

LATE

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

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January 27, 2014

TO: HONORABLE ANGUS MCKELVEY, CHAIR, HONORABLE DEREK KAWAKAMI,
VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON CONSUMER
PROTECTION AND COMMERCE

SUBJECT: **SUPPORT OF H.B. 2047. RELATING TO PROCUREMENT.** Prohibits
governmental procurement contracts of any amount that are exclusively for the
services of contractors, engineers, architects, surveyors, or landscape architects,
from requiring the person to defend the governmental body against liability not
arising from the contractor's own negligence or fault. Provides that the contractor
may still be required to indemnify and hold harmless the governmental body from
claims arising out of or resulting from the negligent, reckless, or wrongful acts,
errors, or omissions of the contractor.

HEARING

DATE: Monday, January 27, 2014
TIME: 2:10 p.m.
PLACE: Conference Room 325

Dear Chair McKelvey, Vice Chair Kawakami and Members of the Committee,

The General Contractors Association of Hawaii (GCA) is an organization comprised of over six hundred general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is the largest construction association in the State of Hawaii. The GCA's mission is to represent its members in all matters related to the construction industry, while improving the quality of construction and protecting the public interest.

The GCA is **in support** of H.B. 2047, which would no longer allow government contracts to require government contractors to defend the state prior to negligence being established. This bill does not preclude the contractor's obligation to indemnify the state in the event that there is a judgment finding fault on part of the contractor. The purpose of this bill is to prohibit governmental procurement contracts of any amount that are exclusively for the services of contractors, engineers, architects, surveyors, or landscape architects, from requiring the person to defend the governmental body against liability not arising from the contractor's own negligence or fault.

The GCA believes that an awardee of a state contract should not be required to defend the state prior to negligence being established. This bill would make it the responsibility of each party named in a suit, which would include the state as a party, to cover defense costs prior to negligence being established. Historically, a contractor's duty to defend the state has been unevenly applied.

In an effort to ensure fairness, GCA believes this bill provides a consistent clarification for all state and county agencies to follow.

GCA **supports** H.B. 2047 and we respectfully request that this Committee pass this bill.