLE ROBERT N. HERKES, CHAIR, AND
TO THE HONORABLE ANGUS L. K. MCKELVEY, CHAIR,
AND MEMBERS OF THE COMMITTEES:

My name is Marc Yamane and I am the Vice Chairperson of the Elevator
Mechanics Licensing Board ("Board"). Thank you for the opportunity to provide
testimony in opposition to H.B. No. 1889, relating to the Construction Authority.

This bill proposes to abolish the Board and place the licensing of elevator
mechanics under the jurisdiction of the Department of Accounting and General Services
("DAGS").

The Board's last meeting was on January 8, 2010 and at that time we were not
aware of H.B. No. 1889. For this reason, the Board members were polled and every
member opposes the abolishment of the Board. The Board believes that public safety
is our foremost concern and eliminating the Board jeopardizes the safety of the general

public as this bill does not address how the Construction Authority will ensure that only qualified persons are in the field.

The Board also believes that its composition of licensed elevator mechanics and public members is best suited to review prospective license applicants.

The Board understands that with its abolishment, there will be no licensing enforcement which is currently under the purview of the Regulated Industries Complaints Office. Thus, the enforcement component (complaints, investigating, prosecution, administrative hearings on license denials and violations of licensed activity, and prosecution of unlicensed activity) will no longer exist.

For these reasons, the Board opposes H.B. No. 1889 and thanks you for the opportunity to provide testimony.

**PRESENTATION OF THE
BOARD OF PROFESSIONAL ENGINEERS, ARCHITECTS,
SURVEYORS AND LANDSCAPE ARCHITECTS**

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION & COMMERCE

AND

TO THE HOUSE COMMITTEE ON ECONOMIC REVITALIZATION,
BUSINESS, & MILITARY AFFAIRS

TWENTY-FIFTH LEGISLATURE
Regular Session of 2010

Wednesday, January 27, 2010
2:00 p.m.

**TESTIMONY ON HOUSE BILL NO. 1889, RELATING TO THE CONSTRUCTION
AUTHORITY.**

TO THE HONORABLE ROBERT N. HERKES, CHAIR, AND
TO THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR,
AND MEMBERS OF THE COMMITTEES:

My name is Michael Chu, Landscape Architect Member of the Board of Professional Engineers, Architects, Surveyors and Landscape Architects ("Board"). The Board appreciates the opportunity to present testimony in opposition to House Bill No. 1889, Relating to the Construction Authority.

House Bill No. 1889 proposes to create a 13-member Construction Authority ("Authority") to oversee statewide procurement for construction, administer a facilitated permit application process, and provide for the licensing of professional engineers, architects, surveyors, and landscape architects, in addition to other construction related vocations and professions.

Although the Board has not had an opportunity to meet and discuss this bill, an informal poll of its members indicates that the Board is opposed to being under the

proposed jurisdiction of the Authority and the Department of Accounting and General Services. The primary purpose of a licensing board is to protect the health, safety, and welfare of the public. As such, the Board establishes criteria to qualify for licensure as a professional engineer, architect, surveyor, and landscape architect, including a person's education, experience and examination. The Board is composed of 14 members, including 11 licensed professionals who have expertise in their area of licensure and are able to evaluate an applicant's credentials for licensure. Moreover, the Board proposes legislation, adopts rules, enforces the statutes and disciplines licensees, issues informal interpretations and declaratory rulings. The Board questions how two design professionals on the Authority will have the appropriate expertise and knowledge to evaluate applications from professional engineers, architects, surveyors, and landscape architects. Also, the Board questions whether the Authority would have the expertise to fulfill the other responsibilities of the Board, as mentioned above.

In addition, the Board believes that it is more appropriate to be under the jurisdiction of the Department of Commerce and Consumer Affairs ("DCCA") as DCCA currently has 47 boards and programs under its jurisdiction and has done a very effective job. The purpose of a board to protect the health, safety, and welfare of the public fits more appropriately with the mission of DCCA.

