

**STATE OF HAWAII**  
**DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**  
830 PUNCHBOWL STREET, ROOM 321  
HONOLULU, HAWAII 96813  
<http://labor.hawaii.gov>

March 15, 2013

To: The Honorable Angus L.K. McKelvey, Chair,  
The Honorable Derek S.K. Kawakami, Vice Chair, and  
Members of the House Committee on Consumer Protection & Commerce

Date: Monday, March 18, 2013  
Time: 2:30 p.m.  
Place: Conference Room 325, State Capitol

From: Dwight Y. Takamine, Director  
Department of Labor and Industrial Relations (DLIR)

**RE: SB 213 SD2 RELATING TO THE STATE BUILDING CODE COUNCIL**

**I. OVERVIEW OF PROPOSED LEGISLATION**

SB213 SD2 reconfigures the membership of the State Building Code Council. DLIR would prefer to remain a part of the Council, especially as Act 103 (SLH, 2012) has given the ability for the Elevator Section to participate more frequently in the meetings. Therefore, the Department strongly supports the SD2 as it retains participation of the Elevator Section in the Council and respectfully requests a housekeeping amendment.

**II. COMMENTS ON THE SENATE BILL**

Because DLIR administers both Boiler and Elevator law, removing it from the State Building Code Council would be counterproductive. While fiscal restraints during the past few years have made DLIR's attendance of meetings challenging, with the passage of Act 103 (SLH, 2012), which provided for ten additional, special funded positions, the Department believes it has sufficient staff resources to actively participate in Council meetings. Moreover, the proposal retains state code provisions pertaining to elevator standards of which the DLIR is the sole source of expertise in the executive branch.

Noting that the proposal and current law includes membership on the Council from the State Fire Council, DLIR recommends striking "or fire" from page 3, line 3:

~~(4)]~~ (3) One member representing the department of labor and industrial relations who has significant experience in elevator [~~or fire~~] safety;



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**DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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HONOLULU, HAWAII 96813  
[www.hawaii.gov/labor](http://www.hawaii.gov/labor)  
Phone: (808) 586-8842 / Fax: (808) 586-9099  
Email: [dlir.director@hawaii.gov](mailto:dlir.director@hawaii.gov)

March 15, 2013

The Honorable Angus McKelvey, Chair  
Committee on Consumer Protection and Commerce  
House of Representatives  
State Capitol, Room 320  
Honolulu, Hawaii 96813

Dear Chair McKelvey:

Subject: S.B. 213, S.D. 2 Relating to the State Building Code Council

I am Robert Westerman, Vice Chair of the State Fire Council (SFC) and Fire Chief of the Kauai Fire Department (KFD). As it is currently drafted the SFC and the KFD opposes S.B. 213, S.D. 2, which seeks to reconfigure the membership of the State Building Code Council (SBCC). We support the inclusion of representatives from the building industry and trades, but believe one from industry and one from trades would provide an equitable solution for the building industry to have a voice on the SBCC, but keep it to a practical number. We also support the addition as voting members of the Department of Business, Economic Development and Tourism, who can provide input on energy issues and the Department of Accounting and General Services, who provide design, construction and maintenance of state building projects.

Section 4 of the bill proposal appropriates an unspecified amount to support the SBCC's efforts. Past appropriations were never released, and we believe, this may be continued if this bill is not amended. In addition, a one or two year appropriation would not be conducive to attract any qualified candidates to fill these important positions. Instead we offer for consideration a more sustainable funding mechanism proposed in S.B. 683, which proposed to use a percentage of the Hawaii Hurricane Relief Fund to hire an executive director and assistant to expedite the state building code adoption process. Since 2007, the SBCC has struggled to fulfill its responsibility to adopt the most up-to-date building codes and has relied primarily on county and private designers to work on this state mandate.

The SFC supports House Bill (H.B.) 763, which was authored and approved by the SBCC, the Department of Accounting and General Services (DAGS), and submitted by the Governor. This bill seeks to address the issues that have hindered the timely adoption of the most up-to-date national building codes and standards for the state by

The Honorable Angus McKelvey, Chair  
Page 2  
March 15, 2013

streamlining the code adoption process, but still seeking to establish uniform and consistent state and county building standards.

The SFC proposes the following revisions to S.B. 213 that we have excerpted from H.B. 763 and would amend Hawaii Revised Statute Section 107:

"~~§107-24~~ **Authority and duties of the council.** (a) Any law to the contrary notwithstanding, the council shall establish a recommended comprehensive model state building code that shall be a part of a loss reduction plan that complies with the development of loss mitigation standards in accordance with section 431P-12.

(b) The council shall ~~appoint a subcommittee comprised of the four council members representing county building officials, whose duty shall be to~~ recommend any necessary or desirable state amendments to the model codes ~~Any recommended state amendments shall require the unanimous agreement of the subcommittee.~~ and standards identified in section 107-25, and shall designate the staggering of the adoption of the codes and standards to be adopted, amended, and updated at a frequency of no later than every six years in accordance with section 107-28.

(c) The council may appoint other investigative, technical expertise committees, which may include council members.

(d) The council shall consult with ~~general~~ building contractor associations and building trade associations to gather information and recommendations on construction practices and training relevant to building codes and standards.

