

SB 1301

Measure Title: RELATING TO PROFESSIONS AND OCCUPATIONS.

Report Title: Electricians and Plumbers; Plumber Air Conditioning and Refrigeration Pipefitters; Plumber Fire Sprinkler Pipefitters; Master Plumbers

Description: Authorizes the board of electricians and plumbers to regulate plumber air conditioning and refrigeration pipefitters and plumber fire sprinkler pipefitters. Redefines "master plumber." Excludes certain work from the owner-builder licensing exemption. Increases the percentage of licensed individuals on a job necessary to perform certain work. Effective 07/01/2015.

Companion:

Package: None

Current Referral: CPN

Introducer(s): KIM (Introduced by request of another party)

<u>Sort by Date</u>		Status Text
1/24/2013	S	Introduced.
1/24/2013	S	Passed First Reading.
1/28/2013	S	Referred to CPN.
1/31/2013	S	The committee(s) on CPN has scheduled a public hearing on 02-13-13 8:30AM in conference room 229.



NEIL ABERCROMBIE
GOVERNOR

SHAN S. TSUTSUI
LT. GOVERNOR

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DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
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PRESENTATION OF
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

TO THE SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION

TWENTY-SEVENTH STATE LEGISLATURE
REGULAR SESSION, 2013

WEDNESDAY, FEBRUARY 13, 2013
8:30 A.M.

TESTIMONY ON SENATE BILL NO. 1301
RELATING TO PROFESSIONS AND OCCUPATIONS

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND TO THE HONORABLE BRICKWOOD GALUTERIA, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify on Senate Bill No. 1301, Relating To Professions and Occupations. My name is Daria Loy-Goto, Complaints and Enforcement Officer for the Department's Regulated Industries Complaints Office ("RICO").

Senate Bill No. 1301 amends chapter 448E, Hawaii Revised Statutes, by, among other things, creating new license categories for air conditioning and refrigeration plumbers and fire sprinkler plumbers, and establishing experience and

Testimony on Senate Bill No. 1301
February 13, 2013
Page 2

education requirements. This bill was introduced at the request of the Governor and reflects the Governor's commitment to encouraging the use of reclaimed water while ensuring that the State's consumers receive pristine potable water.

The Department strongly supports this bill, and has facilitated discussions between the Board of Electricians and Plumbers and plumbing stakeholders to fine-tune its contents. The proposed Senate Draft 1 is the product of those collaborative efforts and the Department strongly supports the Senate Draft 1.

Thank you for this opportunity to testify on Senate Bill No. 1301. I will be happy to answer any questions that the members of the Committee may have.

ATTACHMENT 1

STATE OF HAWAII
OFFICE OF THE AUDITOR
465 S. King Street, Room 500
Honolulu, Hawaii 96813-2917



MARION M. HIGA
State Auditor
(808) 587-0800
FAX: (808) 587-0830

September 13, 1994

C O P Y

The Honorable Clifford K. Higa
Director
Department of Commerce & Consumer Affairs
1010 Richards Street
Honolulu, Hawaii 96813

Dear Mr. Higa:

Enclosed for your information are three copies, numbered 6 to 8 of our draft report, *Sunrise Analysis of a Proposal to Regulate Refrigeration and Air Conditioning Mechanics*. We ask that you telephone us by September 16, 1994, on whether or not you intend to comment on our recommendations. If you wish your comments to be included in the report, please submit them no later than September 27, 1994.

The Governor and presiding officers of the two houses of the Legislature have also been provided copies of this draft report.

Since this report is not in final form and changes may be made to it, access to the report should be restricted to those assisting you in preparing your response. Public release of the report will be made solely by our office and only after the report is published in its final form.

Sincerely,

Marion M. Higa
State Auditor

Enclosures

**PRESENTATION OF THE
CONTRACTORS LICENSE BOARD**

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

**TWENTY-SEVENTH LEGISLATURE
Regular Session of 2013**

**Wednesday, February 13, 2013
8:30 a.m.**

**TESTIMONY ON SENATE BILL NO. 1301, RELATING TO PROFESSIONS AND
OCCUPATIONS.**

**TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND MEMBERS OF THE COMMITTEE:**

My name is Peter Lee, and I am the Chair of the Contractors License Board's Legislation Committee. Thank you for the opportunity to comment on Senate Bill No. 1301, Relating to Professions and Occupations.

The Board is limiting its comments to Sections 1 and 2 of this bill, as these sections amend Chapter 444, HRS, relating to contractors. We do not take a position on the rest of the bill as it applies to Chapter 448E, HRS, which relates to the licensing of electricians and plumbers.

Initially, the Board had concerns regarding the clarity and intent of the amendments in Sections 1 and 2 of this bill; however, we understand that these issues have been addressed in the proposed Senate Draft 1 provided by the Board of Electricians and Plumbers. Therefore, we support the amendments to section 444-2.5, HRS, as stated in Section 1 of the proposed Senate Draft 1.

Thank you for the opportunity to comment on Senate Bill No. 1301.

**PRESENTATION OF THE
BOARD OF ELECTRICIANS
AND PLUMBERS**

TO THE SENATE COMMITTEE ON COMMERCE
AND CONSUMER PROTECTION

TWENTY-SEVENTH LEGISLATURE
Regular Session of 2013

Wednesday, February 13, 2013
8:30 a.m.

**TESTIMONY ON SENATE BILL NO. 1301, RELATING TO PROFESSIONS AND
OCCUPATIONS.**

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Matt Brady, Co-Chairperson of the Legislative Committee of the Board of Electricians and Plumbers ("Board"). Thank you for the opportunity to testify on Senate Bill No. 1301, Relating to Professions and Occupations.

The Board supports the intent of this bill which proposes to regulate journey worker air conditioning and refrigeration plumbers and journey worker fire sprinkler plumbers. With the allowance in the Uniformed Plumbing Code (2012) of reclaimed water in our residential and commercial buildings, the Board agrees that licensed tradesmen are needed to perform air conditioning and refrigeration or fire sprinkler work to prevent cross contamination and to insure consumer protection.

The Board has been diligently working with industry proponents since the introduction of this bill and is pleased to report that we have found consensus on all fronts.

The attached proposed Senate Draft 1 will provide ample time to (1) notify affected contractors who perform air conditioning and refrigeration or fire sprinkler work

that their installers now need to be licensed; (2) set in place the licensing scheme; (3) develop licensure examinations; and (4) effectuate a smooth transition to the triennial renewal cycle. The Board intends to work closely with the community colleges and the testing contractor to have the continuing competency courses and examinations for these new license types available soon after the June 30, 2018 renewal, thereby giving journey worker air conditioning and refrigeration plumbers and journey worker fire sprinkler plumbers sufficient time to meet the continuing competency requirements by the proposed June 30, 2021 renewal date.

Therefore, the Board appreciates the opportunity to present testimony in support of the intent of Senate Bill No. 1301 and requests that the Committee accept the proposed Senate Draft 1 as it is consensus language which the Board and the industry proponents support.

A BILL FOR AN ACT

RELATING TO PROFESSIONS AND OCCUPATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 444-9.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~§444-9.5 Licensing of electrical or plumbing workers.~~

4 (a) At least half of all individuals performing electrical or
5 plumbing work employed on a construction job site by [~~an~~
6 ~~electrical or plumbing~~] a contractor shall be licensed in
7 accordance with chapter 448E. The board may waive this
8 requirement in any county when there are insufficient licensed
9 [~~electrical or plumbing workers~~] electricians or plumbers in
10 that county to comply with this section.

11 (b) All individuals employed on a construction job site by
12 [~~an electrical or plumbing~~] a contractor who are licensed in
13 accordance with chapter 448E shall visibly display their license
14 on their person while on the construction job site. Only
15 individuals displaying their license at the time of a site
16 inspection shall be counted as a licensee to determine
17 compliance with this section."

1 SECTION 2. Section 448E-1, Hawaii Revised Statutes, is
2 amended by amending the definitions of journey worker plumber
3 and master plumber and by adding two new definitions to be
4 appropriately inserted and to read as follows:

5 "Journey worker plumber" means any person who has been
6 licensed by the board as a journey worker plumber to direct [~~and~~
7 ~~supervise the performance of plumbing work and to~~], supervise,
8 and perform plumbing work[-], which includes but is not limited
9 to all pipefitting."

10 "Master plumber" means any person who has been licensed by
11 the board as a master plumber to direct [~~and supervise the~~
12 ~~performance of plumbing work and to~~], supervise, and perform
13 plumbing work[-], which includes but is not limited to all
14 pipefitting."

15 "Journey worker air conditioning and refrigeration plumber"
16 means any person licensed by the board as a journey worker air
17 conditioning and refrigeration plumber to direct, supervise, and
18 perform air conditioning and refrigeration work, including but
19 not limited to all pipefitting, to install, maintain, repair,
20 and modify heating, cooling, and refrigeration systems."

21 "Journey worker fire sprinkler plumber" means any person
22 licensed by the board as a journey worker fire sprinkler plumber

1 to direct, supervise, and perform fire sprinkler work, including
2 but not limited to all pipefitting, to install, maintain,
3 repair, and modify fire sprinkler systems."

4 SECTION 3. Section 448E-4, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "§448E-4 Powers and duties of board. In addition to any
7 other powers and duties authorized by law, the board shall have
8 all the powers and duties necessary or convenient to carry out
9 and effectuate this chapter, including but not limited to the
10 following powers and duties:

- 11 (1) To grant licenses [~~which~~] that shall be renewable for:
- 12 (A) Journey worker electricians;
 - 13 (B) Journey worker specialty electricians;
 - 14 (C) Supervising electricians;
 - 15 (D) Supervising specialty electricians;
 - 16 (E) Master plumbers;
 - 17 (F) Journey worker plumbers;
 - 18 (G) Maintenance electricians;
 - 19 (H) Journey worker industrial electricians; [~~and~~]
 - 20 (I) Supervising industrial electricians;
 - 21 (J) Journey worker air conditioning and refrigeration
22 plumbers;

- 1 (K) Journey worker fire sprinkler plumbers;
2 (2) To adopt, amend, or repeal rules in accordance with
3 chapter 91 as it may deem proper to effectuate this
4 chapter and to [~~insure~~] ensure the safety and welfare
5 of the general public; provided that the rules may
6 forbid acts or practices deemed by the board to be
7 detrimental to the accomplishment of the purpose of
8 this chapter;
9 (3) To enforce this chapter and rules adopted pursuant to
10 this chapter and chapter 91, including the denial,
11 suspension, or revocation of any license; and
12 (4) To examine all applicants and licensees to determine
13 their qualifications prior to the issuance or renewal
14 of licenses."