Furthermore, DCCA already has in place an investigation branch, Regulated Industries Complaints Office ("RICO"), and an administrative hearings office, Office of Administrative Hearings, to investigate, prosecute and hear cases for disciplinary

Testimony on H.B. No. 1889
Wednesday, January 27, 2010
Page 3

sanctions of licensees, as well as for unlicensed activities. As proposed in the bill, these extremely important functions would not be available.

Thank you for the opportunity to testify in opposition to House Bill No. 1889.

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, Disposition for construction authority special fund

BILL NUMBER: HB 1889

INTRODUCED BY: Herkes and McKelvey

BRIEF SUMMARY: Amends HRS section 237-31 to provide that ____ from all general excise tax revenues realized by the state under HRS section 237-13(3) as a tax on contractors shall be deposited into the credit of the construction authority special fund.

Adds a new chapter to establish a construction authority, within the department of accounting and general services for administrative purposes. The authority shall procure all public contracts relating to construction, administer the facilitation of permit processing relating to construction, and provide for the licensing of contractors, electricians and plumbers, elevator mechanics, and professional engineers, architects, surveyors, and landscape architects. Establishes a construction authority special fund into which shall be deposited: (1) revenues from the general excise tax levied upon contractors as provided in section 237-31; (2) fees and penalties relating to the licensing of contractors, electricians and plumbers, elevator mechanics, and professional engineers, architects, surveyors, and landscape architects; (3) appropriations by the legislature to the construction authority special fund. Delineates provisions for the facilitation of permit processing.

Makes various nontax amendments to update references to the proposed construction authority, changing the licensing of various professions from the DCCA to the construction authority, and repeal of the HRS chapter 201, part IV and transfer of duties relating to the facilitation of permit processing from DBEDT to the construction authority.

EFFECTIVE DATE: July 1, 2010

STAFF COMMENTS: The proposed measure earmarks an unspecified amount of general excise tax revenues derived from the tax on contractors into a newly created construction authority special fund to oversee the statewide procurement for construction. It would also transfer the permit processing and regulation and licensing of contractors, electricians, plumbers, elevator mechanics, professional engineers, architects, surveyors, and landscape architects from the various departments and the DCCA to the construction authority. It should be noted that as with any earmarking, the legislature will be giving their stamp of approval for another "automatic funding" mechanism. Funds would be diverted to the construction authority special fund without any legislative intervention. Without legislative scrutiny, it would be difficult to ascertain the effectiveness of this program and whether or not the fund has too little or too much revenue. If the proposed construction authority special fund does not receive sufficient revenue to perform its duties, the amount of general excise taxes earmarked may be increased without much scrutiny but more importantly, the diversion of general excise tax revenues, as proposed, would mean that there would be that much less in general funds for other programs and services.

The danger in adopting this measure is that it may generate additional requests for funding of other programs or entities through the earmarking of general excise tax revenues as well as establishing another special fund.

How soon lawmakers have forgotten how earmarking general fund revenues can get the state into trouble. It was only 1989 when lawmakers approved earmarking \$90 million for educational facilities as the "commitment" to education and only three years later took back the earmarking because general fund revenues started to dwindle. Further, rather than spurring on construction of classrooms, the earmarking merely created apathy as school officials knew they would receive \$90 million off the top and they didn't have to justify a request for funding. Instead of proposing measures like this, lawmakers should go back and read a little of their own history and learn from their mistakes.

Rather than perpetuating the earmarking of general funds, lawmakers should repeal all earmarking and utilize the appropriation process which would be more accountable than any earmarking scheme. At least lawmakers will be able to evaluate how the program is working and whether not the program is being fully utilized. Advocates for other state programs and services should be insulted as the earmarking process means that this particular program, the construction authority, will not be held to the same scrutiny that their general fund financed programs are held. Indeed, the creation of special fund financed programs through earmarked resources is one of the major reasons why the state is in such dire financial condition as more and more programs are financed through the back door, out of sight of the taxpaying public.

Finally, this measure proposes that this authority oversee the procurement of all public construction contracts as well as the licensing of contracting professionals. One has to ask why such an authority is needed when there is a public procurement code? Is this a new authority or another layer of bureaucracy for which government is so well noted? Instead of streamlining the process, it appears this is yet another layer of bureaucracy with which the construction industry must overcome in providing public infrastructure.