(e) The council shall review the codes and standards identified in section 107-25 and adopt ~~recommended state amendments,~~ as appropriate, ~~[new model building codes]~~

The Honorable Angus McKelvey, Chair  
Page 3  
March 15, 2013

pursuant to section 107-24(b), within eighteen months of the official publication date[-] of the respective code or standard. At least every two years, the council shall disseminate an itemized report of the substantially uniform code amendments utilized by at least three counties.

(f) The council may make expenditures for technical references, equipment and supplies, and other operating expenses, and may contract for the conduct of research studies and other technical services.

(g) The council ~~[shall]~~ may provide education and technical training and administrative assistance in the form of services or grants at the state and county levels relating to the implementation and enforcement of the state building code ~~[adopted pursuant to this part.]~~ and loss mitigation standards in accordance with section 431P-12."

SECTION 3. Section 107-25, Hawaii Revised Statutes, is amended to read as follows:

"~~[[§107-25]]~~ ~~[State]~~ **Hawaii state building code; requirements.** There is established a Hawaii state building code applicable to all construction in the State of Hawaii. The Hawaii state building code shall include~~[-]~~ the following codes as amended by the substantially uniform amendments utilized by at least three counties:

- (1) The ~~[latest edition of the]~~ state fire code as adopted by the state fire council;
- (2) The ~~[latest edition of the]~~ Uniform Plumbing Code, as copyrighted and published by the International Association of Plumbing and Mechanical Officials, including its appendices;

(3) The ~~[latest edition of the]~~ International Building Code, the International Residential Code, and the International Energy Conservation Code, as published by the International Code Council;

(4) The National Electrical Code, as published by the National Fire Protection Association;

~~[(4)]~~ (5) Hawaii design standards implementing the criteria pursuant to Act 5, Special Session Laws of Hawaii, 2005, as applicable to:

(A) Emergency shelters built to comply with hurricane resistant criteria, including enhanced hurricane protection areas capable of withstanding a five hundred year hurricane event as well as other storms and natural hazards; and

(B) Essential government facilities requiring continuity of operations; and

~~[(5)]~~ (6) Code provisions based on nationally published codes or standards that include, but are not limited to, residential and hurricane resistive standards for residential construction, ~~[fire,]~~ elevator, ~~[electrical, plumbing,]~~ mechanical, flood and tsunami, and existing buildings ~~[-, and energy conservation standards for building design and construction, and onsite sewage disposal]."~~

SECTION 4. Section 107-27, Hawaii Revised Statutes, is amended to read as follows:

"~~[[§107-27]]~~ ~~[Exemptions.]~~ **Design of state buildings.** (a) Upon adoption of [rules] substantially uniform code amendments by at least three counties under ~~[this chapter,]~~ section 107-28, and as reported by the council under section 107-24(e), the design of all state building construction shall be in compliance with the Hawaii state building code within one year ~~[of its effective date, and],~~ except that state building construction shall be allowed to be exempted from[~~;~~]:

~~(1) County codes that have not adopted the state building code;~~

~~(2) Any] any county code amendments that are~~

~~inconsistent with the minimum performance objectives of the Hawaii state building code or the objectives enumerated in this part[~~;~~or~~

~~(3) Any county code amendments that are contrary to~~

~~code amendments adopted by another county.~~

~~(b) Exemptions shall include county ordinances allowing the exercise of indigenous Hawaiian architecture adopted in accordance with section 46-1.55]."~~

SECTION 5. Section 107-28, Hawaii Revised Statutes, is amended to read as follows:

"~~[[§107-28]]~~ **County building code authority to amend and adopt the state model building [code] codes without state approval.** (a) The governing body of each county shall amend, adopt, and update the model state building code as it applies within its respective jurisdiction, in accordance with section 46-1.5(13), without approval of the council. Each county shall ~~[use]~~ amend and adopt the model state codes and standards listed in section 107-25, as the referenced model building codes and standards for its

The Honorable Angus McKelvey, Chair  
Page 6  
March 15, 2013

respective county building code ordinance, no later than two years after the adoption of ~~[the state building code.]~~ each of the model codes by the state building code council pursuant to section 107-24.

(b) If a county does not amend the ~~[statewide]~~ model ~~[code]~~ state codes and standards within the two-year time frame, the ~~model~~ state building ~~[code]~~ codes defined in section 107-24(e) shall become applicable as an interim county building code until the county adopts ~~[the]~~ its amendments."

SECTION 6. Section 107-29, Hawaii Revised Statutes, is amended to read as follows:

"~~[[§107-29]]~~ **Rules.** The department shall adopt rules pursuant to chapter 91 as may be necessary for the purposes of defining the Hawaii state building code to consist of the codes and standards identified in section 107-25 and any substantially uniform amendments adopted by at least three counties in accordance with this part."

SECTION 7. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 9. This Act, upon its approval, shall take effect upon its approval.

The SFC has been a voting member of the SBCC since its inception in 2007. The appropriation to allow DAGS to hire staff to support the work of the SBCC was never released, and consequently the DAGS were forced to curtail its administrative support to the SBCC in 2012. This bill creates a more expensive and less efficient process that is still subject to release by the administration. The SBCC has functioned primarily on county officials and private industry design professional's unselfish devotion to public

The Honorable Angus McKelvey, Chair  
Page 7  
March 15, 2013

safety and uniform statewide, national building standards. What is needed for the support of the SBCC is a sustainable, long-term funding mechanism.