15 SECTION 4. Section 448E-5, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "§448E-5 Minimum requirements. (a) Except as otherwise
18 provided in subsection (b), an applicant shall possess the
19 following minimum qualifications:

- 20 (1) Journey worker electrician: To be eligible for the
21 journey worker electrician examination, an applicant
22 shall be at least eighteen years of age and shall

1 provide satisfactory evidence of experience in
2 residential or commercial wiring of at least five
3 years of full-time or its equivalent, but not less
4 than ten thousand hours, in the trade under the
5 supervision of a journey worker electrician or
6 supervising electrician;

7 (2) Journey worker specialty electrician: To be eligible
8 for the journey worker specialty electrician
9 examination, an applicant shall be at least eighteen
10 years of age and shall provide satisfactory evidence
11 of at least five [~~years~~] years of full-time or its
12 equivalent, but not less than ten thousand hours, in
13 the trade under the supervision of a journey worker
14 specialty electrician, supervising specialty
15 electrician, journey worker industrial electrician,
16 supervising industrial electrician, journey worker
17 electrician, or supervising electrician ~~experience in~~
18 ~~the trade;~~

19 (3) Supervising electrician: To be eligible for the
20 supervising electrician examination, an applicant
21 shall have been registered with the board as a journey

- 1 worker electrician for at least a period of four years
2 or shall have equivalent experience in the trade;
- 3 (4) Supervising specialty electrician: To be eligible for
4 the supervising specialty electrician examination, an
5 applicant shall have been registered with the board as
6 a journey worker specialty electrician for at least a
7 period of four years or shall have equivalent
8 experience in the trade;
- 9 (5) Journey worker plumber: To be eligible for the
10 journey worker plumber examination, an applicant shall
11 provide satisfactory evidence of experience of at
12 least five [~~years~~] years of full-time or its
13 equivalent, but not less than ten thousand hours, [~~as~~]
14 in the trade under the supervision of a journey
15 [~~worker's~~] worker plumber or master [~~plumber's~~
16 ~~helper;~~] plumber;
- 17 (6) Master plumber: To be eligible for the master plumber
18 examination, an applicant shall have been registered
19 with the board as a journey worker plumber for at
20 least two years or shall have equivalent experience in
21 the trade;

- 1 (7) Maintenance electrician: To be eligible for the
2 maintenance electrician examination, an applicant
3 shall be not less than eighteen years of age and shall
4 provide satisfactory evidence of at least one year of
5 experience in performing electrical maintenance work
6 or two years of schooling in the electrical trade;
- 7 (8) Journey worker industrial electrician: To be eligible
8 for the journey worker industrial electrician
9 examination, an applicant shall be at least eighteen
10 years of age and shall provide satisfactory evidence
11 of experience in industrial electrical work of at
12 least five years of full-time or its equivalent, but
13 not less than ten thousand hours in the trade under
14 the supervision of a journey worker industrial
15 electrician, supervising industrial electrician,
16 journey worker electrician, or supervising
17 electrician;
- 18 (9) Supervising industrial electrician: To be eligible
19 for the supervising industrial electrician
20 examination, an applicant shall have been registered
21 with the board as a journey worker industrial

1 electrician for a period of at least four years or
2 shall have equivalent experience in the trade.

3 (b) Effective July 1, 2013, an applicant for licensing
4 pursuant to this chapter shall possess the following minimum
5 qualifications:

6 (1) Journey worker electrician: To be eligible for the
7 journey worker electrician examination, an applicant
8 shall be at least eighteen years of age and shall
9 provide satisfactory evidence of:

10 (A) Experience in residential or commercial wiring of
11 at least five years of full-time or its
12 equivalent, but not less than ten thousand hours,
13 in the trade under the supervision of a journey
14 worker electrician or supervising electrician;
15 and

16 (B) Satisfactory completion, accepted by a University
17 of Hawaii community college offering an
18 appropriate program of study, of two hundred
19 forty hours of electrical academic coursework;

20 (2) Journey worker specialty electrician: To be eligible
21 for the journey worker specialty electrician
22 examination, an applicant shall be at least eighteen

1 years of age and shall provide satisfactory evidence
2 of:

3 (A) Experience of at least three years of full-time
4 or its equivalent, but not less than six thousand
5 hours, in the trade under the supervision of a
6 journey worker electrician, supervising
7 electrician, journey worker specialty
8 electrician, supervising specialty electrician,
9 journey worker industrial electrician, or
10 supervising industrial electrician; and

11 (B) Satisfactory completion, accepted by a University
12 of Hawaii community college offering an
13 appropriate program of study, of one hundred
14 twenty hours of electrical academic coursework;

15 (3) Supervising electrician: To be eligible for the
16 supervising electrician examination, an applicant
17 shall have been registered with the board as a journey
18 worker electrician for at least a period of four years
19 or shall have equivalent experience in the trade;

20 (4) Supervising specialty electrician: To be eligible for
21 the supervising specialty electrician examination, an
22 applicant shall have been registered with the board as

1 a journey worker specialty electrician for at least a
2 period of two years or shall have equivalent
3 experience in the trade;

- 4 (5) Journey worker plumber: To be eligible for the
5 journey worker plumber examination, an applicant shall
6 be at least eighteen years of age and shall provide
7 satisfactory evidence of experience of at least five
8 [years+] years of full-time or its equivalent, but not
9 less than ten thousand hours, [as] in the trade under
10 the supervision of a journey [worker's] worker plumber
11 or master [plumber's helper,] plumber;

- 12 (6) Master plumber: To be eligible for the master plumber
13 examination, an applicant shall have been registered
14 with the board as a journey worker plumber for at
15 least two years or shall have equivalent experience in
16 the trade;

- 17 (7) Maintenance electrician: To be eligible for the
18 maintenance electrician examination, an applicant
19 shall be not less than eighteen years of age and shall
20 provide satisfactory evidence of:

- 21 (A) At least one year of experience in performing
22 electrical maintenance work plus satisfactory

1 completion, accepted by a University of Hawaii
2 community college offering an appropriate program
3 of study, of at least eighty hours of electrical
4 academic coursework; or

5 (B) Two years of schooling in the electrical trade
6 with not less than one thousand hours of hands-on
7 lab exercises;

8 (8) Journey worker industrial electrician: To be eligible
9 for the journey worker industrial electrician
10 examination, an applicant shall be at least eighteen
11 years of age and shall provide satisfactory evidence
12 of:

13 (A) Experience in industrial electrical work of at
14 least four years of full-time or its equivalent,
15 but not less than eight thousand hours in the
16 trade under the supervision of a journey worker
17 electrician, supervising electrician, journey
18 worker industrial electrician, or supervising
19 industrial electrician; and

20 (B) Satisfactory completion, as accepted by a
21 University of Hawaii community college offering

1 an appropriate program of study, of two hundred
2 hours of electrical academic coursework; and
3 (9) Supervising industrial electrician: To be eligible
4 for the supervising industrial electrician
5 examination, an applicant shall have been registered
6 with the board as a journey worker industrial
7 electrician for a period of at least three years or
8 shall have equivalent experience in the trade.

9 (c) Effective July 1, 2016, an applicant for licensing
10 pursuant to this chapter shall possess the following minimum
11 qualifications:

12 (1) Journey worker plumber: To be eligible for the
13 journey worker plumber examination, an applicant shall
14 be at least eighteen years of age and:

15 (A) If the applicant is not licensed as a journey
16 worker air conditioning and refrigeration plumber
17 or journey worker fire sprinkler plumber, the
18 applicant shall provide satisfactory evidence of
19 experience of at least five years of full-time or
20 its equivalent, but not less than ten thousand
21 hours, in the trade under the supervision of a
22 journey worker plumber or master plumber; or

1 (B) If the applicant is licensed as a journey worker
2 air conditioning and refrigeration plumber or
3 journey worker fire sprinkler plumber, the
4 applicant shall provide satisfactory evidence of
5 experience of at least three years of full-time
6 or its equivalent, but not less than six thousand
7 hours, in the trade under the supervision of a
8 journey worker plumber or master plumber;

9 (2) Journey worker air conditioning and refrigeration
10 plumber: To be eligible for the journey worker air
11 conditioning and refrigeration plumber examination, an
12 applicant shall be not less than eighteen years of age
13 and:

14 (A) If the applicant is not licensed as a journey
15 worker plumber, master plumber, or journey worker
16 fire sprinkler plumber, the applicant shall
17 provide satisfactory evidence of experience of at
18 least five years of full-time or its equivalent,
19 but not less than ten thousand hours, in the
20 trade under the supervision of a journey worker
21 air conditioning and refrigeration plumber;
22 provided that:

- 1 (i) For six years, beginning July 1, 2015, a
2 licensed ventilating and air conditioning
3 contractor or refrigeration contractor,
4 shall be deemed qualified to verify an
5 applicant's experience; and
- 6 (ii) Thereafter, only a licensed journey worker
7 air conditioning and refrigeration plumber
8 shall be deemed qualified to verify an
9 applicant's experience; or
- 10 (B) If the applicant is licensed as a journey worker
11 plumber, master plumber, or journey worker fire
12 sprinkler plumber, the applicant shall provide
13 satisfactory evidence of experience of at least
14 two years of full-time or its equivalent, but not
15 less than four thousand hours in the trade under
16 the supervision of a journey worker air
17 conditioning and refrigeration plumber,
18 performing air conditioning and refrigeration
19 work; provided that:
- 20 (i) For six years, beginning July 1, 2015, a
21 licensed ventilating and air conditioning
22 contractor or refrigeration contractor shall

1 be deemed qualified to verify an applicant's
2 experience; and

3 (ii) Thereafter, only a licensed journey worker
4 air conditioning and refrigeration plumber
5 shall be deemed qualified to verify an
6 applicant's experience;

7 (3) Journey worker fire sprinkler plumber: To be eligible
8 for the journey worker fire sprinkler plumber
9 examination, an applicant shall be not less than
10 eighteen years of age and:

11 (A) If the applicant is not licensed as a journey
12 worker plumber, master plumber, or journey worker
13 air conditioning and refrigeration plumber, the
14 applicant shall provide satisfactory evidence of
15 experience of at least five years of full-time or
16 its equivalent, but not less than ten thousand
17 hours, in the trade under the supervision of a
18 journey worker fire sprinkler plumber; provided
19 that:

20 (i) For six years, beginning July 1, 2015, a
21 licensed fire protection contractor shall

1 be deemed qualified to verify an
2 applicant's experience; and
3 (ii) Thereafter, only a licensed journey worker
4 fire sprinkler plumber shall be deemed
5 qualified to verify an applicant's
6 experience; or
7 (B) If the applicant is licensed as a journey worker
8 plumber, master plumber, or journey worker air
9 conditioning and refrigeration plumber, the
10 applicant shall provide evidence of experience of
11 not less than two years of full-time or its
12 equivalent, but not less than four thousand hours
13 in the trade under the supervision of a journey
14 worker fire sprinkler plumber performing fire
15 sprinkler work; provided that:
16 (i) For six years, beginning July 1, 2015, a
17 licensed fire protection contractor shall be
18 deemed qualified to verify an applicant's
19 experience; and
20 (ii) Thereafter, only a licensed journey worker
21 fire sprinkler plumber shall be deemed

1 qualified to verify an applicant's
2 experience."