Digested 1/26/10

BIA-HAWAII
BUILDING INDUSTRY ASSOCIATION

94-487 Akoki Street
Waipahu, Hawaii 96797

January 27, 2010

Representative Robert Herkes, Chair
Committee on Consumer Protection and Commerce
Representative Angus McKelvey, Chair
Committee on Economic Revitalization, Business and
Military Affairs
State Capitol, Room 325
Honolulu, Hawaii 96813

RE; HB 1889 "Relating to the Construction Authority"

Chair Herkes and Chair McKelvey and Members of the Respective Committees:

I am Karen Nakamura, Executive Vice President and Chief Executive Officer of the Building Industry Association of Hawaii (BIA-Hawaii). BIA-Hawaii strongly opposes this bill because it seeks to establish an entity that would oversee a multitude of functions that are already being performed by established agencies in the city and state. While it is often a good idea to try to streamline operations, it is also prudent to provide a system of checks and balances. . The proposed authority would be in the Department of Accounting and General Services, an agency that already oversees procurement. As for the facilitation of the permitting process, that function is a City function. The regulation of licensing of various professions and vocations in the industry should continue to be the duty of the Department of Commerce and Consumer Affairs. If the desire of the legislature is to Support a more efficient oversight of the construction industry, they should provide greater funding for DAGS and DCCA.

The establishment of the Construction Authority would cause a systemic administrative nightmare. This will end up like the Board of Education; School Superintendent and Governor situation. The establishment of a Construction Authority is inefficient; costly, without accountability and will lead to finger pointing. All of the functions proposed for the Construction Authority are already being handled by DAGS; Contractor's Licensing Board, etc. At a time when we should be cutting back on expenses in state government, we cannot afford the duplication of functions. It would truly be a waste of state money (taxpayers' money) to create another layer of bureaucracy.

Thank you for the opportunity to share our views with you.

Karen I. Nakamura
Executive Vice President
BIA-Hawaii

1065 Ahua Street
Honolulu, HI 96819
Phone: 808-833-1681 FAX: 839-4167
Email: info@gcawhawaii.org
Website: www.gcahawaii.org



GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

January 27, 2010

TO: THE HONORABLE REPRESENTATIVE ROBERT N. HERKES, CHAIR AND
MEMBERS OF THE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

THE HONORABLE REPRESENTATIVE ANGUS L. K. MCKELVEY, CHAIR AND
MEMBERS OF THE COMMITTEE ON ECONOMIC REVITALIZATION,
BUSINESS, & MILITARY AFFAIRS

SUBJECT: H.B.1889, RELATING TO THE CONSTRUCTION AUTHORITY

NOTICE OF HEARING

DATE: Wednesday, January 27, 2010

TIME: 2:00 p.m.

PLACE: Conference Room 325

Dear Chairs and Members of the Committees:

The General Contractors Association (GCA), an organization comprised of over five hundred and seventy (570) general contractors, subcontractors, and construction related firms, is **opposed** to the passage of H. B. 1889, Relating To Construction Authority.

The GCA believes that the creation of another agency as proposed in HB No. 1889 is unnecessary and not in the best interest of the State or the construction industry. The proposed authority will not streamline or facilitate the award and processing of state construction contracts. In fact it will create another layer of government red tape.

Given the current condition of the states' coffers, the additional cost for the creation of another governmental body is not warranted and unnecessary. Although the current organization and division of authority for the design and bidding on capital improvements projects is by no means perfect, it works and gives each department and agency input into the design of capital improvements that affects its work. Policing an investigation of alleged violations of state and federal labor laws should be conducted by the Department of Labor and Industrial Relation.

The GCA also believes that the contractor's license board is the proper agency to review and determine the licensing of contractors. We do not believe that a thirteen member board as proposed in HB 1889 would have the expertise and knowledge to review licensing and disciplining of contractors, design professionals and other licensed tradespersons.

The GCA is **opposed** to the passage of H.B.1889 and request that the bill not be passed.