The SFC and the KFD urge your committee's consideration of the proposed revisions to S.B. 213. S.D. 2, and if agreeable would recommend the bills passage as an H.D. 1.

Should you have any questions, please contact SFC Administrator Socrates Bratakos at 723-7151 or [sbratakos@honolulu.gov](mailto:sbratakos@honolulu.gov).

Sincerely,



ROBERT WESTERMAN  
Vice Chair

RW/LR





## **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

**KIKA G. BUKOSKI**  
*Executive Director*

March 15, 2013

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Local 221

Honorable Representative Angus McKelvey  
Honorable Representative Derek Kawakami  
Hawaii State House of Representatives-Committee on Consumer Protection and Commerce  
Hawaii State Capitol  
Honolulu, Hawaii 96813

Re: SB213SD2 RELATING TO THE STATE BUILDING CODE which proposes to reconfigure the membership of the state building code council and make an appropriation. IN OPPOSITION  
Hearing: Monday, March 18, 2013, 1430, Room 325

Aloha Chair McKelvey, Vice Chair Kawakami and Committee Members;

The Hawaii Building & Construction Trades Council, AFL-CIO (HBCTC). 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. First organized in 1958, the HBCTC is a member of the AFL-CIO under our parent organization the Building and Construction Trades Department, a national organization representing the organized construction trades since 1901.

I am submitting this written testimony in opposition to Senate Bill 213 SD2 which proposes to reconfigure the membership of the state building code council (SBCC) and make an appropriation. Instead, we urge your consideration of House Bill 763 in its original form with the exception that you re-insert as voting members, a representative from the Department of Labor and Industrial Relations with significant experience in elevator or fire safety and a representative from the Department of Health.

Building codes are cornerstone to preserving public health and safety. The purpose of the SBCC is to establish a state building code which would eliminate the fragmented building requirements which currently exist between counties. The state building code would include the latest fire code as adopted by the State Fire Council, the latest edition of the International Building Code, the latest edition of the Uniform Plumbing Code, and Hawaii design standards to implement Act 5, Special Session Laws, 2005 as applicable to emergency shelters and essential government facilities.

Although the HBCTC appreciates our inclusion as a proposed member of the SBCC in the proposed SD 2, we feel that HB763 in its original form with the suggested amendments as noted above would better serve the intent and purpose of the SBCC. We respectfully request that this measure be held in committee.

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 Hawaii through its efforts, both socially and economically and sincerely appreciates the opportunity to share our position in opposition to Senate Bill 213 SD2.

Mahalo;

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

# AMERICAN INSTITUTE OF ARCHITECTS

CPC  
2:30 pm

March 18, 2013

Honorable Angus McKelvey, Chair  
Senate Committee on Ways & Means

Re: **Senate Bill 213 SD2**  
**Relating to the State Building Code**

Dear Chair McKelvey and Members of the Committee,

My name is Daniel Chun, Government Affairs Chair of the American Institute of Architects (AIA) Hawaii State Council. AIA **SUPPORTS THE INTENT** of SB 213 that adds some construction industry voting membership to the State Building Code Council SBCC. AIA offers the following points for your consideration as this bill moves forward:

## **Keep parity in the design and construction industry**

Currently design professional societies AIA and the SEA/OH Structural Engineers Association of Hawaii hold voting membership. Other states also include voting membership by construction organizations; including important sectors of the industry such as homebuilders. AIA recommends that as you add more voting members that you keep some parity between the complementary halves of the construction industry.

## **AIA STRONGLY SUPPORTS funding state building codes**

Since its inception SBCC has achieved your primary public policy goal of updating and unifying building codes across Hawaii. SBCC greatly benefited from support it received from former comptroller Russ Saito who believed that the DAGS should be the standard setting agency for state construction and, by implication, all Hawaii construction per HRS 107-25.

The record shows that past administrations did not even release monies from the Hawaii Hurricane Relief Fund as directed by your original legislation. The important task of code review and amendments has relied on the goodwill and expertise of the four county building officials and private sector such as the AIA and SEA/OH. But the administrative rule making has proven daunting and cannot be practically or legally done by volunteers. AIA adds that the process of Small business Regulatory Review Board has made the administrative rule process much more time consuming for our several needed updates of rules.

In response to SBCC need for a more sustainable funding mechanism, we explored several funding sources such as:

- County building permit surcharges. While this is one of the most common funding sources in many states, the number of building permits issued in Hawaii when surcharged with reasonable flat dollar fees grosses roughly about \$100,000. [\$10 per building permit and \$2 per residential unit permit that compare with state of Oregon surcharges] The four counties would

- then need to remit the fees to the state after withholding any necessary processing fees.
- Hawaii Hurricane Relief Fund. There is a strong connection between building codes and property insurance related to hurricanes. Good building codes reduce property insurers risk exposure and thus insurers should be able to charge lowered premiums to consumers. The original legislation required a set-aside from HHRF and subsequent bills have sought interim funding from the Fund. The Fund has been raided by this legislature and any funding is subject to the legislature giving the DCCA authority to transfer money to SBCC per the original language of SB 213.
  - Senate Bill 683. SBCC special fund that was introduced at AIA request for a special fund using a small percentage set-aside of CIP funds. The Department of Budget & Finance submitted opposing comments on this bill; saying adopting a state building code has no connection to state building construction. Other objection voiced is that a percent set-aside might yield too much money from the CIP appropriation. [the reason the percent set-aside is high is that the governor does not always release projects for construction] SB 683 was heard at Senate PSM, but deferred. Technically “alive.”

