

SB1224

Measure Title: RELATING TO CONTRACTORS.

Report Title: Contractors License Board; Public Hearings

Description: Requires the Contractors License Board to conduct public hearings for license applications and disciplinary proceedings.

Companion:

Package: None

Current Referral: CPN



NEIL ABERCROMBIE
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PRESENTATION OF
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
REGULATED INDUSTRIES COMPLAINTS OFFICE

TO THE SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION

TWENTY-SIXTH STATE LEGISLATURE
REGULAR SESSION, 2011

WEDNESDAY, FEBRUARY 9, 2011
8:30 A.M.

TESTIMONY ON SENATE BILL NO. 1224
RELATING TO CONTRACTORS

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND TO THE HONORABLE BRIAN T. TANIGUCHI, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify on Senate Bill No. 1224, Relating To Contractors. My name is Jo Ann Uchida of the Department's Regulated Industries Complaints Office ("RICO"). RICO offers the following comments on Senate Bill No. 1224.

Senate Bill No. 1224 requires the Contractors Board to conduct a public hearing prior to a decision on: 1) any application for a contractor's license; 2) any

disciplinary action; and 3) any settlement agreement. The public hearing shall afford interested persons an opportunity to submit data, views, or arguments, orally or in writing, to the Contractors Board.

RICO prosecutes licensing violations on behalf of the boards, commissions, and programs that are administered by the Professional and Vocational Licensing Division. Chapter 91, Hawaii Revised Statutes ("HRS"), also known as the Hawaii Administrative Procedures Act, governs all contested cases, including disciplinary proceedings initiated by RICO. Section 91-9(g), HRS, states: "No matters outside the record shall be considered by the agency in making its decision except as provided herein." This law is designed to ensure that respondents are afforded due process in the course of the proceeding and that decisions are made fairly and impartially.

Senate Bill No. 1224 as drafted would create an ambiguity as to what the Contractors Board may consider in evaluating a contested case, may preclude or complicate compliance with §91-9(g), HRS, and could undermine the legitimacy of any final decision the Board renders. In addition, the procedures set forth in this bill would likely result in making the disciplinary process more time-consuming.

Thank you for this opportunity to testify on Senate Bill No. 1224. I will be happy to answer any questions that the members of the Committee may have.

**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. 1224, 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. 1224, which proposes to add a new section to Chapter 444, HRS, requiring the Board to hold public hearings prior to making determinations on license applications, disciplinary actions, and settlement agreements.

The Board opposes this measure, as we believe the proposed amendments to be unnecessary and redundant. The Board currently conducts its administrative procedures in compliance with Chapter 91, HRS, relating to Administrative Procedure, and its rules, Title 16, Chapter 201, Administrative Practice and Procedure, as does all other licensing authorities within the Department of Commerce and Consumer Affairs. Chapter 201 clearly governs the conduct of all proceedings brought before the licensing boards, and a separate process for the Contractors License Board may prove problematic. Furthermore, there is no justification for handling contractor complaints

and disciplinary actions any differently from the forty other licensing boards and programs under the Professional and Vocational Licensing Division.

The Board also is opposed to the requirement that a public hearing be held for each license application when there is any opposition to the application. This process may be abused to delay certain applications for reasons unrelated to the applicant's qualifications, and may prevent the Board from acting on applications in a timely manner. The Board is also concerned about issues relating to confidentiality if the application is subject to a public hearing. Section 92F-14, HRS, of the Uniform Information Practices Act, states that applicants for licensure have a significant privacy interest in the information they submit for consideration by the Board.

For these reasons, the Board is opposed to Senate Bill No. 1224.

Thank you for the opportunity to testify on this measure.



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 1224 – 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 1224 Relating to Contractors which would require the Contractors License Board to conduct public hearing for license applications and disciplinary proceedings.

Over the past two years, PRP has responded on several occasions to the Contractors License Board's (CLB) posted request for opposition to an application for a license (Contractor). The testimony, in opposition to these applications, submitted by PRP was accompanied by points raised as to why a particular contractor should not be issued a license or additional license classification.

However, when it came to the date when a contractor would appear before the Board to answer to the points raised by PRP, PRP representatives were not allowed into the same room while the Board was discussing the allegations with the contractor, therefore, the contractor was not afforded the opportunity to face its opposition. Further, the opposition was not afforded the opportunity to hear much less rebut any explanation the contractor may have given the Board.

Additionally, there was no decision or response issued by CLB as to how they decided on specific issues that were raised by PRP or why a particular decision to proceed in the issuance process was made in light of the opposition testimony.

While those opposing this Bill contend that this could only delay the application process, we feel that this type of delay is worth ensuring that we are admitting the right people into our industry, those who will treat clients/customers fairly and compete in a fair and legal manner to uphold the integrity of our industry.

We feel that an “open door” with regard to the applications process, especially where timely opposition is submitted, is required to maintain transparency and the integrity of the application process if CLB will not issue formal written testimony regarding points of concern raised by the opposition, and offer a period of rebuttal for both parties.

In the final analysis, it is the board (CLB) who solicits information and opposition from the public. Where the public responds to the board’s request, it is only proper that the board afford the opponent to hear and rebut an applicant’s response to the opposition solicited to ensure that due process to both the applicant and opponent is met.

Thank you for the opportunity to share our views with you and we respectfully ask for your support on SB 1224 – Relating to Contractors.



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TO THE SENATE COMMITTEE ON COMMERCE AND CONSUMER
PROTECTION

TWENTY-SIXTH STATE LEGISLATURE
REGULAR SESSION, 2011

TIME/DATE: 8:30 A.M., WEDNESDAY, FEBRUARY 9, 2011

TESTIMONY ON SENATE BILL NO. 1224 – “RELATING TO
CONTRACTORS.”

TO THE HONORABLE ROSALYN H. BAKER, CHAIR
AND MEMBERS OF THE SENATE COMMITTEE ON COMMERCE AND
CONSUMER PROTECTION:

The International Union of Painters and Allied Trades, District Council 50, appreciates the opportunity to testify in **strong support** to Senate Bill No. 1224. My name is Lorna Woo, Business Development Specialist, 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. 1224. This proposal to require the Hawaii Contractors' License Board to conduct public hearing for license applications and disciplinary proceedings is a first step to open government. This process will afford the public the opportunity to submit testimony and will also create transparency in the decision making process.

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.