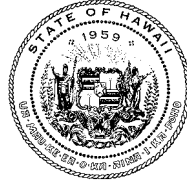


NEIL ABERCROMBIE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
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FREDERICK D. PABLO
DIRECTOR OF TAXATION

JOSHUA WISCH
DEPUTY DIRECTOR

LATE

To: The Honorable Sylvia Luke, Chair
and Members of the House Committee on Finance

Date: Wednesday, April 3, 2013
Time: 2:00 p.m.
Place: Conference Room 308, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: S.B. No. 1289, S.D.2 Relating to Taxation

The Department of Taxation (Department) **appreciates the intent** of S.B. 1289 and provides the following information and comments for your consideration.

This measure requires payors of non-wage payments for construction services to report the payments to the Department of Taxation and the Department of Labor and Industrial Relations. The measure is effective upon approval, and applies to taxable years beginning after December 31, 2013.

The Department notes that it will not be able to assess or enforce civil penalties for failure to file the required report under subsection (a) with the Department of Labor and Industrial Relations.

For clarity, the Department suggests the following amendments to this measure:

- Amend paragraphs (a)(1) to (a)(5) read:

(1) The name, address, and General Excise tax identification number and Federal tax identification number or Social Security Number of the payor;

(2) Where the payor is claiming a General Excise tax deduction for the amount paid to the provider of construction services, the name and General Excise tax identification number of each the provider of construction services;

(3) Where the payor is not claiming a General Excise tax deduction for the amount paid to the provider of construction services, the name and Federal tax identification number or Social Security Number of each provider of construction services;

(4) The total amount that the payor paid to the provider of construction services during

the payor's taxable year; and

(5) Any other information that the department shall require;

- Amend subsection (c) to read:

(c) The payor shall also transmit the report to the director of labor and industrial relations according to subsection (b) above, for purposes, of enforcing compliance with the Department of labor and industrial relations mandates.

In addition to this amendment, the Departments suggests that specific filing due date be inserted into this subsection.

- Amend subsection (d) to read:

(d) A payor required to file an annual report under subsection (a) who fails to file the report by the due date shall be assessed a civil penalty of \$250 per month for each month the report is not filed, not to exceed a total of \$3,000 for every annual report not filed. For the purposes of this subsection and subsection (g), filing an incomplete, misleading, or false report shall be deemed to be a failure to file.

- Add a new subsection that reads:

(x) The director of taxation may prepare forms necessary to meet the reporting requirements under this section. The director of taxation may prepare forms necessary to meet the reporting requirements under this section. The director of taxation may also require the taxpayer to furnish reasonable substantiation for the information contained in the report required under subsection (a) and may adopt rules necessary to effectuate the purposes of this section.

- Amend the definition of person to read:

"Person" includes an individual, corporation, partnership, association, limited liability company, or any other business entity.

Thank you for the opportunity to provide comments.

PLUMBING & MECHANICAL CONTRACTORS ASSOCIATION OF HAWAII



PLUMBING AND MECHANICAL
CONTRACTORS ASSOCIATION
OF HAWAII

TELEPHONE: (808) 597-1216
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1314 S. King Street, Suite 961
Honolulu, Hawaii 96814

GREGG S. SERIKAKU
EXECUTIVE DIRECTOR

LATE

February 12, 2013

Representative Sylvia Luke, Chair
Representative Scott Nishimoto, Vice Chair
Representative Aaron Ling Johanson, Vice Chair
House Committee on Finance
The Twenty-Seventh Legislature, Regular Session of 2013

Chair Luke, Vice Chairs Nishimoto and Johanson, and Members of the Committee:

SUBJECT: SB1289 SD2 Relating to Taxation

My name is Gregg Serikaku, Executive Director of the Plumbing and Mechanical Contractors Association of Hawaii, and we represent plumbing, air conditioning, refrigeration, and fire sprinkler contractors in Hawaii.

SB1289 SD2 seeks to level the playing field for all construction contractors in the State of Hawaii, by requiring contractors to file reports of payments for non-wage construction services with the Department of Taxation (DOT) and Department of Labor and Industrial Relations (DLIR), thereby creating a system where those unscrupulous contractors are compelled to report all payments they have received and pay the applicable taxes, insurance, etc. While we surely understand the intent and appreciate the goal of this bill, we believe this bill is difficult to enforce, does very little to stop unscrupulous contractors, and only creates additional paperwork, accounting problems, and unnecessary costs for honest construction contractors who subcontract work to other companies.

The reason this bill is difficult to enforce is because it requires a payor to submit an annual report to the Department of Taxation showing the aggregate amount of non-wage construction payments over \$600 made to each provider of such services during the payor's taxable year, however, being that general excise taxes are reported on a monthly basis and corporate income taxes are reported on each company's individual fiscal year, it would be very difficult for DOT and DLIR to use this newly created report to reconcile with general excise or income tax reports. Further, most contractors perform work both as subcontractors and as prime contractors with direct contracts with owners. While this bill would require reports for work done as a subcontractor, much of the work performed directly with owners will not require reporting because such work is not part of the owners regular course of business. Again, the reports required per this bill will not match what is reported for general excise and income tax purposes making it difficult for DOT and DLIR to utilize the new reporting in any meaningful way.

Unfortunately, this bill only penalizes the honest contractors by creating additional operating costs, therefore we oppose SB1289 SD2.

Respectfully yours,

Gregg S. Serikaku
Executive Director



MASONS UNION

Local #1 of Hawaii, IUBAC • Local #630, OP & CMIA, AFL-CIO

2251 North School Street • Honolulu, Hawaii 96819

Ph: (808) 841-0491 • Fax: (808) 847-4782



LATE

TO: THE HONORABLE,
Rep. Sylvia Luke, Chair
Rep. Scott Y. Nishimoto, Vice Chair
Rep. Aaron Ling Johanson, Vice Chair
AND THE MEMBERS OF THE HOUSE COMMITTEE ON FINANCE

NOTICE OF HEARING:

DATE: Wednesday, April 03, 2013

TIME: 2:30 P.M.

PLACE: Conference Room 308, State Capitol

FROM: MASONS UNION LOCAL 1 & 630

The Masons Union supports SB 1289, Relating to Taxation which requires payor of non-wage payments for construction services to report the payments to the department of taxation.

Unscrupulous construction companies can intentionally defraud the state of tax revenues because there is no federal or state law that tracks payments made by a business to an incorporated business.

This bill closes that loophole on the state level by requiring the reporting of payments from businesses in the construction industry whether or not they are incorporated. This will allow state taxing authorities to track payments to make sure that the construction business receiving the payment is paying all of its appropriate state taxes.

Tax fraud detection and more efficient, focused auditing can be achieved when there is a system on reporting of transactions, rather than self-reporting by each single entity. Again, this bill will close a tax loophole while ensuring a level playing field for law-abiding construction companies.

The Masons Union Local 1 & 630 represents 1800 members of the following construction trades, Bricklayers, Stone Masons, Ceramic Tile Setters, Marble Masons, Pointer Caulker, Cement Finishers and Plasterers.

Thank you for the opportunity to provide comments.