In the 2012 session this legislature passed DCAB Review Fee HRS 103-50. DCAB charges review fees on state and county construction after payment of fees by the design architect or engineer. As public design contractors our design costs are paid using state and county CIP funds. AIA is not opposed to the DCAB fee. But we question why accessibility standards, that are not building codes, are managed by staff paid with CIP funds via the public design contractor? This session we are told that staffing the SBCC cannot be paid using a very small portion of CIP funds. AIA ventures that an SBCC staff would be much smaller than the current DCAB staff. HRS 103-50 is useful in its definition of what kinds of CIP are subject to its review by exempting most infrastructure.

### **Amend HRS 107-1.5 to support the State Building Code**

We attach proposed language to support the state building code using the DAGS project assessment fund HRS 107-1.5. The fund supports general engineering services for state funded construction. It is a logarithmic curve fee assessed each project by the DAGS comptroller. Using a logarithmic curve seems fairer to project budgets and has flexibility to be internally adjusted by DAGS. This avoids criticism voiced about generating too large of any new special fund. AIA suggests modifying 107-1.5 to add a “bright light” public policy reference to the state building code as part of quality control in general engineering services. The fee might be assessed only on the same kinds of projects subject to the DCAB fee. Such public policy will be a more sustainable funding mechanism as suggested in testimony from the State Fire Council. AIA questions why there is generally supportive testimony from several state agencies, contrasted with no funding from the state.

Alternatively, you might augment the DAGS operating budget in the House budget bill to make more certain that some modest appropriation is received for the state building code. Or change public policy and grant the HHRF limited authority to transfer some funds for the state building code might be an interim funding until the construction industry can convince the state that more sustainable funding is required. Thank you for this opportunity to SUPPORT SB 213 SD2.

**SB 213 SD2 proposed HD1 for funding state building codes  
Revise HRS 107-22 ( c )**

(c) **Expenditures to amend and adopt state building codes shall be made from the public works assessment fund in accordance with section 107-1.5.** Members shall serve without compensation, but shall be reimbursed for expenses, including travel expenses necessary for the performance of their duties.

**SB 213 SD2 proposed HD1 for funding state building codes  
Revise HRS 107-1.5**

§107-1.5 Public works project assessment fund. (a) There shall be established in the department of accounting and general services a revolving fund to be known as the public works project assessment fund for the purposes of defraying costs involved in carrying out **state** construction projects ~~managed by the department~~; managing funds representing accumulated vacation and sick leave credits and retirement benefits for non-general funded employees in the construction program in accordance with section 78-23; equitably collecting and distributing the costs of other current expenses associated with capital improvement, repairs and maintenance, and repairs and alterations projects; and managing the payments of employee transportation requirements such as car mileage reimbursements in accordance with applicable law and collective bargaining agreements.

(b) The comptroller shall make reasonable assessments on **state** construction projects ~~managed by the department of accounting and general services~~ to carry out ~~the a~~ program of centralized engineering services **and quality control; including state building codes and standards.** The assessments shall be based on a logarithmic curve developed by the department for such services. All assessments collected shall be deposited into the public works project assessment fund.

(c) All expenditures from the public works project assessment fund shall be made by the comptroller in accordance with applicable law and rules.

**Commentary by AIA**

*Current HRS 107-1.5 text seems obsolete because the DAGS no longer provides engineering services for various state entities like DOE or the University of Hawaii. However, we understand that such a fund(s) still exists and that state construction projects are still assessed. If we can recognize car mileage reimbursements in the HRS 107-1.5 text, we should be able to recognize the state building code as well.*



**STRUCTURAL ENGINEERS ASSOCIATION OF HAWAII**  
P.O. Box 3348, Honolulu, Hawaii 96801

March 17, 2013

TO: The House  
[COMMITTEE ON CONSUMER PROTECTION & COMMERCE](#)  
Rep. Angus L.K. McKelvey, Chair  
Rep. Derek S.K. Kawakami, Vice Chair

SUBJECT: **Senate Bill 213 SD2 Relating to the State Building Code**  
Hearing March 18 2013 2:30 pm Conference Room 325 FAX 586-8437

Honorable Members of the Committee:

The Structural Engineers Association of Hawaii (SEAOH) is the local chapter of the National Council of Structural Engineering Associations (NCSEA), and we have over 200 active members in Hawaii. SEAOH has several decades of experience in assisting Hawaii with the development of the technical portions of the building codes. The primary purpose of a building code is to establish design standards for buildings in order to protect public safety. Building codes do not govern the means and methods of construction.

In 2007, HRS 107 Part II, State Building Code and Design Standards, established a process that requires the maintenance of a periodically updated Hawaii State Building Code for State government projects. It is also used as the starting basis for the local county codes, so that unnecessary divergences between the building code adopted by the counties are avoided. The existing law also permits the counties to make modifications to design requirements in the local county building code without approval of the State Council.