3 SECTION 5. Section 448E-8, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§448E-8 Fees; renewals. (a) Renewal fees shall be paid
6 to the board before July 1.

7 (b) Plumbers shall renew the license every three years
8 effective June 30, 2006 and shall pay all required fees. Prior
9 to the June 30, 2009 renewal of the license, and prior to every
10 license renewal thereafter, the applicant shall:

- 11 (1) Pay all required fees; and
- 12 (2) Meet the requirements prescribed in section 448E-8.5.

13 (c) Electricians shall renew the license every three years
14 effective with the July 1, 1996, renewal; provided that prior to
15 the renewal of the license the applicant shall:

- 16 (1) Pay all required fees; and
- 17 (2) Meet the requirements prescribed in section 448E-8.5.

18 (d) Journey worker air conditioning and refrigeration
19 plumbers and journey worker fire sprinkler plumbers shall renew
20 their license every three years effective June 30, 2018 and
21 shall pay all required fees. Prior to the June 30, 2021 renewal

1 of the license, and prior to every license renewal thereafter,
2 the applicant shall:

3 (1) Pay all required fees; and

4 (2) Meet the requirements prescribed in section 448E-8.5.

5 [~~(d)~~] (e) Failure, neglect, or refusal of any licensee to
6 pay the renewal fee or meet the requirements of section 448E-8.5
7 before the renewal date shall constitute a forfeiture of the
8 license. Any license so forfeited may be restored upon written
9 application within one year from the date of forfeiture, upon
10 payment of the required renewal fee plus penalty fees and upon
11 meeting the requirements in section 448E-8.5."

12 SECTION 6. Section 448E-8.5, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§448E-8.5 Continued competency; license renewals.** (a)
15 Prior to each license renewal, all licensed electricians except
16 maintenance electricians shall:

17 (1) Furnish the board with proof of attendance at an
18 educational course related to current updates of the
19 National Electrical Code conducted or approved by the
20 community colleges; or

21 (2) Successfully complete an examination prescribed by the
22 board on current updates to the National Electrical

1 Code. The board shall contract with a professional
2 testing agency to prepare, administer, and grade the
3 examination. Fees related to the examination shall be
4 paid by the licensee directly to the professional
5 testing agency.

6 (b) Prior to each license renewal, all licensed plumbers
7 shall:

8 (1) Furnish the board with proof of attendance at an
9 educational course related to current updates of the
10 [~~Uniform Plumbing Code,~~] following codes conducted or
11 approved by the community colleges:

12 (A) Uniform Plumbing Code for journey worker plumbers
13 and master plumbers;

14 (B) Uniform Mechanical Code for journey worker air
15 conditioning and refrigeration plumbers; or

16 (C) Applicable codes published by the National Fire
17 Prevention Association for journey worker fire
18 sprinkler plumbers as prescribed in the rules of
19 the board; or

20 (2) Successfully complete an examination prescribed by the
21 board on current updates to the [~~Uniform Plumbing~~
22 ~~Code,~~] the following codes:

1 (A) Uniform Plumbing Code for journey worker plumbers
2 and master plumbers;

3 (B) Uniform Mechanical Code for journey worker air
4 conditioning and refrigeration plumbers; or

5 (C) Applicable codes published by the National Fire
6 Prevention Association for journey worker fire
7 sprinkler plumbers as prescribed in the rules of
8 the board.

9 The board shall contract with a professional testing
10 agency to prepare, administer, and grade the
11 examination. A licensee shall pay all fees related to
12 the examination directly to the professional testing
13 agency.

14 (c) A licensee who has been issued a new license within
15 one year of the renewal date shall not be required to take the
16 course or the examination to renew the licensee's license."

17 SECTION 7. Section 448E-9, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) No person shall act or assume to act as a journey
20 worker electrician, journey worker specialty electrician,
21 supervising electrician, supervising specialty electrician,
22 journey worker plumber, master plumber, maintenance electrician,

1 journey worker industrial electrician, [øæ] supervising
2 industrial electrician, journey worker air conditioning and
3 refrigeration plumber, journey worker fire sprinkler plumber, or
4 advertise or hold the person's self out as an electrician or
5 plumber, without a license previously obtained in compliance
6 with this chapter and the rules of the board; provided that any
7 person may perform emergency plumbing repair work in the
8 person's principal place of residence when such repairs do not
9 involve or require rearrangement of valves, pipes, or fixtures;
10 provided further that no such emergency repairs may be performed
11 on sewer lines, drains, gas lines, and on fixtures being served
12 with backflow devices which include heaters, water closets,
13 dishwashers, and garbage disposal units.

14 For purposes of this subsection:

15 "Electrician" means any person who performs electrical work
16 and includes but is not limited to any person who acts as a
17 journey worker electrician, journey worker specialty
18 electrician, supervising electrician, supervising specialty
19 electrician, maintenance electrician, journey worker industrial
20 electrician, or supervising industrial electrician.

21 "Plumber" means any person who performs plumbing work and
22 includes but is not limited to any person who acts as a journey

1 worker plumber~~[øæ]~~, master plumber, journey worker air
2 conditioning and refrigeration plumber, or journey worker fire
3 sprinkler plumber."

4 SECTION 8. Section 448E-11, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "§448E-11 Injunction. The board may, in addition to any
7 other remedy available, apply to a circuit court judge for a
8 temporary restraining order or preliminary or permanent
9 injunction restraining any person from acting, or assuming to
10 act, as a journey worker electrician, journey worker specialty
11 electrician, supervising electrician, supervising specialty
12 electrician, maintenance electrician, journey worker industrial
13 electrician, supervising industrial electrician, journey worker
14 plumber, ~~[øæ]~~ master plumber, journey worker air conditioning
15 and refrigeration plumber, or journey worker fire sprinkler
16 plumber without a license previously obtained in compliance with
17 this chapter and the rules of the board, and upon hearing and
18 for cause shown, the judge may grant the temporary restraining
19 order or preliminary or permanent injunction."

20 SECTION 9. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

22 SECTION 10. This Act shall take effect upon its approval.

S.B. NO. 1301
Proposed SD 1

1

INTRODUCED BY: _____

S.B. NO. 1301

Proposed SD 1

Report Title:

Electricians and Plumbers; Journey Worker Air Conditioning and Refrigeration Plumbers; Journey Worker Fire Sprinkler Plumbers; Master Plumbers

Description:

Authorizes the board of electricians and plumbers to regulate journey worker air conditioning and refrigeration plumbers and journey worker fire sprinkler plumbers. Effective 7/1/2016.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

TESTIMONY OF ALISON POWERS

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Sen. Rosalyn H. Baker, Chair
Sen. Brickwood Galuteria, Vice Chair

Wednesday, February 13, 2013
8:30 a.m.

SB 1301

Chair Baker, Vice Chair Galuteria, and members of the Committee, my name is Alison Powers, Executive Director of the Hawaii Insurers Council, a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately 40% of all property and casualty insurance premiums in the state.

The Hawaii Insurers Council **supports** SB 1301.

SB 1301 would, among other measures, empower the Board of Electricians and Plumbers to grant licenses to, and to regulate, plumber air conditioning and refrigeration pipefitters and plumber fire sprinkler pipefitters. SB 1301 would also specify the qualifications for plumber air conditioning and refrigeration pipefitters and plumber fire sprinkler pipefitters, including minimum experience levels under the direct supervision of those with proven qualifications. Additionally, effective June 30, 2018, SB 1301 would require proof of attendance at continuing education courses and completion of an examination prior to each license renewal.

In short, SB 1301 establishes criteria and procedures that seek to ensure that only the most qualified, competent and informed individuals will be authorized to perform the work of plumber air conditioning and refrigeration pipefitters and plumber fire sprinkler pipefitters.

SB 1301 is consistent with the Legislature's intent in the Uniform Professional and Vocational Licensing Act, Chapter 436B of the Hawaii Revised Statutes: the protection of "the health, safety, and welfare of consumers of services provided by a profession or vocation regulated by the licensing authority."

Therefore, the Hawaii Insurers Counsel is in support of SB 1301. Thank you for the opportunity to testify.

Testimony of Glenn Ida
Representing,
The Plumbers and Fitters, Local 675
1109 Bethel Street, Lower Level
Honolulu, Hi. 96813

**In Strong Support of SB1301,
with Amendments**

**Before the Senate:
Committee on Consumer Protection and Commerce
Wednesday, Feb.13, 2013
8:30 AM, Conference Room 229.**

Aloha Chair Baker, Vice-Chair Galuteria and Committee Members,

My name is Glenn Ida; I represent the active members and retirees of the Plumbers and Fitters Union, Local 675.

Local 675, Strongly Supports SB1301 with amendments, which authorizes the electricians and plumbers board to regulate plumber air conditioning and refrigeration pipefitters and plumber fire sprinkler pipefitters. Redefines "the master plumber." Excludes certain work from the owner-builder licensing exemption. Increases the percentage of licensed individuals on a job necessary to perform certain work. Effective 07/01/15.

