

# **SB 2910**

Repeals five per cent preference for bidders on public works construction contracts who are party to an apprenticeship agreement.

NEIL ABERCROMBIE  
GOVERNOR



STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

February 3, 2014  
3:20 p.m.  
State Capitol, Room 16

**SB 2910  
RELATING TO PROCUREMENT**

Senate Committee on Economic Development, Government Operations and Housing

The Department of Transportation (DOT) **supports** this bill which proposes to repeal the five (5) percent preference for bidders on public works construction contracts who are party to an apprenticeship agreement.

Application of the Apprenticeship Preference has been challenging, onerous and subject to differing interpretation since it became law during the 2009 Hawaii Legislative Session.

As a result of the difficulty in applying the apprenticeship preference, the Hawaii State Department of Accounting and General Services issued four (4) Comptroller Memos to clarify the law. Additionally, the 2011 Legislature introduced a bill to repeal the apprenticeship preference law citing the potential cost increase to public works projects, the difficulties in enforcing such a requirement, and the legal problems such a preference would pose to out-of-state contractors.

During fiscal year 2013, there were added cost impacts in the amount of \$74 thousand to DOT projects because of the application of the apprenticeship preference in situations where the apparent low bid was not awarded because the bidder was not a party to an apprenticeship program. The apparent second low bidder was awarded instead because of the five (5) percent preference. There was also a delay in project construction because of a protest to the DOT based on the application of the apprenticeship preference.

Since 2009, there is no realized benefit of this preference to the DOT, the construction industry and the public and therefore strongly support the repeal.

Thank you for the opportunity to provide testimony.

Testimony of  
GLENN M. OKIMOTO  
DIRECTOR

Deputy Directors  
FORD N. FUCHIGAMI  
RANDY GRUNE  
AUDREY HIDANO  
JADINE URASAKI

IN REPLY REFER TO:

# Hawai'i Construction Alliance

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P.O. Box 179441  
Honolulu, HI 96817  
(808) 348-8885

February 2, 2014

The Honorable Donovan M. Dela Cruz, Chair  
The Honorable Sam Slom, Vice Chair  
Senate Committee on Economic Development,  
Government Operations and Housing  
415 South Beretania Street  
Honolulu, Hawai'i 96813

**RE: Testimony in strong opposition to SB2910.**

Dear Chair Dela Cruz, Vice Chair Slom, and members of the committee:

The Hawai'i Construction Alliance is comprised of the Hawai'i Regional Council of Carpenters; the Hawai'i Masons Union, Local 1 and Local 630; the Laborers' International Union of North America, Local 368; and the Operating Engineers, Local 3. Together, the four member unions of the Hawai'i Construction Alliance represent 15,000 working men and women in the four basic crafts of Hawai'i's construction industry.

The Hawai'i Construction Alliance is in **strong opposition** to SB2910, which seeks to repeal the five per cent preference for bidders on public works construction contracts who are party to an apprenticeship agreement. Specifically, SB2910 would repeal HRS §103-55.6, which was enacted through SB19, Act 17, SLH 2009.

When SB19 was passed in 2009, the Legislature observed through its conference committee report:

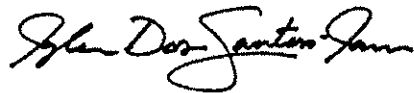
“As public works are expected to play a large role in immediate, as well as longer term, economic recovery efforts, it will be essential for the state to have a well-trained workforce skilled in the various construction trades. As many of these individuals gain their best knowledge of a particular trade through apprenticeship programs, providing incentives for contractors to offer and maintain these programs will work toward developing the necessary skilled workforce to carry on public works projects for years to come.”

These words were as true then as they are now. We strongly believe that it remains in our state's best interest to develop and cultivate a well-skilled labor force to ensure quality results on public works projects.

Furthermore, we ask that the Committee on Economic Development, Government Operations and Housing defer action on this subject matter until the State Procurement Task Force established by SCR92 SD2 concludes its evaluation. The resolution requests that the task force study the state procurement code and identify amendments that would increase economy, efficiency, effectiveness, and impartiality in the procurement of public works construction projects.

Accordingly, we respectfully request that your committee hold this bill. Mahalo for the opportunity to testify on this matter.

Aloha,

A handwritten signature in black ink, appearing to read "Tyler Dos Santos-Tam". The signature is fluid and cursive, with the first name "Tyler" being the most prominent.