The primary function of the State Building Code Council is to set design standards for state projects. However, the current process has become unwieldy due to the bureaucratic and administrative process requirements, such that presently there are no ongoing administrative activities. Current estimates of the annual cost of the Council to operate under the present statute amount to \$200,000/year, according to DAGS. The Governor now seeks to repair and reform the process to make it a more administratively sustainable process through House Bill HB763.

**We oppose Senate Bill 213 SD2 in its current version as inappropriately focused on business interests and an impractical expansion of the size of the Council, and we recommend that SB213 either be held in committee OR amended to incorporate elements from HB763 as proposed in alternative language after consultation with several stakeholders:**

1. The present State Building Code Council takes on the role of a panel of knowledgeable design experts and state agencies that have responsibility for the affected regulations governing the design of buildings and other structures. SB213 would insert five new business interests from the construction industry; however, we note that three of these organizations have never appeared once before the Council to take any prior active interest in the process. SB213 goes way beyond a reasonably balanced approach because there are now only two representatives of the design professions that are the actual users of the codes and standards that govern their practice for the design of buildings and other structures.
2. This committee should consider whether the changes prescribed under SB213 will be an efficient and a cost-effective expenditure that results in a sustainable process. SB213 actually would create a more expensive and less efficient process by doubling the membership in a process that is currently not sustainable supporting even the current membership and is not functioning in a timely manner.
3. A bill with a one-time appropriation subject to release by the Administration for an inefficient process that is not supported by the Administration would appear to be futile wasted effort, because it does not address the fundamental issues that have currently stalled operation of the State Building Code Council. Currently, the

**STRUCTURAL ENGINEERS ASSOCIATION OF HAWAII**  
P.O. Box 3348, Honolulu, Hawaii 96801

State Building Code Council is not able to perform its responsibilities under HRS 107 Part II. What is needed is a long-term administrative and funding mechanism. SB 213 accomplishes neither of these necessary tasks; it only guarantees that other bills will have to be introduced in future years to re-structure the Council to a workable process.

4. Therefore, we support modernizing Hawaii Revised Statutes HRS 107 Part II, State Building Code and Design Standards as originally proposed in HB763, which was unanimously authored and approved by the Council, the Department of Accounting and General Services, and submitted by the Governor. This bill would reform the current administrative process to make it sustainable for the foreseeable future. Therefore, we ask this committee to either hold SB213 SD2 or modify it as shown in the attachment. The attachment is a consolidation of the input of the State Building Code Council, Structural Engineers Association of Hawaii, the SBCC AIA representative, the State Fire Council, and recent discussions with the Building Industry Association of Hawaii. It does add two representatives of the construction industry. The proposed amendments attached to this testimony thus represent a compromise bill among the above organizations and amending SB213 per this alternative language would put SB213 in a better position to be supported if it crosses back to the Senate.

Gary Chock, S.E.  
Ian Robertson, Ph.D., S.E.  
SEAOH Legislative Committee



**Recommended Modification to SB213 Relating to the State Building Code Council**  
**[by the Structural Engineers Association of Hawaii consolidating portions of the State**  
**Fire Council, AIA, BIA draft bills]**

**March 16, 2013**

SECTION 1. Section 107-22, Hawaii Revised Statutes, is amended to read as follows:

“~~[+]§107-22[+] State building code council.~~ (a) There is established a state building code council. The council shall be placed within the department of accounting and general services for administrative purposes only. The council shall consist of ~~[nine]~~ twelve voting members ~~[and one nonvoting member, who shall be the comptroller or the comptroller's designee].~~ The council members shall serve four-year terms as defined in paragraphs (1) to (9) ~~(6)~~. The voting members shall include:

- (1) One county building official from each of the four counties appointed by the mayor;
  - (2) One member representing the state fire council;
  - (3) One member representing the business, economic development and tourism who has significant experience in building codes ~~[department of health who has significant experience in building mechanical and sewage disposal systems];~~
  - (4) One member representing the department of labor and industrial relations who has significant experience in elevator or fire safety;
  - (5) One member representing the Structural Engineers Association of Hawaii; and
  - (6) One member representing the American Institute of Architects, Hawaii State Council.
  - (7) One member representing the Building Industry Association of Hawaii or the General Contractors Association who has significant experience in building codes
  - (8) One member representing the Subcontractors' Association of Hawaii who has significant experience in building codes;
  - (9) One member representing the department of accounting and general services who has significant experience in building design
- (b) ~~Six~~ Nine voting members shall constitute a quorum. The chairperson of the council shall be elected annually from among its members by a majority vote of the members of the council.
- (c) Members shall serve without compensation, but shall be reimbursed for expenses, including travel expenses necessary for the performance of their duties.“

SECTION 2. Section 107-24, Hawaii Revised Statutes, is amended to read as follows:

“~~[]§107-24[] Authority and duties of the council.~~ (a) Any law to the contrary notwithstanding, the council shall establish a comprehensive state building code ~~[-] that shall be a part of a loss reduction plan that complies with the development of loss mitigation standards in accordance with section 431P-12.~~

(b) The council shall appoint a subcommittee comprised of the four council members representing county building officials, whose duty shall be to recommend any necessary or desirable state amendments to the model codes and standards identified in section 107-25 . Any recommended state amendments shall require the unanimous agreement of the subcommittee. The council shall designate the staggering of the adoption of the codes and standards to be adopted, amended, and updated in accordance with section 107-28, at a frequency of no later than every six years. Any recommended staggering of adoptions shall require the unanimous consent of the subcommittee, and the decision of the council shall be based on a review and evaluation of the utility of each model code identified in Section 107-25 when each edition is published.