The State Building Codes Council is in the process of adopting the next set of codes. For the Plumbing industry, it means that the 2012 Uniform Plumbing Code will be adopted. With the trend leading to include more conservation measures the codes will encourage the use of reclaimed or gray water within dwellings and buildings.

In jurisdictions where the 2012 UPC is adopted they are already incorporating systems that collect, store, and in some cases treat water onsite from the showers, wash basins, washing machines and rain catchment to furnish water to flush toilets besides irrigation.

Installing these systems presents the potential for cross connection of potable with non-potable water sources which could present serious health and safety issues not only to this dwelling but to the community as well.

Currently Journey Worker Plumbers and Master Plumbers are required to be licensed to do plumbing and pipefitting work on potable water systems. This legislation will require that air-conditioning and refrigeration pipefitters and fire sprinkler pipefitters be

Page 2: SB1301

licensed because they may be connecting pipe into the reclaimed non-potable waters systems within a structure.

Local 675 believes that by licensing these two classes of plumber/pipefitters that their skills and knowledge will ensure that public health and safety is maintained and renewal of their licenses every three years will keep them up to date in the future.

Since the Bill introduction we have been working with the Electricians and Plumbers Board to address the issues raised at the last Board meeting. The amendments do not change the intent of SB1301 but at the request of the Board the implementation and timetable has been adjusted to ensure that the all requirements of SB1301 can be met. Some language changes have been made for further clarification.

Therefore, Local 675 Strongly Supports SB1301 with Amendments.

Thank you for this opportunity to testify.

Mahalo,

Glenn Ida

PLUMBING & MECHANICAL CONTRACTORS ASSOCIATION OF HAWAII



TELEPHONE: (808) 597-1216
FAX: (808) 597-1409
1314 S. King Street, Suite 961
Honolulu, Hawaii 96814

GREGG S. SERIKAKU
EXECUTIVE DIRECTOR

February 12, 2013

Via Email

Senator Rosalyn H. Baker, Chair
Senator Brickwood Galuteria, Vice Chair
Senate Committee on Commerce and Consumer Protection
The Twenty-Seventh Legislature, Regular Session of 2013

Chair Baker, Vice Chair Galuteria, and Members of the Committee:

SUBJECT: SB1301 Relating to Professions and Occupations

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 and are the management representatives for the largest certified training programs for each of these trades.

The Association for which I speak strongly supports the Proposed SD1 which has been developed in collaboration with the State of Hawaii Electricians and Plumbers Licensing Board. Our Association has worked with the Plumbers and Fitters Union, the E&P Board, and other vested parties on drafting the Proposed SD1 to clarify the intent of the SB1301, which is to provide the public with the assurance that properly trained and experienced individuals install, maintain, and repair air conditioning, refrigeration, and fire sprinkler systems that are in compliance with national codes and guidelines intended to protect public health and safety.

One of our industry's primary concerns is the significantly expanded use of non-potable water allowed in the 2012 Uniform Plumbing Code (UPC) which includes applications in air conditioning systems, refrigeration systems and fire sprinkler systems. These new applications of non-potable water will result in a complex network of both potable and non-potable water piping within a building, and will drastically increase the possibility of dangerous cross connections if the individuals working on these systems are not properly trained. Cross connection of potable and non-potable water is a serious issue which has caused severe illnesses and deaths and is one of the main reason that licensing requirements were established for plumbers. Licensing requirements includes 5 years of experience under the supervision of a licensee, knowledge of the applicable codes, and mandatory update classes to keep abreast of new technologies. The addition of licensing for air conditioning, refrigeration, and fire sprinkler workers under the E&P Board will insure that these individuals also have the required knowledge of codes and the expertise to safely integrate their systems with the plumbing systems and the newly created non-potable water technologies and processes.

We strongly support and the Proposed SD1.

Respectfully yours,

A handwritten signature in cursive script, reading "Gregg S. Serikaku", is positioned above the typed name.

Gregg S. Serikaku
Executive Director



HAWAII BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO

Gentry Pacific Design Center, Suite 215A * 560 N. Nimitz Highway, #50 * Honolulu, Hawaii 96817
(808) 524-2249 - FAX (808) 524-6893

February 12, 2013

KIKA G. BUKOSKI
Executive Director

EXECUTIVE BOARD

REGINALD CASTANARES
President
Plumbers & Fitters Local 675

DAMIEN T.K. KIM
Vice President
International Brotherhood of
Electrical Workers Local 1186

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Sergeant At Arms
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Glassworkers Local 1889

DOUGLAS FULP
Trustee
International Assoc. of Heat & Frost
Insulators & Allied Workers Local 132

JOSEPH O'DONNELL
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Iron Workers Local 625

GARY AYCOCK
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Local 204

ART TOLENTINO
Sheet Metal Workers I.A. Local 293

RONAN KOZUMA
Hawaii Teamsters & Allied
Workers Local 996

VAUGHN CHONG
Roofers, Waterproofers & Allied
Workers United Union of Roofers
Local 221

Honorable Senator Rosalyn Baker, Chair- Committee on Commerce and Consumer Protection
Honorable Senator Brickwood Galuteria, Vice Chair- Committee on Commerce and Consumer Protection
Hawaii State Senate- Committee on Commerce and Consumer Protection
State Capitol
Honolulu, Hawaii 96813

Re: SB1301 RELATING TO PROFESSIONS AND OCCUPATIONS which proposes to authorize the board of electricians and plumbers to regulate plumber air conditioning and refrigeration pipefitters and plumber fire sprinkler pipefitters. Redefines "master plumber." Excludes certain work from the owner-builder licensing exemption. Increases the percentage of licensed individuals on a job necessary to perform certain work.

Hearing: Wednesday, February 13, 2013, 0830, Room 229

Aloha Chair Baker, Vice Chair Galuteria and Committee Members;

My name is Kika G. Bukoski, testifying on behalf of the Hawaii Building & Construction Trades Council, AFL-CIO. The Council is comprised of various construction trade unions and represents the interests of over 15,000 of Hawaii's unionized construction trades men and women throughout the state.

The Council supports Senate Bill 1301 which authorizes the board of electricians and plumbers to regulate plumber air conditioning and refrigeration pipefitters and plumber fire sprinkler pipefitters. Redefines "master plumber." Excludes certain work from the owner-builder licensing exemption. Increases the percentage of licensed individuals on a job necessary to perform certain work.

Building codes are cornerstone to preserving public health and safety. This measure is intended to bring our state building codes in line and complaint with the 2012 Uniform Building Codes that in an effort to conserve water resources and encourage the utilization of reclaimed or gray water within dwellings and buildings, may pose the potential for cross connection of potable with non-potable water sources, which could lead to significant public health and safety issues. This measure is to ensure that such public health and safety concerns are recognized and mitigated. Please support the passage of SB1301.

The HBCTC, chartered in 1953, is a recognized member of, and sanctioned by the AFL-CIO and our parent organization the Building and Construction Trades Department which is a national organization representing the organized construction trades and created by the AFL-CIO in 1901. HBCTC has and continues to serve its members through the advocacy and education of construction trades in Hawaii. HBCTC has played an integral role in the social and economic fabric of Hawaii through its efforts and its membership and sincerely appreciate the opportunity to share our support of Senate Bill 1301.

Mahalo;

Kika G. Bukoski
Hawaii Building and Construction Trades Council, AFL-CIO

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 13, 2013

TO: HONORABLE ROSALYN BAKER, CHAIR, HONORABLE BRICKWOOD GALUTERIA, VICE CHAIR AND MEMBERS OF THE SENATE COMMITTEE ON COMMERCE & CONSUMER PROTECTION

SUBJECT: **STRONG OPPOSITION TO S.B. 1301, RELATING TO PROFESSIONS AND OCCUPATIONS.** Authorizes the board of electricians and plumbers to regulate plumber air conditioning and refrigeration pipefitters and plumber fire sprinkler pipefitters. Redefines "master plumber." Excludes certain work from the owner-builder licensing exemption. Increases the percentage of licensed individuals on a job necessary to perform certain work. Effective 07/01/2015.

HEARING

DATE: Wednesday, February 13, 2013
TIME: 8:30 a.m.
PLACE: Room 229

Dear Chair Baker and Vice Chair Galuteria and Committee 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 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.

GCA **strongly opposes** S.B. 1301, Relating to Professions and Occupations, which proposes to regulate the occupations of air conditioning, refrigeration and fire sprinkler technicians and place them under the jurisdiction of the Chapter 448E, Hawaii Revised Statutes Electricians and Plumbers Board.

GCA **strongly recommends that this bill be held** for the following reasons: (1) This measure proposes to regulate a trade that already has oversight by the Contractors License Board under Chapter 444, Hawaii Revised Statutes and existing C specialty licenses; (2) The added regulations and requirements will not likely protect consumers, but instead make it more costly for the consumer and state; and (3) Under *Hawaii's Regulatory Licensing Reform Act* Chapter 26H, Hawaii Revised Statutes (HRS), **a sunrise analysis was already conducted in 1994, which concluded that further licensure of air conditioning and refrigeration technicians was not necessary.**

First, this measure is unnecessary because it is proposing to control trades already regulated by the Contractors License Board under Chapter 444, HRS. Existing specialty C licenses determine the jurisdictional work performed by these contractors. It is important to understand the differences between Chapter 444, HRS, which regulates the contractor and Chapter 448E, HRS which regulates the journey worker, exclusively the electricians and plumbers. Under Chapter 444, HRS the company holds the license which employs individuals that carry these particular licenses to perform this type of work. This measure would result in regulating the work of individuals who have performed these jobs for many, many years without any major complaints from the public regarding their work performance. Some of the work proposed to be regulated under this bill is currently being performed by workers who are not licensed as plumbers and work for specialty contractors not classified as plumbing contractors and do not pose a danger to public safety.

Secondly, this regulation would require the consumers, whom licensing regulations are aimed to protect, to suffer the biggest detriment – because they are not likely receive any increased protections, but would be required to pay more for these types of services. Additionally, the state would pay more to administer such licenses due to increased administrative burdens, regulations and enforcement.