Tyler Dos Santos-Tam  
Executive Director  
Hawai'i Construction Alliance  
execdir@hawaiiiconstructionalliance.org  
(808) 348-8885

HAWAII OPERATING ENGINEERS  
INDUSTRY STABILIZATION FUND



HAWAII OPERATING ENGINEERS  
INDUSTRY STABILIZATION FUND

1111 Kalia Road, Suite 100, Honolulu, HI 96813  
Phone: (808) 943-1111

February 2, 2014

TO: The Honorable Donovan M. Dela Cruz, Chair  
The Honorable Sam Slom, Vice Chair and  
Members of the Senate Committee on Economic Development, Government  
Operations and Housing

Date: February 3, 2014  
Time: 3:20 p.m.  
Place: Conference Room 016, State Capitol

FROM: Kimberly Ribellia, Government Liaison  
Hawaii Operating Engineers Industry Stabilization Fund

RE: Strong Opposition of Senate Bill 2910 – Relating to Procurement

Good afternoon, my name is Kimberly Ribellia, Government Liaison, of the Hawaii Operating Engineers Industry Stabilization Fund (HOEISF), a labor management fund representing 4000 unionized members in heavy engineering site work and 500 general contractors specializing in heavy site and vertical construction.

On behalf of Stabilization fund, I would like to state our **strong opposition** of Senate Bill 2910 which proposes to repeal the five per cent preference for bidders on public works construction contracts who are party to an apprenticeship agreement.

We ask that the Committee on Economic Development, Government Operations and Housing defer action on this subject matter until the State Procurement Task Force, established by Senate Concurrent Resolution No. 92, Senate Draft 2, concludes its evaluation. The Resolution requests the task force to review the existing bid preferences in relation to promoting economy, efficiency, effectiveness, and impartiality in procurement for state and county governments.

Again, the Stabilization fund strongly opposes Senate Bill 2019 and ask that the bill be held. Thank you for your consideration of this matter.

The Senate  
Twenty-Seventh Legislature  
Committee on Economic Development,  
Government and Housing  
February 3, 2014, 3:20 p.m.  
Room 016

Statement of the Hawaii Regional Council of Carpenters on S.B. 2910, Relating to Procurement

S.B. 2901, to repeal HRS Section 103-55.6, should not be passed by the Committee. Our conclusion is that the basis for the law, to incentivize construction apprenticeship training, remains sound.

Both Hawaii's government and industry need the capacity to construct public works, and that means training. In addition to craft skills, apprenticeship includes training in safety, energy and environmental practices. Government recognizes the need for apprenticeship by factoring its cost into prevailing wage determinations for public works construction.

The legislature passed Act 17, 2009, and overrode a Governor's veto, to establish Sec. 103-55.6, in recognition of the need for apprenticeship, to:

- Provide an incentive to participate in advancing the long standing public education policy of apprenticeship, in partnership with the private sector. All contractors are encouraged to bear their share of meeting this need.
- Addressing an inequality in bidding for public works projects, whereby some bidders are allocating time and money to train the skilled craft workers of the future, while other bidders have no such costs. "Free riding" contractors utilize workers trained at the expense of contractors who participate in registered apprenticeship programs.

It is instructive to note that the legislative history of Act 17 began with requiring participation in a registered apprenticeship program, in order to bid on public works. That requirement was changed to an incentive. Contractors who are not contributing to apprenticeship, including out-of state contractors, have various options under the current law. They may factor what they save by not contributing into their bid on public works. They may participate in a registered apprenticeship program, or register their own. They may subcontract to a bidder, or bid on private contracts.

If any change were to be contemplated, the application of the law can be further restricted by clarifying the original intent of the law. A new paragraph (b) would read:

**"...for each apprenticable trade the bidder will employ..." above, means being a party to an apprenticeship program for the work of each trade, excluding incidental work, that will be performed by employees of the bidder, the job titles assigned to employees notwithstanding. For example, should a bidder employ operating engineers and is a party to an operating engineers apprenticeship program, but identifiable laborers' work is to be performed by employees of the bidder, participation in a laborers' apprenticeship program is required in order for the bid amount to be decreased by five percent.**

This may be, in the alternative, accomplished by Comptroller's Memorandum.

Hawaii's main value-adding private industries need trained workers. Apprenticeship is a career opportunity for our resident population. Public policy support is needed, where participating in apprenticeship is deterred by lowest-bid competition. Short of making participation in apprenticeship a prerequisite, the incentive provided in a minority of Hawaii's construction activity, public works, is the least that can be done.

Thank you for considering our views on negative impact of S.B. 2910.

# **BIA-HAWAII**

**BUILDING INDUSTRY ASSOCIATION**

THE VOICE OF THE CONSTRUCTION INDUSTRY

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### **Stephen Hanson**

simplicityHR by ALTRES

**Testimony to the Senate Committee on Economic Development, Government  
Operations and Housing  
Monday, February 3, 2014  
3:20 p.m.  
State Capitol - Room 016**

## **SUBJECT: S.B. 2910 - Relating to Procurement**

Dear Chair Dela Cruz, Vice-Chair Slom, 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, and affiliated with the National Association of Home Builders.

