

**PRESENTATION OF THE
CONTRACTORS LICENSE BOARD**

**TO THE HOUSE COMMITTEE ON
ECONOMIC REVITALIZATION & BUSINESS**

**TWENTY-SIXTH LEGISLATURE
Regular Session of 2011**

**Thursday, February 3, 2011
8:00 a.m.**

TESTIMONY ON HOUSE BILL NO. 1162, RELATING TO CONTRACTORS.

**TO THE HONORABLE ANGUS L.K. MCKELVEY, 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 testify in opposition to House Bill No. 1162, which would prohibit the Board from considering unlicensed experience as a qualification for licensure, and designates the period of time contractors or their responsible managing employees ("RME") must be present in the State during the term of the contract.

In 1995, the Legislature amended section 444-9, HRS, to specifically allow the Board to consider unlicensed experience when an individual is applying for a license. The reason for the amendment was that during the application review process, the Board is mainly interested in the applicant's actual work experience, and not so concerned with whether the experience was obtained while employed by a licensed contractor. This is because the Board would prefer to have a qualified individual become a legitimately licensed contractor and come under the jurisdiction of the Board's statutes and rules, rather than to continue to act outside of their purview. Also, the

Board still has the authority to sanction the applicant for unlicensed activity if such action were warranted.

The bill also requires applicants who resided in a state or foreign jurisdiction without an established contractor licensing system to have "sufficient experience within the State." The Board believes that requiring applicants to have experience in this State is unconstitutional and unenforceable.

The Board feels that the reasons for considering unlicensed experience remain sound, and there is no justification for disqualifying such experience.

The Board also does not agree with the amendments in Section 2 of the bill which requires the contractor or RME to be present in the State for the entire length of the project for projects eight months or less, or limits out-of-state travel to 14 calendar days for projects longer than eight months. First of all, the vast majority of contractors will fall under the restriction that requires them to be in the State for the entire length of the project, as most projects take less than eight months to complete. Secondly, contractors have ongoing and overlapping projects, which would mean that the contractor or RME would never be allowed to leave the State for any period of time, except for federal or state holidays. This requirement is clearly unreasonable.

The bill is also confusing as to the amount of time the contractor or RME is allowed to be out-of-state on projects longer than eight months. Since most contractors have overlapping projects, how is compliance to be determined? Is the contractor or RME allowed to be out-of-state for 14 days per project?

The Board feels that setting a specific number of days the contractor or RME is allowed to leave the State is arbitrary, and the required presence of the contractor or RME in the State is best determined on a case-by-case basis, as there are so many different scenarios and circumstances that should be considered when determining sufficient supervision by the contractor or RME. In any case, the proposed amendments are not practical.

For these reasons, the Board is opposed to H.B. No. 1162.

Thank you for the opportunity to testify on this measure.



Testimony of C. Mike Kido
External Affairs
The Pacific Resource Partnership

House Committee on Economic Revitalization & Business
Representative Angus L.K. McKelvey, Chair
Representative Isaac W. Choy, Vice Chair

HB 1162 – RELATING TO CONTRACTORS
Thursday, February 3, 2011
8:00 am
Conference Room 312

Chair Angus McKelvey, Vice Chair Isaac Choy and Members of the Committee:

My name is C. Mike Kido, External Affairs of the Pacific Resource Partnership (PRP), a labor-management consortium representing over 240 signatory contractors and the Hawaii Carpenters Union.

PRP is in strong support of HB 1162 – Relating to Contractors which prohibits the contractors license board from considering unlicensed experience as a qualification for licensure, with certain exceptions. The Bill requires contractors or their responsible managing employees to be present within the State for certain designated time periods throughout the contract term.

HAR Title 16-7718(b), an administrative rule section that applies directly to the qualifications that the Contractors License Board (CLB) may consider as "experience" for the purpose of obtaining a license states in short: "**Self-Employed or unlicensed experience** may be acceptable experience in the discretion of the board."

This section of the administrative rules is dated and contrary in nature to CLB's purpose. While one of the main purposes of CLB is to maintain the integrity of the industry, this section of the administrative rules seems to encourage unlicensed or "off-the-books" activity if an individual prefers NOT to obey our State's licensing laws.

It is our understanding that this law was designed to encourage "underground" contractors to become licensed and therefore subject to taxation thereby, generating revenue for the State.

However, it begs the question that if a scofflaw contractor has been operating outside of the law for years, he/she apparently sees a benefit to himself in doing so and is comfortable with the risk he/she is taking. If so, what is the incentive of the scofflaw contractor to give up those perceived benefits, for regulation and taxation?

Further, PRP would ask the question if CLB could produce **meaningful quantifiable** and **verifiable** figures as to how many contractors under this law have been "brought into the light" and how much tax dollars were generated from these contractors.

Thank you very much for the opportunity to share our views with you and we respectfully ask for your support on HB 1162 – Relating to Contractors.