

SB2062

Late

LATE

The Twenty-Fifth Legislature
Regular Session of 2010

THE SENATE
Committee on Judiciary and Government Operations
Senator Brian T. Taniguchi, Chair
Senator Dwight Y. Takamine, Vice Chair

State Capitol, Conference Room 016
Tuesday, February 9, 2010; 10:00 a.m.

**STATEMENT OF THE ILWU LOCAL 142 ON S.B. 2062
RELATING TO PROCUREMENT**

The ILWU Local 142 supports S.B. 2062, which establishes procurement preferences for public works contracts and a responsible construction contractor law which specifies prerequisites for government construction contractors and subcontractors.

In a down economy, all eyes turn to public works projects in the near term to revitalize the economy. Government should always seek to hire the best and ensure that companies receiving public contracts are above-board and fair. Even more so in difficult economic times, public works contractors should be closely scrutinized to ensure that they comply with all laws, provide workers with fair compensation and good benefits, and are financially stable.

S.B. 2062 codifies what is sound public policy and good business practice with respect to public works contractors. Responsible contractors should have no problem with this bill.

The ILWU urges passage of S.B. 2062. Thank you for considering our testimony.

Testimony In Support of
SB2062 Relating to Procurement

By Al Lardizabal, Director of Government Relations
Hawaii Laborers' Union

To the Senate Committee on Judiciary and Government Operations
February 9, 2010, 10:00 a.m.,
State Capitol, Room 016

Senator Brian T. Taniguchi, Chairman and Members of the Committee:

SB2062 Relating to Procurement establishes a procurement preference for contractors that play by the rules and attempts to identify those contractors that do not, early in the bidding process.

The concept is very basic. The state should know as much as it can about the past performance and capabilities of a bidder (contractor) ahead of time, especially when the bidder is from other geographical areas whose performance is unknown to the state procuring agencies. Secondly, contractors that play by the rules should be acknowledged and given preference over those who have non-compliance issues and unfairly underbid responsible bidders.

A responsible contractor law will enable state agencies to inquire and evaluate a bidder's history of labor law compliance and most important, their job performance. Thus reducing the number of repeat violators winning government contracts just because they submit the lowest bid rather than the lowest, responsible, responsive and realistic bid.

This is not a union issue. It is an issue for all contractors who want to compete fairly. The rules must apply to and adhered by all bidders of government construction projects. But because of furloughs and budget cutbacks, enforcement by state agencies will surely decline. Knowing that enforcement is not strong or frequent, and with dozens of projects about to come on-line soon, there will be a tendency to attain the lowest bid unfairly.

There are bills currently under consideration by the legislature to curb operations of non-responsible contractors. One bill SB2220/HB2899 creates a construction site task force that is strongly supported by local contractors, union and non-union. Its purpose is to inspect various construction sites and discover unlicensed contractors, tax delinquent contractors, contractors who are non-compliant in wage payments to workers, contractors that violate safety rules and procedures. This is acknowledgement that current enforcement procedures are inadequate and that an underground system exists that hurts legitimate businesses. No one agency is at fault. The enforcement system simply needs a boost.

Enforcement after the fact is not sufficient. Enforcement of bidding standards must be made upfront before the contract is awarded or even before the bid is accepted. Screening must be made early and effectively.

According to the National Alliance for Fair Contracting, Inc., "...the public is well served by responsible contractor regulations. These regulations will protect workers' rights on public projects, they will promote bid opportunities for fair contractors on public works, they will assure that bidders and contractors performing public construction abide by applicable laws and meet their legal responsibilities; they will ensure that contractors are able to compete on a level playing field to win publicly funded jobs; they will protect workers employed in the public sector construction industry from exploitation; and they ensure that responsible contractors and trained skilled workers provide the taxpayer with efficient and productive construction of their public buildings and public works."

Thank for the opportunity to submit this testimony.

**STATE OF HAWAII
DEPARTMENT OF ACCOUNTING
AND GENERAL SERVICES**P.O. BOX 119
HONOLULU, HAWAII 96810-0119

TESTIMONY
OF
RUSS K. SAITO, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
SENATE COMMITTEE
ON
JUDICIARY AND GOVERNMENTAL OPERATIONS
ON
February 9, 2010

S.B. 2062

RELATING TO PROCUREMENT

Chair Taniguchi and members of the Committee, thank you for the opportunity to testify on S.B. 2062.