(c) The council may appoint other investigative, technical expertise committees, which may include council members.

(d) The council shall consult with general building contractor associations and building trade associations to gather information and recommendations on construction practices and training relevant to building codes and standards.

(e) The council shall review the codes and standards identified in section 107-25 and adopt state code amendments, as appropriate, pursuant to section 107-24(b), [new model building codes within eighteen months of the official publication date.] at a frequency of no later than every six years. At least every two years, the council shall disseminate an itemized report of the substantially uniform code amendments utilized by at least three counties.

(f) The council may make expenditures for technical references, equipment and supplies, and other operating expenses, and may contract for the conduct of research studies and other technical services.

(g) The council shall provide education and technical training and administrative assistance in the form of services or grants at the state and county levels relating to the implementation and enforcement of the state building code adopted pursuant to this part and loss mitigation standards in accordance with section 431P-12.”

SECTION 3. Section 107-26, Hawaii Revised Statutes, is amended to read as follows:

“~~[§107-26]~~ **State building code; prohibitions.** In adopting a state building code, the council shall not adopt provisions that:

(1) Relate to administrative, permitting, or enforcement and inspection procedures of each county; or

(2) Conflict with chapters 444, 448E, and 464. “

SECTION 4. Section 107-25, Hawaii Revised Statutes, is amended to read as follows:

“~~[§107-25]~~ **Hawaii State building code; requirements.** There is established a Hawaii state building code applicable to all construction in the State of Hawaii. The Hawaii state building code shall include ~~[:]~~ the following codes as amended by the substantially uniform amendments utilized by at least three counties:

(1) The ~~[latest edition of the]~~ state fire code as adopted by the state fire council;



- (2) The ~~[latest edition of the]~~ Uniform Plumbing Code, as copyrighted and published by the International Association of Plumbing and Mechanical Officials, including its appendices;
- (3) The ~~[latest edition of the]~~ International Building Code, the International Residential Code, and the International Energy Conservation Code, as published by the International Code Council;
- (4) The National Electrical Code, as published by the National Fire Protection Association;
- [4](5) Hawaii design standards implementing the criteria pursuant to Act 5, Special Session Laws of Hawaii, 2005, as applicable to:
  - (A) Emergency shelters built to comply with hurricane resistant criteria, including enhanced hurricane protection areas capable of withstanding a five hundred year hurricane event as well as other storms and natural hazards; and
  - (B) Essential government facilities requiring continuity of operations; and
- [5](6) Code provisions based on nationally published codes or standards that include, but are not limited to, residential and hurricane resistive standards for residential construction, ~~[fire,] elevator, [electrical, plumbing,] mechanical, flood and tsunami, and existing buildings [,-and energy conservation standards for building design and construction, and onsite sewage disposal].~~"

SECTION 5. Section 107-27, Hawaii Revised Statutes, is amended to read as follows:

"~~[E]§107-27[.]~~ **Exemptions. Design of State Buildings.** (a) Upon adoption of ~~[rules under this chapter]~~ substantially uniform code amendments by at least three counties under section 107-28, and as reported by the council under section 107-24(e), the design of all state building construction shall be in compliance with the Hawaii state building code within one year ~~[of its effective date], [and]~~ except that state building construction shall be allowed to be exempted from:

- (1) County codes that have not adopted the state building code as reported by the council;
- (2) Any county code amendments that are inconsistent with the minimum performance objectives of the Hawaii state building code or the objectives enumerated in this part; or
- (3) Any county code amendments that are contrary to code amendments adopted by another county.

(b) Exemptions shall include county ordinances allowing the exercise of indigenous Hawaiian architecture adopted in accordance with section 46-1.55."

SECTION 6. Section 107-28, Hawaii Revised Statutes, is amended to read as follows:

"~~[E]§107-28[.]~~ **County building code authority to amend and adopt the state model building code codes without state approval.** (a) The governing body of each county shall amend and adopt the model state building code as it applies within its respective jurisdiction, in accordance with section 46-1.5(13), without approval of the council. Each county shall ~~[use]~~ amend and adopt the model state codes and standards listed in section 107-25, as the referenced model building codes and standards for its respective county building code ordinance, no later than two

years after the adoption of ~~[the state building code]~~ each of the model codes by the state building code council pursuant to section 107-24.

(b) If a county does not amend and adopt the ~~[statewide]~~ model state ~~[code]~~ and standards within the two-year timeframe, the model state building ~~[code]~~ codes defined in section 107-24(e) shall become applicable as an interim county building code until the county adopts ~~[the]~~ its amendments.”

SECTION 7. Section 107-29, Hawaii Revised Statutes, is amended to read as follows:

**"[E]§107-29[.] Rules.** The department shall adopt rules pursuant to chapter as may be necessary for the purposes of defining the Hawaii state building code to consist of the codes and standards identified in section 107-25 and any substantially uniform amendments adopted by at least three counties in accordance with this part.”

