

SB 1221

RELATING TO PROCUREMENT.

Requires the general and subcontractor for construction procurement under the Hawaii public procurement code to file certification of compliance with the notice of final completion of the contract. Provides that the general contractor shall not be sanctioned for noncompliance by a subcontractor.

NEIL ABERCROMBIE
GOVERNOR



BRUCE A. COPPA
Comptroller

RYAN OKAHARA
Deputy Comptroller

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

TESTIMONY
OF
BRUCE A. COPPA, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
SENATE COMMITTEE
ON
PUBLIC SAFETY, GOVERNMENT OPERATIONS, AND MILITARY AFFAIRS
ON
February 12, 2011

S.B. 1221

RELATING TO PROCUREMENT

Chair Espero and members of the Committee, thank you for the opportunity to testify
S.B. 1221.

The Department of Accounting and General Services (DAGS) opposes passage of this
bill for the following reasons:

1. This bill will require all subcontractors (in addition to the general contractor) to submit a Certification of Compliance for Chapter 103B, Hawaii Revised Statutes, ("local work force" requirement) with the Notice of Completion for all public work construction projects and will exempt the general contractor from any Chapter 103B sanctions if any of its subcontractors fail to comply with Chapter 103B. The resultant effect is governmental contracting agencies will then be burdened with unrealistically expanded responsibilities for compliance monitoring of subcontractors and pursuing Chapter 103B sanctions against non-compliant subcontractors (which will be limited to: recovery of moneys paid to non-compliant

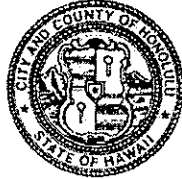
subcontractors; and disbarment or suspension of subcontractors).

2. DAGS does not have the resources needed for this purpose.
3. The Department of Labor and Industrial Relations and the Department of the Attorney General should be consulted on how to effectively implement the Legislative intent of this bill

Thank you for the opportunity to testify on this matter.

DEPARTMENT OF BUDGET AND FISCAL SERVICES
CITY AND COUNTY OF HONOLULU
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PETER B. CARLISLE
MAYOR



MICHAEL R. HANSEN
ACTING DIRECTOR

February 10, 2011

The Honorable Will Espero, Chair
and Members
The Senate
Committee on Public Safety, Government Operations, and Military Affairs
The Twenty-Sixth State Legislature
State Capitol
Honolulu, Hawaii 96813

Dear Chair Espero and Members:

Subject: Senate Bill No. 1221 Relating to Procurement, Filing of Certification of Compliance

The City and County of Honolulu generally supports this bill because it will help reduce the substantial administrative burden imposed by HRS Chapter 103B, Employment of State Residents on Construction Procurement Contracts. The burden is reduced by requiring the general construction contractors to certify compliance with the statute once, at final completion, instead of monthly as is currently required.

Sincerely,

A handwritten signature in cursive script that reads "Michael R. Hansen".

Michael R. Hansen, Acting Director
Budget & Fiscal Services

SAH - Subcontractors Association of Hawaii
*1188 Bishop St., Ste. 1003**Honolulu, Hawaii 96813-2938*
Phone: (808) 537-5619 † Fax: (808) 533-2739

February 12, 2011

Testimony To: Senate Committee on Public Safety, Government Operations,
and Military Affairs
Senator Will Espero, Chair

Presented By: Tim Lyons
President

Subject: S.B. 1221 – RELATING TO PROCUREMENT

Chair Espero 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 throughout the state, 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 are in opposed to this bill.

This bill is one of those "have your cake and eat it too" arrangement. That is, a general contractor is there to serve a very specific purpose besides doing his own work and that is, to provide overall general supervision to be sure that everyone is doing what they are supposed to be doing. This bill provides that every subcontractor has to comply with all the rules and regulations but the subcontractor may not have access nor may he be able to get a copy of every single rule and regulation that is imposed on the general contractor. This is because it is only the general contractor that signs the contract with the state and receives all the notifications from any state agencies. If we want to make subcontractors equal then there should be separate contracts issued to each subcontractor on the job.

Subcontractors are in a subservient position to the general contractor and making provisions that a general contractor cannot be sanctioned for non-compliance of the sub is a very dangerous proposition. General contractors may order subcontractors to behave in a certain way and since they are the general on the job and the subcontractor must comply, however the general contractor in this case, with these changes as proposed would not be responsible.

We cannot agree with the intent of this bill and therefore recommend that it be filed.

Thank you.

TO THE SENATE COMMITTEE ON PUBLIC SAFETY, GOVERNMENT
OPERATIONS, AND MILITARY AFFAIRS

TWENTY-SIXTH STATE LEGISLATURE
REGULAR SESSION, 2011

TIME/DATE: 9:00 A.M., SATURDAY, FEBRUARY 12, 2011

TESTIMONY ON SENATE BILL NO. 1221 – “RELATING TO PROCUREMENT.”

TO THE HONORABLE WILL ESPERO, CHAIR
AND MEMBERS OF THE SENATE COMMITTEE ON PUBLIC SAFETY,
GOVERNMENT OPERATIONS, AND MILITARY AFFAIRS:

The International Union of Painters and Allied Trades, District Council 50, appreciates the opportunity to testify in **strong support** to Senate Bill No. 1221. My name is Nathaniel Kinney, International Union of Painters and Allied Trades, District Council 50 (IUPAT, DC50), an organization comprised of four (4) local unions - the Painters, Local Union 1791; the Glaziers Architectural and Glass Metal Workers, Local Union 1889; the Carpet Linoleum and Soft Tile, Local Union 1926; and the Drywall, Tapers Finishers, Local Union 1944, representing approximately 2000 members throughout the State of Hawaii.

IUPAT, DC50, strongly supports Senate Bill No. 1221. This proposal would require that both subcontractors and general contractors be held liable for violating Act 68. We would hope that the Committee Chair would also take into consideration that the proposed amendments in SB No. 1221 are make the implementation of the law more efficient for compliant contractors and easier to enforce by administering agencies.

For these reasons, I urge the committee to support the proposals in Senate Bill No. 1224. Thank you for the opportunity to testify in **support** of this measure.