The Department of Accounting and General Services (DAGS) opposes this bill because it is impractical and will unnecessarily increase the cost of construction projects to the State. Giving up to four, 5% preferences for companies that have no applicable non-compliances will yield a maximum 20% advantage for a bidder with no offsetting advantage to the State.

In addition, record keeping to prove no non-compliances will be like proving a negative. It will impose an unrealistic administrative burden agencies, and DAGS.

DAGS also objects to this bill because it would impose outside influences on the IFB (103D-302 HRS sealed bid) and RFP (103D-303 sealed proposal) selection process. This would violate the fairness of the procurement process and allow parties with no standing to affect the outcome of a solicitation and award or selection.

Thank you for the opportunity to testify on this matter.

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HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

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**The Twenty-Fifth Legislature, State of Hawaii
Hawaii State Senate
Committee on Judiciary and Government Operations**

**Testimony by
Hawaii Government Employees Association
February 9, 2010**

**S.B. 2062 – RELATING TO
PROCUREMENT**

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO supports the purpose and intent of S.B. 2062 which establishes a responsible construction contractor law which specifies prerequisites for government construction contractors and subcontractors; allows public comments on the public procurement process; and requires the comptroller submit a report to the 2011 legislature on the implementation of the Act.

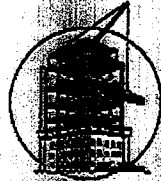
The intent of the measure is clearly in the public interest – contractors conducting public works paid for with public funds should be in compliance with applicable federal, state and local labor, wage, health, safety and environmental protection laws; and be able to show proof of compliance. The proposal supports workers, taxpayers and the community as a whole.

We would like to point out an inappropriate reference to Chapter 89, Hawaii's Collective Bargaining Law, on page 4, lines 19 to 22, identified as "§103D-A Applicability. (b)." As this proposed bill relates to private contractors of public works the reference should be deleted.

Thank you for the opportunity to testify in support of S.B. 2062.

Respectfully submitted,

**Nora A. Nomura
Deputy Executive Director**



LATE

HAWAII BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO
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NOLAN MORIMAKI
President
 Bricklayers & Ceramic Tile Setters
 Local 1 & Plasterers/Cement
 Masons Local 630

February 7, 2010

JOSEPH O'DONNELL
Vice President
 Iron Workers Local 625

DAMIEN T. K. KIM
Financial Secretary
 International Brotherhood of
 Electrical Workers Local 1186

Honorable Senator Brian T. Taniguchi, Chair
 Honorable Senator Dwight Y. Takamine, Vice Chair
 Members of the Senate Committee on Judiciary and Government
 Operations
 Hawaii State Capital
 415 South Beretania Street
 Honolulu, HI 96813

ARTHUR TOLENTINO
Treasurer
 Sheet Metal Workers I.A. Local 293

REGINALD CASTANARES
Trustee
 Plumbers & Fitters Local 675

RE: **IN SUPPORT OF SB 2062**
 Relating to Procurement
 Hearing: Tues., Feb. 9, 2010, 10:00 a.m., Room 016

THADDEUS TOMEI
 Elevator Constructors Local 126

MALCOLM K. AHLG
 Carpet, Linoleum, & Soft Tile
 Local 1296

Dear Chair Taniguchi, Vice Chair Takamine and the Senate Committee
 on Judiciary and Government Operations:

JOSEPH BAZEMORE
 Drywall, Tapers, & Finishers
 Local 1944

For the Record my name is Buzz Hong the Executive Director for
 the Hawaii Building & Construction Trades Council, AFL-CIO. Our
 Council is comprised of 16-construction unions and a membership
 of 25,000 statewide.

RICHARD TAGGERE
 Glaziers, Architectural Metal &
 Glassworkers Local Union 1889

Our Council SUPPORTS the passage of SB 2062 which establishes
 procurement preferences for public works contracts, and a
 responsible construction contractor law which specifies
 prerequisites for government construction contractors and
 subcontractors.

RONAN KOZUJIMA
 Hawaii Teamsters & Allied
 Workers Local 998

Thank you for the opportunity to submit this testimony in support
 of SB 2062.

GARY AYCOCK
 Boilermakers, Ironship Builders
 Local 627

Sincerely,

LYNN KINNEY
 District Council 50
 Printers & Allied Trades
 Local 1791

W. Hong

KALANI MAHOE
 Operating Engineers Local 3

William "Buzz" Hong
 Executive Director

PETER GANABAN
 Laborers' International Union of North
 America Local 388

DOUGLAS FULP
 International Association of
 Heat & Frost Insulators
 & Allied Workers Local 132