SECTION 8. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ \_\_\_\_\_ or so much thereof as may be necessary for fiscal year 2013-2014 to support the state building code councils efforts to adopt a uniform set of statewide building codes and consistent standards.

The sum appropriated shall be expended by the department of accounting and general services for the purposes of this Act.

SECTION 9. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 11. This Act shall take effect on July 1, 2013.



Testimony of Cindy McMillan  
The Pacific Resource Partnership

House Committee on Consumer Protection & Commerce  
Representative Angus L.K. McKelvey, Chair  
Representative Derek S.K. Kawakami, Vice Chair

SB 213, SD2 – RELATING TO THE STATE BUILDING CODE COUNCIL  
Monday, March 18, 2013  
2:30 p.m.  
State Capitol - Conference Room 325

Chair Ige, Vice Chair Kidani, and Members of the Committee:

The Pacific Resource Partnership (PRP) is a labor-management consortium representing over 240 signatory contractors and the Hawaii Regional Council of Carpenters.

PRP **supports** SB 213, SD2, which configures the membership of the state building code council by eliminating the member from the department of health and adding members from the Building Industry Association; General Contractors Association; Hawaii Construction Alliance; Subcontractors' Association of Hawaii; Department of Business, Economic Development, and Tourism; Department of Accounting and General Services; Hawaii Building and Construction Trades Council; and American Council of Engineering Companies. This measure changes the requirements for a quorum from six to nine and eliminates the council's obligation to consult with private sector representatives regarding construction practices and training.

The current composition of the State Building Code Council (SBCC) includes four county building officials, representatives from the State Fire Council, Department of Health, Department of Labor and Industrial Relations, American Institute of Architects, and from the Structural Engineers Association of Hawaii.

While Chapter 107 requires the SBCC to consult with the construction industry, we do not have a vote. We are making a reasonable proposal that the construction industry have a voice on the

March 18, 2013

Testimony Supporting SB 213, SD2 – Relating to State Building Code Council

Page 2

SBCC. As voting members, the construction industry would be able to provide valuable input to the SBCC regarding the impacts of code changes on construction practice, costs, and whether materials to meet the new requirements are even available in our State.

Adding representatives from the construction industry would be consistent with the practices of many other states. According to the International Code Council, at least 25 state building code councils include representation from the construction industry.

For these reasons, we respectfully ask for your support on SB 213, SD2. Thank you for the opportunity to share our views on this important initiative with you.

# **BIA-HAWAII**

## **BUILDING INDUSTRY ASSOCIATION**

*"Building Better Communities"*

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Castle & Cooke Homes Hawaii, Inc.

## **Testimony to the House Committee on Consumer Protection & Commerce**

**Monday, March 18, 2013**

**2:30 p.m.**

**State Capitol - Conference Room 325**

**RE: S.B. 213 S.D.2, RELATING TO THE STATE BUILDING CODE COUNCIL**

Dear Chair McKelvey, Vice-Chair Kawakami, and members of the Committee:

My name is Gladys Marrone, Government Relations Director for the Building Industry Association of Hawaii (BIA-Hawaii), the voice of the construction industry. We promote our members through advocacy and education, and provide community outreach programs to enhance the quality of life for the people of Hawaii. BIA-Hawaii is a not-for-profit professional trade organization chartered in 1955, affiliated with the National Association of Home Builders.

BIA-Hawaii **supports** S.B. 213, S.D. 2, which reconfigures the membership of the State Building Code Council (SBCC) and makes an appropriation.

The S.D. 2 expands the membership of the SBCC to include representatives from the construction industry. This proposal would reflect what at least 25 states have already done. As voting members, the construction industry would be able to provide valuable input to the SBCC regarding the impacts of code changes on construction practice, costs, and whether materials to meet the new requirements are even available in our State. Builders experience code in the field in real life, not in theory. We offer real guidance on what practically works and what does not. We can also offer practical advice on the cost of code changes, which can have a tremendous impact on the cost of construction. We believe a cost-benefit analysis should have a place in new codes being adopted.

While Chapter 107 requires the SBCC to consult with the construction industry, and we are very active participants, we do not have a vote. Our position is to bring balance to the Council, as over half the States have recognized.

Funding for the SBCC would ensure the Council conducts its business in a timely, efficient, and effective manner. We support funding, provided the construction industry retains a seat on the SBCC. BIA-Hawaii also supports the intent of H.B. 763, H.D. 1, which helps to streamline the process of the SBCC.

Thank you for the opportunity to express to you our views.