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



HAWAII ELECTRICIANS TRAINING FUND

1935 HAU STREET, ROOM 301 • HONOLULU, HAWAII 96819-5003 • PHONE (808) 847-0629 • FAX (808) 843-8818

TESTIMONY AGAINST HB1889, RELATING TO THE CONSTRUCTION AUTHORITY

**TO: HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE
(VIA FAX 843-8818)**

For Hearing on Wednesday, January 27, 2010, at 2:00 P.M., in Conference Room 325

RE: ADAMANTLY AGAINST FOR HB1889

Honorable Chair Herkes, Vice Chair Wakai, and Consumer Protection & Commerce Committee members,

My name is David Lovelace. I am a Training Coordinator for the Hawaii Electricians Training Fund. We are a non-profit organization that provides substantial training for all our beneficiaries of the International Brotherhood of Electrical Workers Local Union 1186 and, thru contract, others requiring electrical education for the safety and well-being of the industry. Our training involves electrical theory, practical applications, and electrical and construction safety as presented through apprenticeship programs and skilled upgrade training for journeyworkers. We base all our training and education on the national electrical standards and OSHA regulations. Just recently the State of Hawaii adopted, as it does each and every three years (as it is updated), the National Electrical Code as the standard for safe electrical installations. Within that code Article 80 addresses "Administration and Enforcement" to which the scope is as follows:

80.1 Scope. The following functions are covered:

- (1) The inspection of electrical installations as covered by 90.2
- (2) The investigation of fires caused by electrical installations
- (3) The review of construction plans, drawings, and specifications for electrical systems
- (4) The design, alteration, modification, construction, maintenance, and testing of electrical systems and equipment
- (5) The regulation and control of electrical installations at special events including but not limited to exhibits, trade shows, amusement parks, and other similar special occupancies

Within that article the establishment of an Electrical Board is spelled out to include the members and the authority of that board. In review of the list of appointments, all members are well versed in the electrical installation practices or the outcome of unsafe electrical practices and how the general public is adversely affected by improper installations. The makeup of the electrical board as stated in the 2008 National Electrical Code is as follows:

80.15 Electrical Board.

(A) Creation of the Electrical Board. There is hereby created the Electrical Board of the _____ of _____, hereinafter designated as the Board.

(B) Appointments. Board members shall be appointed by the Governor with the advice and consent of the Senate (or by the Mayor with the advice and consent of the Council, or the equivalent).

- (1) Members of the Board shall be chosen in a manner to reflect a balanced representation of individuals or organizations. The Chair of the Board shall be elected by the Board membership.
- (2) The Chief Electrical Inspector in the jurisdiction adopting this Article authorized in (B)(3)(a) shall be the nonvoting secretary of the Board. Where the Chief Electrical Inspector of a local municipality serves a Board at a state level, he or she shall be permitted to serve as a voting member of the Board.
- (3) The board shall consist of not fewer than five voting members. Board members shall be selected from the following:
 - a. Chief Electrical Inspector from a local government (for State Board only)
 - b. An electrical contractor operating in the jurisdiction

1/2



HAWAII ELECTRICIANS TRAINING FUND

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- c. A licensed professional engineer engaged primarily in the design or maintenance of electrical installations
 - d. A journeyman electrician
- (4) Additional membership shall be selected from the following:
- a. A master (supervising) electrician
 - b. The Fire Marshal (or Fire Chief)
 - c. A representative of the property/casualty insurance industry
 - d. A representative of an electric power utility operating in the jurisdiction
 - e. A representative of electrical manufacturers primarily and actively engaged in producing materials, fittings, devices, appliances, luminaires, or apparatus used as part of or in connection with electrical installations
 - f. A member of the labor organization that represents the primary electrical workforce
 - g. A member from the public who is not affiliated with any other designated group
 - h. A representative of a telecommunications utility operating in the jurisdiction

We feel that the need for a continued separation of "Powers and Duties" involving the control of electrical installations and practices for the State of Hawaii is very necessary to which the adoption of a Construction Authority would adversely affect the safe well-being of the people of Hawaii in misrepresenting the needed knowledge base to properly administer the standards and regulations of both the Federal Government (OSHA) and the State of Hawaii (adoption of 2008 NEC). We further feel that with the onset of several electrical arch injuries that have occurred recently in Hawaii that a Construction Authority would not advance the need for additional safety training in the electrical field to include the NFPA 70 E "Electrical Safety in the Workplace".

