

**TESTIMONY**

**SB 2798**

**LATE**

**PRESENTATION OF THE  
CONTRACTORS LICENSE BOARD**

TO THE SENATE COMMITTEE ON LABOR

TWENTY-FIFTH LEGISLATURE  
Regular Session of 2010

Tuesday, February 2, 2010  
3:00 p.m.

**TESTIMONY ON SENATE BILL NO. 2798, RELATING TO CONTRACTORS  
LICENSES.**

TO THE HONORABLE DWIGHT Y. TAKAMINE, 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 Senate Bill No. 2798, 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 Senate Bill No. 2798.

Thank you for the opportunity to testify on this bill.

## IRON WORKERS STABILIZATION FUND

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Fax: 586-6659 – Sergeant of Arms

February 2, 2010

Hon. Dwight Takamine, Chair  
Senate Committee on Labor  
State Capitol – Room 204

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

Hearing Date – February 2, 2010, 3:00 p.m.

Support of SB 2798, 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 3 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 First Ukee Street project, the Contractors License Board ruled that a licensed Masonry Contractor, C-31, could install all of the rebars necessary for reinforcement for the entire project ostensibly because the rebar work was “*incidental and supplemental*” to the Masonry work. The board ruled that the general contractor was not required to hire a C-41 Reinforcing Steel Contractor to lay all of the



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rebars. Again, this is absolutely illogical because it does not make sense that the entire rebar work for the total project is "incidental and supplemental".

The third example is labeled the Second Ukee Street project which is very similar to the First Ukee Street project.

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 left with the specialty contractors that possess the proper license issued by the Contractors License Board.

We respectfully request that his measure be passed and forwarded to the Commerce and Consumer Protection Committee.

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## **Support of SB 2798, Relating to Contractors Licenses**

**This** is further to the testimony that we submitted at 10:20 a.m., today.

We now have a 4th example of the blatant misuse of the term “**incidental and supplemental**”. As we speak, a company that only possesses a C-33 Masonry license is doing all of the rebar work that is legally in the domain of a C-41, Reinforcing Steel Contractor. This is the construction of the Manoa Library, a state job.

The rebar work on this project amounts to \$300,000 that should have gone to a C-41 Reinforcing Steel Contractor. And, more important, the rebar work is being performed by an unqualified contractor who specializes in masonry only. The structural soundness of the entire building comes into question, raising serious safety issues down the road for the children who will be utilizing the library.

We respectfully argue that this measure should be passed because of the safety issue that is so evident. We show you these photographs taken of the project that highlight the safety issues concerned.