1065 Ahua Street  
Honolulu, HI 96819  
Phone: 808-833-1681 FAX: 839-4167  
Email: [info@gcahawaii.org](mailto:info@gcahawaii.org)



# GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.  
Uploaded via Capitol Website

March 18, 2013

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

SUBJECT: **SUPPORT OF S.B. 213, SD2 RELATING TO THE STATE BUILDING CODE.** Reconfigures the membership of the state building code council by eliminating the member from the department of health and adding members from the Building Industry Association; General Contractors Association; Hawaii Construction Alliance; Subcontractors' Association of Hawaii; department of business, economic development, and tourism; department of accounting and general services; Hawaii Building and Construction Trades Council; and American Council of Engineering Companies. Changes the requirements for a quorum from six to nine. Eliminates the council's obligation to consult with private sector representatives regarding construction practices and training. Makes an appropriation. Effective 7/1/2050. (SD2)

HEARING

DATE: Monday, March 18, 2013  
TIME: 2:30 p.m.  
PLACE: Capitol Room 325

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

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 is in **support** of S.B. 213, SD2, Relating to the State Building Code. S.B. 213, SD2 proposes to amend the membership of the Hawaii State Building Code Council to increase the representation of members of the construction industry and also proposes an appropriation to assist with the administration of the SBCC. While GCA is willing to participate in the Hawaii State Building Code Council, the current SD2 version may not properly reflect the intent and purpose of the State Building Code Council. Representatives of the SBCC should be familiar with technical building requirements.

In 2007, the Senate Ways and Means committee recognized the importance of the formation of the State Building Code Council whereby it said,

[t]he adoption of a uniform set of statewide building codes applicable to one and two family dwellings, all other residential uses, commercial and

industrial buildings, and state building would make it possible for building owners, designers, contractors, and code enforcers within the State to apply a consistent standard. The health and safety considerations related to the codes are of statewide interest, especially relating to emergency disaster preparedness. Hawaii State Legislature. S. Comm. Rpt. 784, March 2, 2007.

The GCA believes that by involving the building industry technical experts on the SBCC, it will expedite the implementation of the codes once they are approved, because the people who actually have to construct with the new codes would have been involved in the entire adoption process and are able to bring up any constructability issues from the start. Thus, by adding the builders onto the council, these constructability issues can be addressed while the codes are still being discussed within the council.

The GCA supports SB 213, SD2 and finds that a proper balance would be met with representatives of the construction industry with building expertise sitting alongside other design professionals and technical experts in the building industry to ensure a balance of public health and safety with construction industry practices. The GCA recommends this Committee review the current SD2 and ensure that participants have the technical expertise necessary to contribute to meeting the goal and intent of the State Building Code Council.

The GCA therefore, requests that this Committee pass out S.B. 213, SD2 and remains willing to participate in the Hawaii State Building Code Council and requests a viable appropriation be included in this measure.

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

# Architectural Diagnostics Ltd.

Building Diagnostics · Failure Analysis · Remedial Architecture · Architecture

18 March 2013

## House Committee on Consumer Protection & Commerce

Honorable Representatives Angus L.K. McKelvey, Chair; Derek S.K. Kawakami, Vice-Chair; and Members of the Committee

### **SUBJECT: Testimony in Opposition to SB 213 SSD2 RE: State Building Code Council**

Dear Chairman McKelvey and Members of the Committee on Consumer Protection & Commerce:

I have been a practicing architect in Hawaii since 1970. I am the Honolulu AIA's representative to the State Building Code Council. This testimony is my personal opinion.

**I urge you to reject SB 213 and, instead, support the modifications proposed in HB 763.** SB 213 would reconfigure the membership of the state building code council add six contractor organizations.

The building code is a technical document regulating design. Building codes deal with life-safety in buildings, reflecting real-world experience. They do so by looking at how buildings are used, at the safety of the construction, at how the occupants get out of the building in case of an emergency, at the type and size of the loads (earthquakes, hurricanes, fires) which are likely to impact the building and at the strength of materials used in construction. The building code is and must remain a technical document with the singular focus on life-safety. It must not become a political or cost driven document. In order for construction in Hawaii to remain creditable, in terms of nationally accepted standards, our building codes must be based on current model codes.

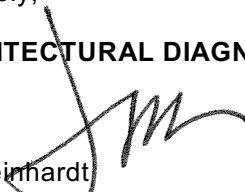
HRS 107 Part II, which created the State Building Code Council, established a process to adopt substantially similar building codes for all of Hawaii's counties, correcting the prior situation where Hawaii County used the 1991 Uniform Building Code while Honolulu and Maui Counties were using the 2003 International Building Code (IBC) and Residential Code (IRC). As a result of that process, all four counties are now using the 2006 IBC and IRC, with local amendments to reflect unique local concerns.

The 15 member Council proposed by SB 213 would be too big to be able to come to agreement on the highly technical issues involved and would be vulnerable to reflecting business interests rather than the technical ones it was established to consider. Council meetings are open to the public and participation of organizations and/or individuals with an interest and knowledge of any particular subject is encouraged and even solicited. The Council has technical subcommittees to look into specific issues and regularly solicits the input of the construction organizations. BIA and the plumbers union regularly attend and participate in Council meetings and have done so since the beginning. Nearly all Council evaluations of proposed modifications to the building code require evaluation of cost vs contribution to life-safety. Without question, contractor input is useful and important. Some addition of contractor representation on the Council would be appropriate. The six new members proposed in SB 213 is not.

HB 763 is a more comprehensive approach to modifying the State Building Council as it deals with the Council's membership, the process of producing the Council's recommendations, and, critically, funding for the Council's operation. I recommend that your committee focus on HB 763 and reject SB 213.

Sincerely,

**ARCHITECTURAL DIAGNOSTICS, LTD.**

  
Jim Reinhardt  
Its President