The Hawaii Electricians Training Fund adamantly opposes HB1889.

Thank you for providing me with the opportunity to testify.

Thank you,

David Lovelace
Hawaii Electricians Training Fund
Training Coordinator



International Brotherhood of Electrical Workers

LOCAL UNION NO. 1186 • Affiliated with AFL-CIO

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TESTIMONY OPPOSING HB1889, RELATING TO THE CONSTRUCTION AUTHORITY

TO: **HOUSE COMMITTEES ON: CONSUMER PROTECTION & COMMERCE,
and ECONOMIC REVITALIZATION, BUSINESS & MILITARY AFFAIRS**

For Hearing on Wednesday, January 27, 2010, at 2:00 p.m., in Conference Room 325

RE: **OPPOSITION TO PORTIONS OF HB1889**

Honorable Chairs Herkes & McKelvey, Vice Chairs Wakai & Choy, and Committee members,

My name is **Damien Kim**, and I am the Business Manager – Financial Secretary for the **International Brotherhood of Electrical Workers Local Union 1186**. We represent over 3,500 members working in electrical construction, telecommunications, and Oceanic Cable. Our members include civil service employees at Pearl Harbor, Kaneohe, Hickam, and every military installation in Hawaii. IBEW Local 1186 also represents over 120 signatory electrical contractors that perform most of the electrical work in the state of Hawaii.

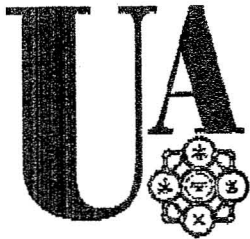
Due to the dangerous and specialized nature of the electrical industry, we oppose the elimination or transfer of the functions of the Board of Electricians and Plumbers to any Construction Authority.

The **2008 National Electrical Code** has specific professional qualification requirements for members of any Electrical Board. These member requirements include possession of valid journeyman licenses, contractor’s licenses, or specific industry credentials and training.

Recent incidents of major electrical accidents in Hawaii highlight the danger to public safety from those performing improper electrical work. The special knowledge and skills required of those responsible for the electrical industry cannot be adequately covered by just any supervisory board made up of generalists, and would endanger public safety. For these reasons we oppose any language in HB1889 that would weaken the expertise or qualifications for the state’s existing Board of Electricians and Plumbers.

Mahalo and aloha,

Damien Kim
Business Manager – Financial Secretary
International Brotherhood of
Electrical Workers, Local Union 1186



Founded 1889

PLUMBERS AND FITTERS LOCAL 675
UNITED ASSOCIATION



January 27, 2010

TESTIMONY OPPOSING HB 1889, RELATING TO THE CONSTRUCTION AUTHORITY

TO: HOUSE COMMITTEES ON: CONSUMER PROTECTION & COMMERCE, and
ECONOMIC REVITALIZATION, BUSINESS & MILITARY AFFAIRS

For Hearing on Wednesday, January 27, 2010, at 2:00 p.m., in Conference Room 325

RE: OPPOSING HB 1889

Honorable Chairs Herkes & McKelvey, Vice Chairs Wakai & Choy, and Committee members

My name is Reginald Castanares, and I am the Business Manager, Financial Secretary for the UNITED ASSOCIATION OF PLUMBERS AND FITTERS OF HAWAII, Local 675. We represent over 2,000 members working in the Plumbing, Pipefitting, Air Conditioning, and Fire Sprinkler construction and building trades industry in Hawaii.

With the increasing awareness and concerns over threats to our basic infrastructure, such as clean water and air conditioning systems, it would be irresponsible at this time to reduce the level of accountability required of "licensed" plumbers whose work is tied directly to the health and safety of our citizens.

Thus, we strongly oppose any efforts which would essentially undermine the strict regulatory protocol governing the expertise or qualification for the state's existing Board of Electricians and Plumbers and allow unlicensed individuals access to and work on some of the most important of our "life support" systems.

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