Lastly, in 1994 the Office of the Auditor conducted an analysis for the regulation of Air Conditioning and Refrigeration and found that: 1) The regulation of **refrigeration and air conditioning mechanics is not warranted**. We found no documented evidence that they harm consumers, and the costs of regulation would be substantial; and 2) Other protections against harm exist in both the public and private sectors . . . *Sunrise Analysis of a Proposal to Regulate Refrigeration and Air Conditioning Mechanics*, Report No. 94-15 (October 1994) at p 5. See Report Attached. The 1994 report recognized that the C-40 and the C-52 specialty licenses were already in existence and found that the contractors licensing law provided protection against faulty workmanship. *Id* at 10.

Hawaii's Licensing Regulatory and Reform Act, Section 26H-2, HRS governs sunrise reviews which is a “review of whether it is necessary for a legislature to enact legislation to regulate an as yet unregulated profession or occupation in order to protect the health, safety, or welfare of the public.” It is the Auditor’s duty to determine whether regulation is necessary to protect the health, safety, and welfare of consumers.

In conclusion, the GCA believes that workers in these classifications perform work that do not pose major health and safety concerns, unlike regular electricians and plumbers who are regulated under Chapter 448E, HRS. Proponents may argue that due to up and coming regulations related to gray water, safety and health concerns are at issue. However, if that is the case, an independent analysis by the Auditor’s office may reveal such. The GCA believes that his measure is unnecessary and would result in over regulation of the construction trades and merely increase the cost to the public.

The GCA is **strongly opposed** to the passage of S.B. 1301 and respectfully recommends that this measure be held. Thank you for the opportunity to present our views on this bill.

Sunrise Analysis of a Proposal to Regulate Refrigeration and Air Conditioning Mechanics

A Report to the
Governor
and the
Legislature of
the State of
Hawai'i

Report No. 94-15
October 1994



THE AUDITOR
STATE OF HAWAII

The Office of the Auditor

The missions of the Office of the Auditor are assigned by the Hawaii State Constitution (Article VII, Section 10). The primary mission is to conduct post audits of the transactions, accounts, programs, and performance of public agencies. A supplemental mission is to conduct such other investigations and prepare such additional reports as may be directed by the Legislature.

Under its assigned missions, the office conducts the following types of examinations:

1. *Financial audits* attest to the fairness of the financial statements of agencies. They examine the adequacy of the financial records and accounting and internal controls, and they determine the legality and propriety of expenditures.
2. *Management audits*, which are also referred to as *performance audits*, examine the effectiveness of programs or the efficiency of agencies or both. These audits are also called *program audits*, when they focus on whether programs are attaining the objectives and results expected of them, and *operations audits*, when they examine how well agencies are organized and managed and how efficiently they acquire and utilize resources.
3. *Sunset evaluations* evaluate new professional and occupational licensing programs to determine whether the programs should be terminated, continued, or modified. These evaluations are conducted in accordance with criteria established by statute.
4. *Sunrise analyses* are similar to sunset evaluations, but they apply to proposed rather than existing regulatory programs. Before a new professional and occupational licensing program can be enacted, the statutes require that the measure be analyzed by the Office of the Auditor as to its probable effects.
5. *Health insurance analyses* examine bills that propose to mandate certain health insurance benefits. Such bills cannot be enacted unless they are referred to the Office of the Auditor for an assessment of the social and financial impact of the proposed measure.
6. *Analyses of proposed special funds* and existing *trust and revolving funds* determine if proposals to establish these funds and existing funds meet legislative criteria.
7. *Procurement compliance audits* and other *procurement-related monitoring* assist the Legislature in overseeing government procurement practices.
8. *Fiscal accountability reports* analyze expenditures by the state Department of Education in various areas.
9. *Special studies* respond to requests from both houses of the Legislature. The studies usually address specific problems for which the Legislature is seeking solutions.

Hawaii's laws provide the Auditor with broad powers to examine all books, records, files, papers, and documents and all financial affairs of every agency. The Auditor also has the authority to summon persons to produce records and to question persons under oath. However, the Office of the Auditor exercises no control function, and its authority is limited to reviewing, evaluating, and reporting on its findings and recommendations to the Legislature and the Governor.



THE AUDITOR STATE OF HAWAII

Kekuanao'a Building
465 South King Street, Room 500
Honolulu, Hawaii 96813

OVERVIEW

THE AUDITOR
STATE OF HAWAII

Sunrise Analysis of a Proposal to Regulate Refrigeration and Air Conditioning Mechanics

Summary

We analyzed whether refrigeration and air conditioning mechanics should be regulated as proposed in House Bill No. 2661 introduced during the 1994 legislative session. We concluded that licensing is not necessary, existing protections are sufficient, and House Bill No. 2661 is flawed.

Refrigeration and air conditioning mechanics or technicians install, maintain, service, and repair refrigeration and air conditioning systems. Refrigeration systems maintain required temperatures to preserve food, medicine, and other perishable products. Air conditioning systems control the temperature, humidity, and air quality in residential, commercial, industrial, and other buildings.

House Bill No. 2661 proposes to regulate the occupation with a seven-member refrigeration and air conditioning mechanics licensing board in the Department of Commerce and Consumer Affairs. Under the proposal, no one can lawfully perform, direct, or supervise refrigeration or air conditioning work unless licensed by the board.

The bill covers only refrigeration appliances with a refrigerant charge of at least five pounds and air conditioning systems whose cooling capacity exceeds 51,000 British thermal units (BTUs) per hour or whose aggregate cubic feet per minute exceeds 2,100. This excludes most residential refrigerators and residential room air conditioning units.

The Sunset Law says that professions and vocations should be regulated only when reasonably necessary to protect the health, safety, and welfare of consumers. In assessing the need for regulation, evidence of abuses is to be given great weight. The law also asks the Auditor to consider whether consumers are at a disadvantage in choosing the provider and the benefits and costs of regulation to taxpayers.

We found that the regulation of refrigeration and air conditioning mechanics is not warranted. There is little evidence that regulation is needed. We found no documented evidence of abuses by refrigeration and air conditioning mechanics; few states regulate them. Proponents of regulation claim that incompetent mechanics could harm the public. They say faulty servicing of air conditioning systems or refrigeration units could result in problems such

as Legionnaires' disease, indoor air pollution, fires, contaminated drinking water, and food spoilage. Upon examination, we found the arguments by proponents to be speculative and not well supported.

We also found that the engineers, contractors, supermarket managers, and others who would be using licensed refrigeration and air conditioning mechanics have the experience and knowledge to protect themselves. They are not disadvantaged consumers who need state regulation to protect them. Furthermore, regulation would be costly and licensing fees could restrict entry into the occupation.

The federal government, state government, and the private sector already provide protections against the kinds of harm identified by proponents of regulating refrigeration and air conditioning mechanics. These include federal programs in environmental protection and state programs in health, fire protection, and contractor licensing. In the private sector, union apprenticeship training, various educational programs, and private certification provide additional protection.

In addition, we found that House Bill No. 2661 has several deficiencies. Its definitions are confusing. Also, licensure requirements are unreasonably restrictive. Applicants must have at least five years of full-time experience, but not less than 10,000 work hours, as an apprentice or helper. This restricts qualified persons from entering the profession.

Recommendation and Response

The Legislature should not enact House Bill No. 2661.

Marion M. Higa
State Auditor
State of Hawaii

Office of the Auditor
465 South King Street, Room 500
Honolulu, Hawaii 96813
(808) 587-0800
FAX (808) 587-0830

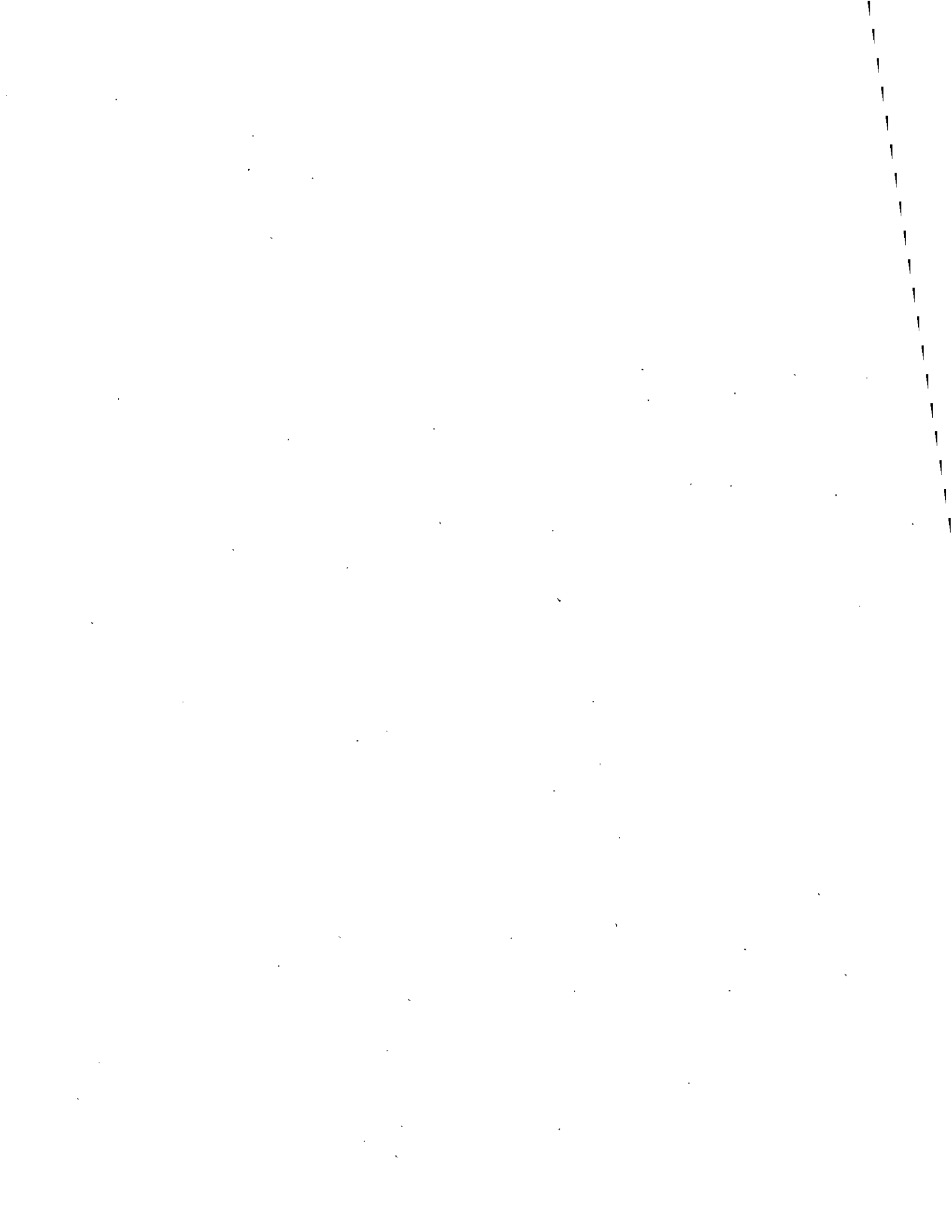
Sunrise Analysis of a Proposal to Regulate Refrigeration and Air Conditioning Mechanics

A Report to the
Governor
and the
Legislature of
the State of
Hawaii

Submitted by

THE AUDITOR
STATE OF HAWAII

Report No. 94-15
October 1994



Foreword

The Sunset Law, or the Hawaii Regulatory Licensing Reform Act of 1977, contains a sunrise provision which requires that measures proposing to regulate professions or vocations be referred to the State Auditor for analysis prior to enactment. The Auditor is responsible for reporting the results of the analysis to the Legislature.

