

HB2834

**PRESENTATION OF THE
CONTRACTORS LICENSE BOARD**

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION & COMMERCE

TWENTY-FIFTH LEGISLATURE
Regular Session of 2010

Monday, February 8, 2010
2:00 p.m.

**TESTIMONY ON HOUSE BILL NO. 2834, RELATING TO CONTRACTORS
LICENSES.**

TO THE HONORABLE ROBERT N. HERKES, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Denny Sadowski, Legislative Committee Chair of the Contractors License Board ("Board"). Thank you for the opportunity to present testimony on House Bill No. 2834, which limits the amount of incidental and supplemental work that may be performed by a specialty contractor to no more than one half of one percent of the total monetary value of the entire project. The Board respectfully opposes this measure.

The Board believes that to apply a fixed percentage amount as incidental and supplemental is too restrictive as there are too many variables on each project. For example, the C-5 Cabinet, Millwork, Carpentry Remodeling and Repairs classification allows this specialty contractor to do work incidental and supplemental to the remodeling work. Therefore, on a \$50,000 kitchen renovation project, incidental and supplemental work would be limited to \$250. How is this to be interpreted? Does this mean that the contractor can do painting work, tile work, and other related work only up to an amount of \$250 for each trade? This does not seem reasonable.

As another example, the Board had previously interpreted that a C-6 Framing or C-12 Drywall contractor could install thermal insulation incidental to the performance of

the framing or drywall work. Under the proposed language, this would no longer be allowed. Or, if a painting contractor encountered wood rot on a \$10,000 project, it would have to subcontract any carpentry repairs over \$50. Furthermore, would the painting contractor even be able to "take and execute" the contract, even if the carpentry work is going to be subcontracted out? It is difficult to imagine a situation in which this bill would not render section 444-8 (c) to be totally ineffective.

For these reasons, the Board opposes House Bill No. 2834.

Thank you for the opportunity to testify on this bill.

SAH - Subcontractors Association of Hawaii

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February 8, 2010

Testimony To: House Committee on Consumer Protection & Commerce
Representative Robert N. Herkes, Chair

Presented By: Tim Lyons
President

Subject: H.B. 2834 – RELATING TO CONTRACTORS LICENSES

Chair Herkes and Members of the Committee:

I am Tim Lyons, President of the Subcontractors Association of Hawaii. SAH is composed of nine separate and distinct subcontracting organizations including:

ELECTRICAL CONTRACTORS ASSOCIATION OF HAWAII

HAWAII FLOORING ASSOCIATION

ROOFING CONTRACTORS ASSOCIATION OF HAWAII

HAWAII WALL AND CEILING INDUSTRIES ASSOCIATION

TILE CONTRACTORS PROMOTIONAL PROGRAM

PLUMBING AND MECHANICAL CONTRACTORS ASSOCIATION OF HAWAII

SHEETMETAL CONTRACTORS ASSOCIATION OF HAWAII

PAINTING AND DECORATING CONTRACTORS ASSOCIATION

PACIFIC INSULATION CONTRACTORS ASSOCIATION

We oppose this bill.

Although we find that it is necessary to have boundaries for specialty contractors, the concept of "incidental and supplemental" (line 7) had to be invented in order to allow contractors to do their job without having to stop and bring in other specialty crafts in order to do one (1) other minor item. We understand that the concept of "incidental and supplemental" is subject to abuse and although the construction industry had discussed this subject matter separately and together for many years, we have not been able to come up with a solution so we still are not sure what the solution is but we know it is not in this bill.

It is quite common that a specialty contractor's work might "spill" into another area; an example is a roofing contractor making a flashing. If the flashing happens to be more than \$50 of a \$10,000 roof, he cannot do the work under the terms of this bill. A painting contractor who has to prepare the substrate surface by doing some minor concrete work can't do it, he has to stop and call a mason. A flooring contractor that wants to put a wood floor on a irregular floor could not do it, he would have to stop and call a carpenter or a mason in order to straighten that out.

We think that is carrying the concept of specialization too far. Contractors generally know when they are stepping out of their field beyond their competency level and will call in other experts to do the work particularly, if it is any type of any major undertaking therefore, we do not think that one half of one percent is the proper measuring stick.

Based on the above, we cannot support this bill.

Thank you.

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GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

February 5, 2010

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

SUBJECT: H.B.2834, RELATING TO CONTRACTORS LICENSES.

