

SB 2567

RELATING TO PUBLIC CONTRACTS

Description:

Requires government contractors to disclose to the public certain specified information concerning the contract upon request pursuant to the uniform information practices act.

OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII
NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107
HONOLULU, HAWAII 96813
TELEPHONE: 808-586-1400 FAX: 808-586-1412
EMAIL: oip@hawaii.gov

To: Senate Committee on Public Safety, Government Operations
and Military Affairs

From: Cheryl Kakazu Park, Director

Date: February 7, 2012, 2:45 p.m.
State Capitol, Room 224

Re: Testimony on S.B. No. 2567
Relating to Public Contracts

Thank you for the opportunity to submit testimony on this bill. The Office of Information Practices (OIP) opposes this bill because it proposes to require private businesses to disclose their public works contract records by inserting this requirement into the Uniform Information Practices Act (Modified), chapter 92F, HRS (UIPA). The UIPA is the State's law governing the public's right of access to government records maintained by government agencies.

The UIPA already requires government agencies to disclose “[g]overnment purchasing information,” such as public works contracts, as well as “[c]ertified payroll records on public works contracts except social security numbers and home addresses.” HRS Section 92F-12(a)(3) and (9) (Supp. 2011). This bill proposes to impose this same disclosure obligation onto private businesses under contract with government agencies to perform public works projects.

This bill's proposed application of the UIPA to private public works contractors fundamentally alters the legislative scheme behind the UIPA of providing to government agencies uniform disclosure instructions for government

records. Note that even without this bill, government agencies already have an existing duty under the UIPA to publicly disclose, upon request, the same public works contract information apparently being sought by this bill.

If your Committee nevertheless seeks to require private contractors to disclose, upon request, public works contract information as identified in this bill, then OIP strongly recommends that your Committee not amend the UIPA, HRS Chapter 92F, and instead only insert this requirement into HRS chapter 103D and eliminate all references to UIPA provisions such as HRS section 92F-12. By deleting the bill's provisions using the UIPA to require private contractors' disclosure of public works contract records, this bill would no longer conflict with the UIPA's legislative scheme of applying only to the government records held by government agencies.

Thank you for considering our testimony.

DEPARTMENT OF BUDGET AND FISCAL SERVICES
CITY AND COUNTY OF HONOLULU
530 SOUTH KING STREET, ROOM 208 • HONOLULU, HAWAII 96813
PHONE: (808) 768-3900 • FAX: (808) 768-3179 • INTERNET: www.honolulu.gov

PETER B. CARLISLE
MAYOR



MICHAEL R. HANSEN
DIRECTOR

NELSON H. KOYANAGI, JR.
DEPUTY DIRECTOR

TESTIMONY OF MICHAEL R. HANSEN, DIRECTOR
DEPARTMENT OF BUDGET AND FISCAL SERVICES
CITY AND COUNTY OF HONOLULU

Sen. Will Espero, Chair,
Sen. Michelle N. Kidani, Vice Chair,
and Members of Committee on
Public Safety, Government Operations,
and Military Affairs

The Senate
The Twenty-Fifth State Legislature
State Capitol
Honolulu, Hawaii - 96813

Dear Chair Espero, Vice Chair Kidani and Members:

Subject: PGM Committee - February 7, 2012 at 2:45 p.m. HST
Senate Bill No. 2567 Relating to Public Contracts.

Thank you for the opportunity to testify on S.B. No. 2567. The City opposes S.B. No. 2567 which requires government contractors to disclose to the public certain specified information concerning the contract upon request pursuant to the uniform information practices act.

The bill's uniform information practices act requirement may have the unintended consequence of decreasing the overall bidding vendor/contractor base as government contracts become less appealing because of their increased administrative burden. Deduced bid competition will lead to increased costs to the general public.

Thank you.

1065 Ahua Street
Honolulu, HI 96819
Phone: 808-833-1681 FAX: 839-4167
Email: info@gcahawaii.org
Website: www.gcahawaii.org



GCA of Hawaii
GENERAL CONTRACTORS ASSOCIATION OF HAWAII
Quality People. Quality Projects.

Uploaded via Capitol Website

February 7, 2012

TO: HONORABLE SENATORS WILL ESPERO, CHAIR, MICHELLE KIDANI,
VICE CHAIR AND MEMBERS OF THE COMMITTEE ON PUBLIC SAFETY,
GOVERNMENT OPERATIONS AND MILITARY AFFAIRS

SUBJECT: **OPPOSITION TO S.B. 2567, RELATING TO PUBLIC CONTRACTS.**
Requires government contractors to disclose to the public certain specified
information concerning the contract upon request pursuant to the uniform
information practices act.

HEARING

DATE: Tuesday, February 7, 2012
TIME: 2:45 P.M.
PLACE: Conference Room 224

Dear Chair Espero, Vice Chair Kidani and Members:

The General Contractors Association (GCA) is an organization comprised of over six hundred (600) general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is celebrating its 80th anniversary this year; it remains the largest construction association in the State of Hawaii. GCA is testifying in **opposition** to S.B. 2567, Relating to Public Contracts.

This bill would add a new section to Chapter 103, HRS to require government contractors to reveal certain specified information including payroll information and information about the terms and specifications of contracts awarded.

The GCA is opposed to the passage of this bill because most of the information requested is available from other governmental records and sources or is propriety and confidential information. For example, all contractors awarded public works contracts are required to comply with the terms and conditions of the wage and hour laws that already require the filing of wage information on all workers employed on the project to the Department Labor. Information regarding the work to be performed and material to be utilized are already available in the bid specifications developed and published by the procuring agency pursuant to the requirements of the State Procurement Code.

We believe the bill may have unintended consequences which will permit private parties to conduct harassing fishing expeditions against government contractors by demanding information that appears to already be available from government records under Chapter 92F.

Honorable Will Espero, Chair
Committee on Public Safety, Government Operations and Military Affairs
February 7, 2012
Page 2 of 2

The GCA is opposed to the passage of this bill for the above reasons and recommends that the bill be held.

Thank you for the opportunity to present our views on this measure.



Hawaii Chapter

February 7, 2012

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Committee on Public Safety, Government Operations, and Military Affairs

Sen. Will Espero, Chair
Sen. Michelle N. Kidani, Vice Chair

Testimony of Associated Builders and Contractors Hawaii Chapter in **opposition SB 2567**

Chair Espero, Vice Chair Kidani, and members of the Committee; thank you for the opportunity to testify on this matter. My name is Malcolm Barcarse, Jr. I am the 2012 Board Chair and the Legislative Committee Chair of Associated Builders and Contractors Hawaii Chapter. We are an association of over 150 members representing the merit shop contracting industry in Hawaii.

We stand in **opposition** to this bill as relevant government contracting agencies are the appropriate agencies to provide these documents. Executed contracts and certified payroll records are accepted and approved by the Government and not the contractor therefore the originals are kept by the Government. These documents are not executed or certified until the Government says so. Contractors only have copies of these documents and bring nothing new to the table in providing the public with information.

Furthermore the Government has the staff and the resources to administer these requests that generally contractors do not have. Therefore Contractors are likely to add extra administrative costs to each contract in order to compensate for the time that their staff will be spending complying with this bill as opposed to their normal job duties. This will raise the price of construction contracts and will not provide a good value to the State.

Thank you for the opportunity to testify.

America's Best Contractors