This report evaluates the regulation of refrigeration and air conditioning mechanics as proposed in House Bill No. 2661, introduced in the Regular Session of 1994. The Legislature requested this study in Senate Concurrent Resolution No. 68, House Draft 1 of the session. The study presents our findings on whether the proposed regulation complies with policies in the Sunset Law and whether there is a reasonable need to regulate refrigeration and air conditioning mechanics to protect the health, safety, and welfare of the public. It concludes with our recommendation on whether the proposed regulation should be enacted.

We acknowledge the cooperation of the Department of Commerce and Consumer Affairs, other state officials, and organizations and individuals knowledgeable about the occupation whom we contacted during the course of our analysis.

Marion M. Higa
State Auditor

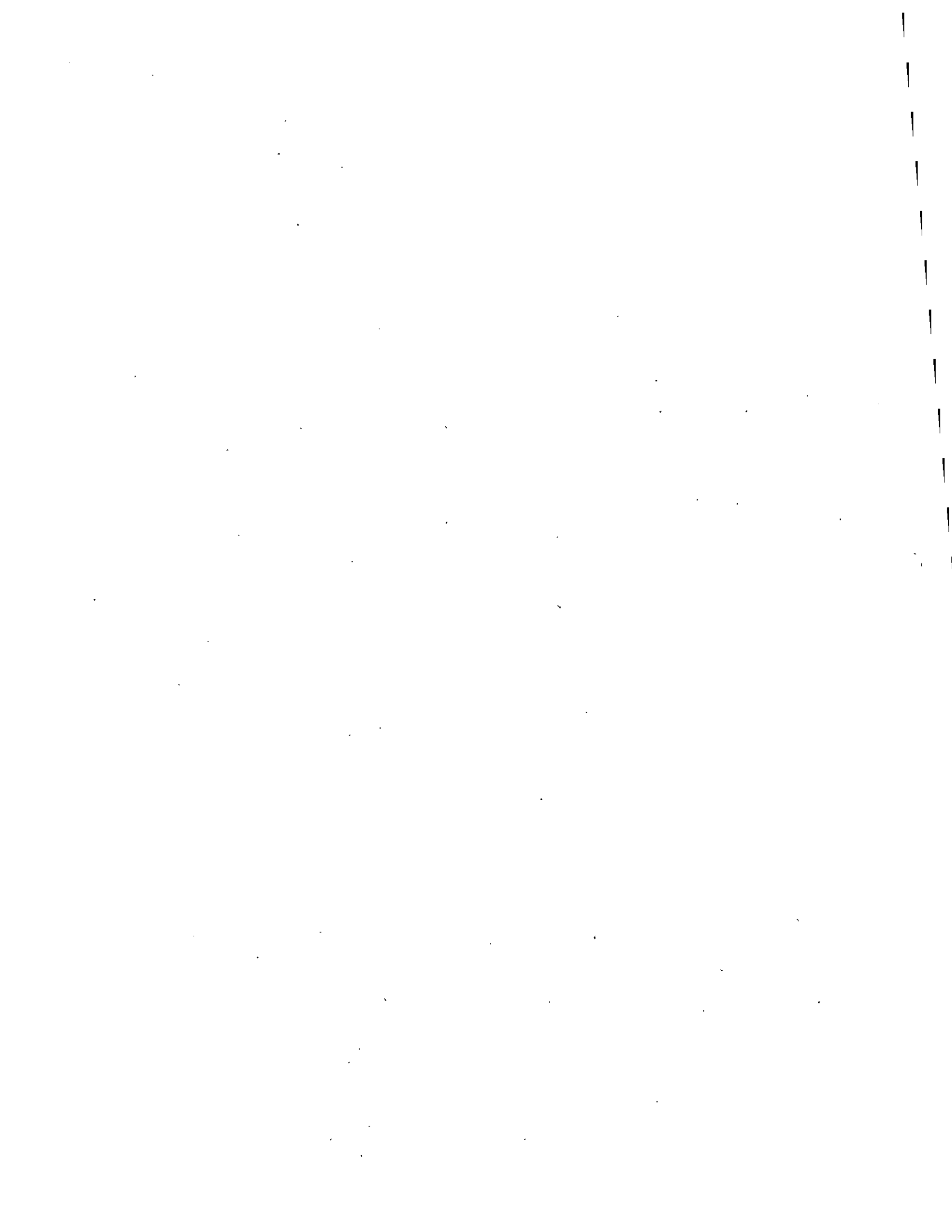


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Chapter 1

Introduction

The Sunset Law, or the Hawaii Regulatory Licensing Reform Act (Chapter 26H, Hawaii Revised Statutes), contains a sunrise provision requiring that measures proposing to regulate professions or vocations be referred to the State Auditor for analysis prior to enactment. The Auditor is to determine whether regulation is necessary to protect the health, safety, and welfare of consumers.

This report evaluates whether the regulation of refrigeration and air conditioning mechanics proposed in House Bill No. 2661, introduced in the Regular Session of 1994, complies with policies for occupational regulation in the Sunset Law. The Legislature requested this study in Senate Concurrent Resolution No. 68, H.D. 1 of the 1994 session.

Background on Refrigeration and Air Conditioning Mechanics

Refrigeration and air conditioning mechanics or technicians install, maintain, service, and repair refrigeration and air conditioning systems. Refrigeration systems maintain required temperatures to preserve food, medicine, and other perishable products. Air conditioning systems control the temperature, humidity, and air quality in residential, commercial, industrial, and other buildings. These systems are made up of many mechanical, electrical, and electronic components including motors, compressors, pumps, fans, ducts, pipes, thermostats, and switches.

Refrigeration and air conditioning mechanics follow blueprints, design specifications, and manufacturers' instructions in installing motors, compressors, condensing units, evaporators, and other components. They connect equipment to duct work, refrigerant lines, and the electrical power source. Mechanics also charge the system with refrigerant and check its proper operation. They diagnose and repair equipment breakdowns. They maintain systems by replacing filters and vacuuming cleaning vents, ducts, and other parts of the system.

Mechanics learn the trade from trade or technical schools, junior or community colleges, or apprenticeship training programs. A union-management committee of the Plumbers and Fitters Local 675, AFL-CIO, and the Plumbing and Mechanical Contractors Association of Hawaii administers the apprenticeship program in the state.

In Hawaii, most refrigeration and air conditioning mechanics are members of Local 675. An estimated 350 to 400 mechanics belong to

the union. Accurate data is not available on the number of mechanics who do not belong to the union, but we estimate there could be a couple of hundred or so.

Refrigeration and air conditioning mechanics work for cooling contractors, service and repair shops, hospitals, office buildings, and other organizations that operate large refrigeration and air conditioning systems. A few mechanics are self employed.

Proposal to Regulate Refrigeration and Air Conditioning Mechanics

House Bill No. 2661 would establish a refrigeration and air conditioning mechanics licensing board in the Department of Commerce and Consumer Affairs. Under the proposal, no one can lawfully perform, direct, or supervise refrigeration or air conditioning work unless licensed by the board.

House Bill No. 2661 covers only air conditioning systems whose cooling capacity exceeds 51,000 British thermal units (BTUs) per hour or whose aggregate cubic feet per minute exceeds 2,100. The bill exempts apprentices or trainees learning the trade and persons who work only as licensed motor vehicle repair personnel under Chapter 437B, HRS. It also exempts persons working only on refrigeration appliances with a refrigerant charge of less than five pounds. The bill prohibits a licensed mechanic from supervising more than one apprentice or trainee concurrently.

The seven-member board would consist of four licensed refrigeration and air conditioning mechanics and three private citizens not connected to the industry. Among its duties, the board would be responsible for developing license examinations. Qualifications for licensure would include having five years of full-time experience or its equivalent, but not less than 10,000 work hours, as a refrigeration and air conditioning mechanic's helper or apprentice; and passing the board's examination with a score of not less than 70 percent accuracy.

The board may deny, revoke, or suspend licenses, and may seek court injunctions against unlicensed activity. Those violating the licensing law may be fined up to \$500 for a first offense and up to \$1,000 and imprisoned for up to one year for each subsequent offense.

Objectives of the Analysis

The objectives for this analysis were to:

1. Determine whether there is a reasonable need to regulate the occupation to protect the health, safety, and welfare of the public.