NOTICE OF HEARING

DATE: Monday, February 8, 2010
TIME: 2:00 pm
PLACE: Conference Room 325

Dear Chair and Members of the Committee:

The General Contractors Association (GCA), an organization comprised of over five hundred and seventy (570) general contractors, subcontractors, and construction related firms, **strongly opposed** to the passage of H.B.2834, Relating To Contractors Licenses. The bill would limit specialty contractor from executing a contract involving the use of two or more trades incidental and supplemental to his specialty license to no more than one half of one per cent of the total value of the contract.

The GCA believes that the current statute is adequate and placing a percentage value for supplemental and incidental work is not fair and creates a problem on small contracts where one half of one per cent is a very small dollar amount. The determination of what constitutes supplemental and incidental work depends on the nature of the contract and the specialty work involved. The determination of whether the work is incidental and supplemental should be made by the contracting agency and the contractor's license board.

The application a specific percentage to determine what will constitute supplemental work will merely lead to more protests and delays in the award of state and county construction contract.

The GCA **strongly opposes** the passage of H.B. 2834, and recommends that the bill not be passed by this committee.

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

IRON WORKERS STABILIZATION FUND

Fax: 586-6221

February 4, 2010

Hon. Robert N. Herkes, Chair
House Committee on Consumer Protection & Commerce
State Capitol – Room 320

Iron Workers Stabilization Fund – T. George Paris, Managing Director

Hearing Date – February 8, 2010, 2:00 p.m.

Support of HB 2834, Relating to Contractors Licenses

Under Hawaii Administrative Rules, Title 16, Chapter 77, Contractors, Section 16-77-34, entitled **Work “incidental and supplemental”**, it provides the definition of the term and states:

“Incidental and supplemental” is defined as work in other trades directly related to and necessary for the completion of the project undertaken by a licensee pursuant to the scope of the licensee’s license.

This rule was promulgated in 1980, with subsequent amendments.

Throughout the years, this term, *“incidental and supplemental”* has been misused by the Contractors License Board and hearings officers to reach results that were not intended by the law as set forth in HRS Chapter 444, Contractors, and the rules and regulations promulgated thereunder.

We cite 4 separate cases to explain our position. In the first case which we shall label as Lanakila Elementary, the Contractors License Board ruled that although the metal jalousie window work was 25% of the entire job, it was still *“incidental and supplemental”*, and, thus that it could be performed by the general contractor who did not possess a C-22 license, *Glazing and Tinting Contractor*. It simply defies logic that 25% is deemed to be *“incidental and supplemental”*. All specialty contractors possessing this C-22 license were precluded from bidding for this job.

In our second example, labeled Ukee Street project, No. 1, the Contractors License Board ruled that a licensed Masonry Contractor, C-31, could install *all* of the reinforcing steel necessary for reinforcement for the entire project ostensibly because this work was supposedly *“incidental and supplemental”* to the masonry work. The board ruled that the general contractor was not required to hire a C-41 Reinforcing Steel

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Contractor to lay all of the reinforcing steel. Again, this is absolutely illogical because it does not make sense that the *entire* reinforcing steel work for the total project is "incidental and supplemental".

The third example is labeled the Ukee Street project, No. 2, which is very similar to Ukee Street project, no. 2. Again, a masonry contractor was permitted to perform the entire reinforcing steel work that the law requires a C-41 reinforcing steel contractor to perform.

The fourth example of the blatant misuse of "incidental and supplemental" is taking place as we speak. A C-31 masonry contractor is being permitted to perform all of the reinforcing steel work at the on-going construction of the new Manoa Library. The reinforcing steel work in this project amounts to \$300,000. In addition to work being taken away from a licensed C-41, Reinforcing Steel contractor, the structural soundness of the building comes into serious question because the reinforcing steel is not being laid and installed by a properly licensed and qualified C-41 specialist. The safety of the children using the library in the future was obviously not taken into account when the reinforcing steel work was awarded to the C-31 masonry contractor.

Because of these questionable decisions and others that have been rendered over the years concerning the term "incidental and supplemental", we urge this committee to enact a measure that quantifies what said term means. We believe that any work in a specialty that exceeds 0.5% of the entire project should not be considered to be "incidental and supplemental". We further believe that all specialty work above 0.5% of the entire project should be performed by the specialty contractors who possess the proper specialty license issued by the Contractors License Board.

We respectfully request that this measure be passed and forwarded to the House Committee on Finance.