

# SB1223

**Measure Title:** RELATING TO CONTRACTORS.

**Report Title:** Contractors; Licenses; Criminal History Record Checks

**Description:** Requires applicants and holders of a contractor license to be subject to a criminal history record check conducted by the contractors licensing board pursuant to rules adopted by the board.

**Companion:**

**Package:** None

**Current Referral:** CPN, JDL

The Pacific Resource  
**PARTNERSHIP**



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

Senate Committee on Commerce and Consumer Protection  
Senator Rosalyn H. Baker, Chair  
Senator Brian T. Taniguchi, Vice Chair

SB 1223 – RELATING TO CONTRACTORS  
Wednesday, February 9, 2011  
8:30 am  
Conference Room 229

Chair Rosalyn Baker, Vice Chair Brian Taniguchi 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 SB 1223 - Relating to Contractors which would require applicants and holders of a contractor license to be subject to a criminal history record check conducted by the contractors licensing board pursuant to rules adopted by the board.

From off-the-record discussions with a key State governmental enforcement agency and from PRP's experience, the Contractors Licensing Board (CLB) appears to take the position of allowing "all comers", unless the applicant is an egregious offender in some form, to apply for a contractor's license into the industry. This creates a problem for understaffed governmental enforcement agencies and ultimately for those who strive to "play fair" within the industry.

Qualifications are a vital part of the licensing approval process, but the nature of work in which consumers have not only a contractual relationship but have a relationship of "trust" with their chosen contractor. Therefore, unscrupulous contractors with specialized knowledge in the industry have the opportunity to "fleece" their clients, or misdirect funds to other projects, etc... Further, without this type of self-initiated background check by the CLB, it would allow potential serious felons entry into the homes of innocent consumers exposing them to potential harm.

As we presently understand, CLB merely asks applicants "to disclose whether they have been convicted of a felony within the last twenty years". An approach of this nature has the effect of CLB taking the applicant/potential felon at his word.

We would tend to agree with the Contractors License Board on two specific points. The first point that we agree upon is that this proposed law should not apply to the 10,787 contractors who presently hold licenses in our state. The second point that we would agree upon is that this bill does not provide any indication as to what the Board is to do with the criminal history record.

We suggest that the Board use the criminal history record in this case to find crimes or civil matters involving moral turpitude, and apply them in a weighted fashion to the overall determination of whether an applicant will pass. The criminal background should be weighted no less than 50% in the final determination of whether an applicant will be awarded a license. We would also suggest that crimes of moral turpitude or felonies in the last 5 years be an automatic denial (as well as any failure to disclose as revealed by CLB's criminal background check). Issuance of a license for the same crimes older than 5 years would be at the discretion of the majority vote of the full board.

Further, we feel that CLB should be able to contract with third parties to perform these checks and that the cost of the background checks should be borne by the applicant(s).<sup>1</sup>

Therefore, the contemplated legislation will require that the contractor not only meet the present required qualification and financial fitness standards, but will also have a full criminal background check.

With these changes, PRP would strongly support this bill in order to protect, not the potential offender applicant(s) as CLB's testimony seems to suggest, but the potential consumers/clients of these applicants in the State of Hawaii. and ultimately the integrity of the Contractors License Board and the industry themselves.

Thank you for the opportunity to share our views with you and we respectfully ask for your support on SB 1223 – Relating to Contractors.

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<sup>1</sup> The cost of the criminal background check can be added to any application fee that CLB collects in the application process.

**PRESENTATION OF THE  
CONTRACTORS LICENSE BOARD**

**TO THE SENATE COMMITTEE ON  
COMMERCE AND CONSUMER PROTECTION**

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

**Wednesday, February 9, 2011  
8:30 a.m.**

**TESTIMONY ON SENATE BILL NO. 1223, RELATING TO CONTRACTORS.**

**TO THE HONORABLE ROSALYN H. BAKER, 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 Senate Bill No. 1223, which requires applicants and holders of a contractor license to be subject to a criminal history record check by the Board.

The Board questions whether such a requirement is justified, and for what purpose.

Currently, applicants are asked to disclose whether they have been convicted of a felony within the last twenty years, and information provided by the applicant is reviewed by the Board to determine whether the conviction affects the applicant's ability to act as a contractor.

The Board reviews over 100 applications per month, and requiring all applicants to be subject to a criminal history record check may be unduly burdensome and significantly delay the licensing process. Furthermore, this measure also requires that currently licensed contractors be subject to a criminal history record check, and as of

January 31, 2011, there are 10,787 actively licensed contractors. Therefore, this would be a major undertaking, for which the Board does not have the resources to accomplish. Also, if the licensee is a corporation or partnership, it is unclear whether the officers or partners are subject to this requirement.

The bill also does not provide any indication of what the Board is to do with the criminal history record. The Board questions whether it has the authority to penalize a licensee for an arrest that does not result in a conviction, or a conviction for activity unrelated to the licensee's ability to act as a contractor. The Board already has the authority to discipline licensees for infractions of the statutes and rules. We question whether requiring additional, and possibly irrelevant, information is warranted.

For these reasons, the Board is opposed to Senate Bill No. 1223.

The companion bill, House Bill No. 888, was deferred by the House Committee on Economic Revitalization & Business on February 3, 2011.

Thank you for the opportunity to testify on this measure.