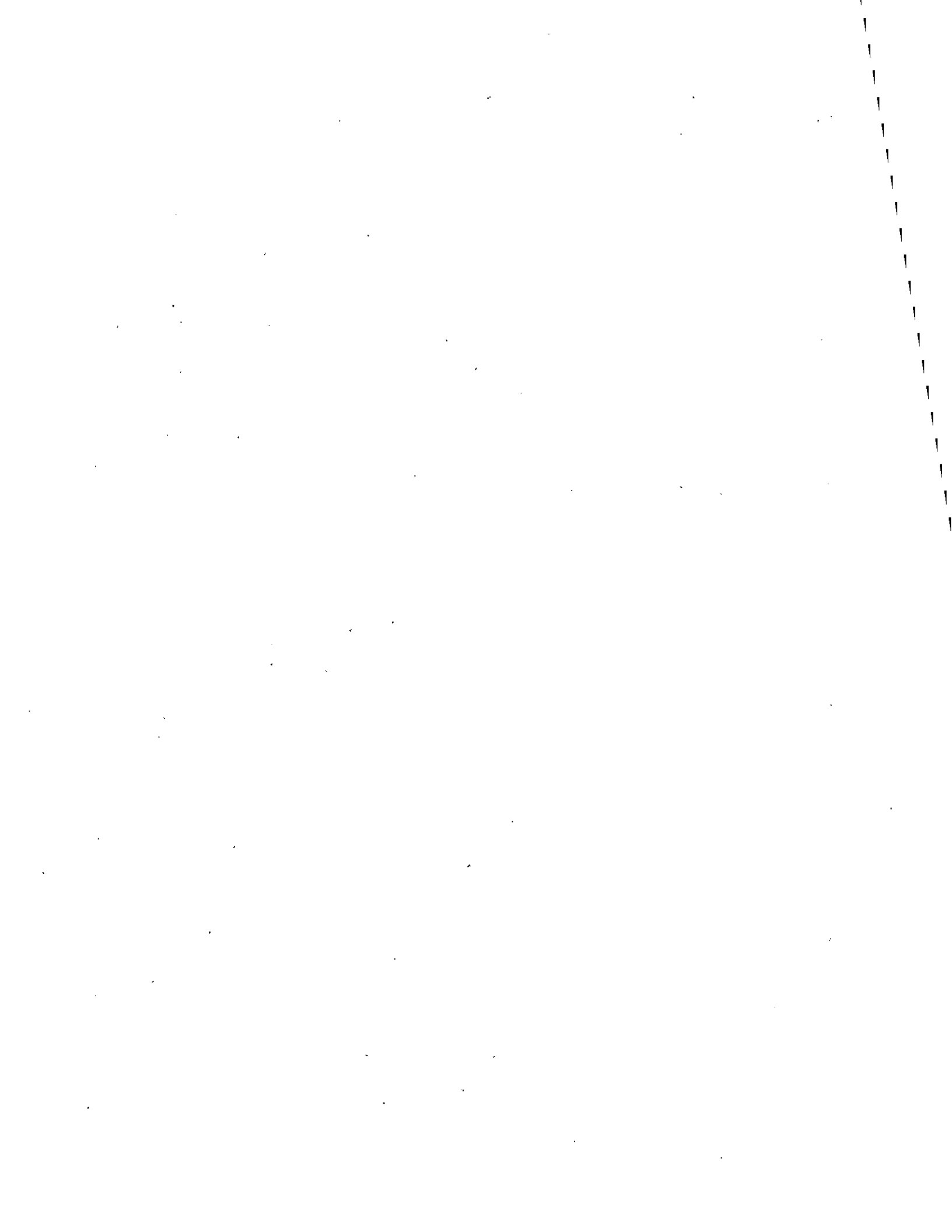
2. Make recommendations based on our findings.
-

Scope and Methodology

To accomplish these objectives, we reviewed the literature on refrigeration and air conditioning mechanics and their regulation. We reviewed complaints and other information to identify any harm to the public.

We obtained information from organizations representing refrigeration and air conditioning mechanics. We interviewed representatives of the occupation, the Plumbers and Fitters Local 675, the construction industry, and staff of the Department of Commerce and Consumer Affairs, the Department of Health, the Department of Labor and Industrial Relations, and the Honolulu Fire Department. We also contacted other states' licensing agencies, the federal Environmental Protection Agency, and the federal Occupational Safety and Health Administration.

Our work was performed from June 1994 through August 1994 in accordance with generally accepted government auditing standards.



Chapter 2

Findings and Recommendation

This chapter presents our findings and recommendation on the need to regulate refrigeration and air conditioning mechanics. We conclude that licensing is not necessary, existing protections are sufficient, and House Bill No. 2661, which proposes licensing, is flawed.

Summary of Findings

1. The regulation of refrigeration and air conditioning mechanics is not warranted. We found no documented evidence that they harm consumers, and the costs of regulation would be substantial.
2. Other protections against harm exist in both the public and private sectors.
3. The bill is flawed. Its definitions are confusing and licensure requirements are restrictive.

Regulation of Refrigeration and Air Conditioning Mechanics Is Not Warranted

The Sunset Law says that professions and vocations should be regulated only when reasonably necessary to protect the health, safety, and welfare of consumers. In assessing the need for regulation, evidence of abuses is to be given great weight. The law also asks the Auditor to consider whether consumers are at a disadvantage in choosing the provider and to consider the benefits and costs of regulation to taxpayers.

There is little evidence that regulation is needed. We found no evidence of abuses by refrigeration and air conditioning mechanics. Few states regulate them. We also found that the businesses that use refrigeration and air conditioning mechanics are not at a disadvantage. In addition, the projected costs of instituting regulation are considerable.

No documented evidence of harm

We found no documented evidence that refrigeration and air conditioning mechanics have caused harm to the public's safety, health, or welfare.

Proponents of regulation claim that an incompetent mechanic could harm the public in many ways. They contend that faulty servicing and maintenance of air conditioning systems could foster Legionnaires' disease, spread indoor air pollutants, cause and spread fires, and contaminate drinking water. They further argue that poorly serviced refrigeration units could cause food spoilage, making consumers ill.

Finally, proponents say that mechanics could negligently release refrigerants containing chlorofluorocarbons into the air, damaging the ozone layer and the world's future. We found these arguments to be speculative and not well supported.

Legionnaires' disease is harmful—sometimes fatal—and has been traced to air conditioning cooling towers. But we found no documented evidence that incompetent mechanics have caused the disease. Factors that contribute to the growth of the legionella bacteria and the spread of the disease include locating the cooling tower too close to air ducts, the absence of good drift eliminators to reduce the amount of spray leaving the cooling tower, the lack of monthly inspections for slime and algae growth, and most important, the lack of automatic and continuous chemical treatment of cooling tower water.

The above factors are controlled not by the mechanic but by others. The designer of the air conditioning system determines the location of the cooling tower and the use of drift eliminators. The building owner controls monthly inspections and the chemical treatments performed by qualified chemical companies. Refrigeration and air conditioning mechanics do not and are not qualified to test for the presence of legionella or to determine the chemicals needed for effective treatment of cooling tower water.

We also found no documented evidence that mechanics have caused poor indoor air quality including the "sick building" syndrome. Proponents of regulation say an incompetent mechanic might cut off outside air to improve cooling without realizing the impact on indoor air quality. But more significant determinants of indoor air quality are the presence of pollutants (such as dry cleaning chemicals, new carpets, disinfectants, or strong perfume), the design of the air conditioning system (including proper filters, appropriate vent locations, and efficient air paths), and the arrangement of interior space (partitions and interior walls installed after placement of the air conditioning system). The Department of Health has logged 12 complaints of poor indoor air quality since March 1993; most were resolved when the building owner installed a new air conditioning system or added equipment such as air filters.

The claim by proponents of regulation that fires are caused and spread by improper servicing and maintenance of air conditioners is not supported by evidence. Proponents say an incompetent mechanic may cause a short circuit and fire by improper wiring. They also say a mechanic may disable a fire detector, with the result that the air conditioner fails to shut down and the fan escalates the fire and circulates smoke throughout the building. They claim the mechanic may carelessly handle refrigerants, which are highly flammable and toxic.

However, none of the four to six fires per year that the Honolulu Fire Department has linked to refrigeration and air conditioning systems was associated with refrigerants. Short circuits caused the majority of the fires, but the department could not say whether the fires resulted from faulty maintenance or mechanical failure. The department also could not say that any of these fires were escalated because an air conditioning system failed to shut off.

Proponents of regulation also contend that chemically treated air conditioning water will contaminate drinking water if a mechanic bypasses or disables the "backflow preventer," the device used to prevent air conditioning water from flowing into the drinking water supply. They claim that mechanics sometimes bypass the backflow preventer to speed the pumping of water into the air conditioning system. They say a bypass allowed air conditioning water to contaminate the drinking water at a local elementary school in 1986.

However, we found no documented evidence that any mechanic has contaminated drinking water by bypassing a backflow preventer. In the 1986 elementary school incident, the Safe Drinking Water Branch of the Department of Health discovered a bypass but could not determine who inserted it. Generally, the department holds building owners responsible for periodically inspecting and testing the operations of backflow preventers and removing any bypasses.

We also found no documented evidence of food spoilage due to inadequate servicing and repair of refrigeration units by mechanics. The Sanitation Branch and the Food and Drug Branch of the Department of Health, which inspect commercial refrigeration units at establishments where food is stored, reported no complaints that faulty servicing of refrigeration units has caused spoilage.

Finally, proponents of regulation charge that mechanics could release refrigerants that contain chlorofluorocarbons into the atmosphere. However, federal regulations are being developed to prevent such harm, including the phasing out of chlorofluorocarbon refrigerants.

The Professional and Vocational Licensing Division, Office of Consumer Protection, and Regulated Industries Complaints Office (all in the Department of Commerce and Consumer Affairs, or DCCA), the Better Business Bureau, and the state Ombudsman reported no complaints against refrigeration and air conditioning mechanics.

Few states license

Only 9 states license refrigeration and air conditioning mechanics: Connecticut, Kansas, Maryland, Massachusetts, New Mexico, Ohio, Oklahoma, Rhode Island, and Virginia. The states we contacted had

little evidence that regulating refrigeration and air conditioning mechanics has provided greater protection to the public.

Consumers not disadvantaged

The proposed regulation does not focus on the disadvantaged consumer who may need protection due to a lack of expertise. Instead, it focuses on those who are not at a disadvantage: engineers, contractors, supermarket managers, restaurant establishments, and apartment managers or associations. These parties have the experience and technical knowledge to protect themselves. It is not necessary for the State to institute regulation to protect them.

House Bill No. 2661 covers only refrigeration appliances with a refrigerant charge of at least five pounds and air conditioning systems with a cooling capacity in excess of 51,000 British thermal units (BTUs) per hour or whose aggregate cubic feet per minute exceeds 2,100. This excludes most residential refrigerators and residential room air conditioning units.

Considerable cost of regulation

Regulation would be costly. Under the Sunset Law, the proposed regulation of refrigeration and air conditioning mechanics should be avoided because its benefits to consumers are outweighed by its cost to taxpayers and because it unreasonably restricts entry into the occupation by all qualified persons.

DCCA informed us that one year prior to commencement of the regulatory program, it would need general fund support up to \$132,000 to start up the program and prepare for implementation.

DCCA estimates that it would need \$87,000 a year to regulate refrigeration and air conditioning mechanics under House Bill No. 2661. For the first year, another \$45,000 would be needed to develop an examination unless a valid and reliable national examination could be found. These figures assume that 600 mechanics would need to be licensed. DCCA also assumes that an unknown number of apprentices/trainees/helpers would have to be registered.

Subsequently, DCCA would establish fees designed to recover the \$87,000 a year in program costs. Section 26-9(1), HRS authorizes DCCA to assess fees on applicants and licensees so long as the fees bear a reasonable relationship to the cost of services provided. Assuming there would be 600 new licensees in the first year and 80 license applicants in each subsequent year, DCCA estimates that in the first biennium of the program, a licensure fee of \$256 per person would be needed. In addition, a separate assessment up to \$110 per person would be required to support the Compliance Resolution Fund. In the second

biennium of the program, with an increasingly large pool of licensees to support the program, the license fee is estimated to be \$215, plus the Compliance Resolution Fund assessment. (These figures do not include additional fees for taking the licensing examination. However, they also do not reflect potential revenue from registering apprentices/trainees/helpers, which could reduce the license fees.)

We believe the State should not allocate its scarce resources to establish regulation of an occupation that poses so little harm. Moreover, charging fees to licensees to cover the State's costs could restrict entry into the occupation, especially when added to the impending costs of being certified in refrigerants under federal EPA requirements as described in the following section.

Other Protections Are in Place

We find that both the public and private sectors already provide protections against the kinds of harm identified by proponents of regulating refrigeration and air conditioning mechanics. The federal government, state government, and the private sector all have programs to protect the public. Moreover, the federal government is considering additional regulations for public protection.

Federal protection

Regulations of the federal Environmental Protection Agency (EPA) prohibit individuals from knowingly releasing ozone-depleting refrigerants (chlorofluorocarbons) into the atmosphere while servicing, maintaining, or repairing air conditioning and refrigeration equipment. The EPA also requires that refrigerant recycling and recovery equipment meet EPA certification requirements.

As further protection against ozone depletion, the EPA requires chlorofluorocarbon refrigerants to be phased out by January 1, 1996. To protect the public from the mishandling of refrigerants, EPA regulations, effective November 14, 1994, will require all persons who service equipment containing refrigerants to be certified and will restrict the sale of refrigerants to certified technicians only.

The federal Occupational Safety and Health Administration (OSHA) has proposed regulations to protect the public from the health effects of poor indoor air quality. The regulations would require employers to establish an indoor air quality compliance program. The program covers building systems components that directly affect indoor air quality. It requires designating a compliance officer to coordinate or supervise building maintenance activities, training maintenance workers, performing and recording inspections and maintenance, and recording all indoor air quality complaints.

State protection

A number of state requirements help to ensure adequate and healthful design, construction, installation, and operation of air conditioning systems. Under Chapter 39, Title 11, of its rules, the Department of Health reviews blueprints and specifications to insure that designs meet national standards for ventilation and construction meets national fire prevention standards. The department then issues a permit to install and operate the air conditioning system. A state-licensed engineer is responsible for proper design, installation, and initial operation. The owner of the building must operate the system to provide proper air quality or face criminal charges and permit revocation. The department has inspection authority.

Under Section 132-9, HRS, of the state fire protection law, the county fire chief must approve the plans and specifications before construction begins.

Additional protection against faulty workmanship is provided by Chapter 444, HRS, the contractors licensing law. It states that only licensed contractors may install, alter, improve, or repair any building, project, development, or any part of these if the contract price exceeds \$1,000. This includes air conditioning systems. The Department of Commerce and Consumer Affairs licenses specialty contractors in refrigeration (classification C-40) and in ventilating and air conditioning (classification C-52).

Under Act 234 of 1994, the Department of Health has responsibility for an indoor air pollution program. The department is to establish and coordinate a government-wide network of state agencies and managers of publicly owned buildings to identify, assess, and correct indoor air pollution problems. The department will also provide information and educational material about indoor air pollution to managers, owners, and occupants of publicly owned and non-publicly owned buildings. The department may also set up a program for approving and inspecting construction of ventilation systems and for monitoring their proper maintenance.

To protect against harm caused by a bypass to a backflow preventer, Section 11-21-8 of the Department of Health's rules requires building owners or authorized agents to remove any arrangement to bypass a backflow prevention device. If the bypass is not removed, water service may be terminated and fines imposed on the building owner. The department has the authority to inspect building premises for bypasses.

The Department of Health also protects the public from food spoilage caused by defective refrigeration units. The Sanitation Branch inspects food service establishments (restaurants and any other establishment where food is served to the public) to ensure adequate temperatures in refrigeration units. The Food and Drug Branch inspects refrigeration

units at food establishments (such as supermarkets, grocery stores, packaging plants) for correct operations. The department penalizes establishments for noncompliance with the rules.

Private sector protection

The Joint Apprentice & Training Committee (made up of representatives of the Plumbing and Mechanical Contractors Association of Hawaii and the Plumbers and Fitters Local 675) offers an apprenticeship training program in refrigeration and air conditioning equipment operation. The apprenticeship program began in 1962 and has been approved by the Department of Labor and Industrial Relations.

The apprenticeship program helps ensure that union refrigeration and air conditioning mechanics are adequately trained, and that they are supervised by experienced mechanics during their training. Since most refrigeration and air conditioning mechanics in Hawaii are union members, the public is protected.

The program requires apprentices to complete 10,000 hours of on-the-job training, including 1,500 to 6,000 hours in preventive maintenance, troubleshooting, and field repairs; 1,500 to 6,000 hours in system equipment installation; 500 to 3,000 hours in pipefitting and prefabrication; and 300 to 2,000 hours in general shopwork. Apprentices also spend 1,080 hours in the classroom. Journeymen supervise the apprentices while they gain experience. The program takes five years to complete.

In addition to the training program, the collective bargaining agreement between the contractors and Local 675 offers other protections. Individuals registering with the union describe the type of work sought and their qualifications. Contractor requests for mechanics specify any special skills required for the particular job. The union then dispatches the registrants who have the necessary qualifications. The contractor may terminate any employee who does not meet the specified qualifications in the request.

The Honolulu Community College and the New York Technical Institute also provide training in refrigeration and air conditioning. The Honolulu Community College offers a two-year program consisting of 69 credit hours, which is equivalent to 2,000 contact hours. Graduates receive an associate of science degree in refrigeration and air conditioning. The New York Technical Institute offers a six-month training program that combines 750 classroom hours with 750 hands-on lab work hours.

In addition, several national organizations affiliated with refrigeration and air conditioning mechanics provide certification testing for the

occupation. They are the Air-Conditioning & Refrigeration Institute (ARI), the Refrigerating Engineers Technicians Association (RETA), and the Refrigeration Service Engineers Society (RSES).

Furthermore, under the doctrine of master-servant, employers may be legally liable for damages and for violations of safety standards by mechanics whom they employ. Since they can be held responsible for the actions of incompetent refrigeration and air conditioning mechanics, it is in their interest to ensure that their refrigeration and air conditioning mechanics are qualified.

Finally, engineers, building owners, and operators may also be legally liable for damages and for not meeting national standards for indoor air quality. Primary causes of action include breach of contract and express warranties, breach of quiet enjoyment and habitability, negligence, and strict product liability.

House Bill No. 2661 Is Flawed

The bill has several deficiencies. Its definitions are confusing and requirements for licensure are unreasonably restrictive.

The definition of refrigeration and air conditioning mechanic is confusing. It excludes persons who work on electrical wiring on air conditioning or refrigeration systems. Mechanics, however, state that 80 percent of their work is electrical work. Thus the bill appears to exclude all mechanics from licensing, which cannot have been the intent.

The definition of a refrigeration and air conditioning apprentice or trainee is also unclear. The bill exempts an apprentice or trainee who is "learning the trade" from licensing, but the term "learning the trade" is not defined. Furthermore, although it limits a licensed mechanic to supervising no more than one apprentice or trainee concurrently, the bill does not *require* apprentices to work under supervision. Therefore, because apprentices are exempt, the bill appears to allow apprentices to work unsupervised without being licensed.

The bill also restricts qualified persons from entering the profession. To qualify for licensure, a person must have at least five years of full-time experience, but not less than 10,000 work hours, as an apprentice or helper. However, mechanics have been graduating from far shorter training programs and working unsupervised without problems. These include graduates of the Honolulu Community College's two-year program and the New York Technical Institute's six-month program. Yet under House Bill No. 2661, these persons would not be eligible to sit for the licensing examination.

Recommendation

The Legislature should not enact House Bill No. 2661.

Response of the Affected Agency

Comments on Agency Response

We transmitted a draft of this report to the Department of Commerce and Consumer Affairs on September 13, 1994. A copy of the transmittal letter is included as Attachment I. The department did not submit a response.

SB1301

Submitted on: 2/12/2013

Testimony for CPN on Feb 13, 2013 08:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Renate E. Kawakami	Sheet Metal Union-Local 293	Oppose	Yes

Comments: On 02/01/12 The Contractors License Board testified. 1. Prohibiting owner-builders from performing work under these new classifications. The Contractors License Board questions the need for these provisions, as they are not aware of any reason these particular areas should be singled out for legislation, 2. We do not feel that these amendments to our statue are warrented. The General Contractors Assn. strongly recommends that this bill be held for the following reasons. 1. This measure proposes to regulate a trade that alrely is overregulate by the Cont. License board under chapter 444HRS and each existing c specialty license. 2.The added regulations & requirements will not likely protect consumers because of additional monitoring, licensing, & enforcement activity. Installation for such work is already regulated requiring a license outlined in chapter 444 to perform the installatiion of air-conditioning ventillation. The new proposed bill will attempt to regulate craft-union jurisdiction which has already been assigned by the Building Construction Trade Dept and Const. Trades Council AFL-CIO. It is neither the responsibility nor the authority of this legislation body to regulate or assign work on our local construction projects. The NBTD already has the plan for the settlement of jurisdiction disputed