BIA-Hawaii **supports** S.B. 2910, which proposes to repeal the five percent preferences for bidders on public works construction contracts who are party to an apprenticeship agreement.

BIA-Hawaii supports the repeal of §103-55.6, Hawaii Revised Statutes, because this preference creates more confusion in the procurement process. It also presents an unfair advantage, creates more confusion rather being helpful to the State during the procurement process, and ultimately costs the State and taxpayers more money due to the preference encouraging bid protests, without the addition of public benefit.

We appreciate the opportunity to express our **support** of S.B. 2910.





*A'ohe hana nui ka alu'ia*  
*"No Task Is Too Big When Done Together By All"*

**HAWAII BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO**

735 Bishop Street, Suite 412 \* Honolulu, Hawaii 96813  
(808) 524-2249 - FAX (808) 524-6893

KIKA G. BUKOSKI  
*Executive Director*

February 1, 2014

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Honorable Senator Donovan Dela Cruz, Chair  
Honorable Senator Sam Slom, Vice Chair  
Members of the Committee on Economic Development, Government Operations and  
Housing  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, HI 96813

RE: **IN SUPPORT** OF SB2910 RELATING TO PROCUREMENT  
Hearing: Monday, February 3, 2014, 3:20 p.m. Conference Room 016

Honorable Chair, Vice Chair and Committee Members;

The Hawaii Building & Construction Trades Council, AFL-CIO is a chartered member of the Building and Construction Trades Department, AFL-CIO first organized in 1908 and comprised of 16 out of 17 construction trade unions with 386 state, local and provincial councils in the United States and Canada and an estimated 15,000 members locally. Our primary mission is to provide employment opportunities and living wages for many of Hawaii's working men and women in the construction industry.

The Council SUPPORTS SB2910, which repeals the five percent preference for bidders on public works construction contracts who are party to an apprenticeship agreement.

ACT 17 (2009) was adopted to promote local job creation in the construction industry and provide opportunities for all entry level trade apprentices. Since its adoption, application of the ACT has been inconsistent. Neighbor Island Contractor Associations have expressed concern over these inconsistencies as well as the perceived competitive disadvantage it presents for their member-contractors.

Previous state procurement staff has indicated support for the repeal of ACT17 (2009). The Council firmly believes the ACT as adopted in 2009 did not serve, and does not serve, its original intent and purpose.

For these reasons, we respectfully urge that you approve SB2910 as introduced and pass it out of Committee without amendment.

Mahalo for this opportunity to provide testimony in SUPPORT of SB2910.

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

Committee on Economic Development, Government Operations and Housing  
Sen. Donovan Dela Cruz, Chair  
Sen. Sam Slom, Vice-Chair  
Monday, 2-3-2014  
3:20 PM, Room 016

Re: Support of SB2910

Aloha Chair Dela Cruz, Vice-Chair Slom and Members of the Committee,

My name is Glenn Ida representing the 2000 active members and retirees of the Plumbers and Fitters UA, Local 675. Local 675 is an affiliate of the Hawaii Building and Construction Trades Council.

Local 675 supports SB2910, which repeals the five percent preference for bidders on public works construction contracts who are party to an apprentice agreement.

We believe that Act 17 has not effectively fulfilled the intent of the Legislation and application of the Act has been inconsistent.

Therefore Local 675 supports SB2910 to repeal Act 17.

Thank you for this opportunity to testify.

Mahalo,

Glenn Ida  
808-295-1280



**HAWAII ISLAND CONTRACTORS' ASSOCIATION**

494-C Kalanikoa Street \* Hilo, Hawaii 96720 \* Phone: 808/935-1316 \* Fax: 808/934-7779 \*

Email: [hical@hawaiiantel.net](mailto:hical@hawaiiantel.net)

**Testimony to the Senate Committee on Economic Development, Government Operations and Housing**

**Monday, February 3, 2014**

**3:20 p.m.**

**Capitol Conference Room 016**

**RE: SB 2910, RELATING TO PROCUREMENT**

Dear Chair Dela Cruz, Vice-Chair Slom, and members of the Committee,

The Hawaii Island Contractors Association **strongly supports** SB 2910, which proposes to repeal the five per cent preference for bidders on public works construction contracts who are party to an apprenticeship agreement. When this Act 17 was passed and put into law two years ago, the intent was to promote education in various trades for Hawaii residents. While well intentioned, the application of the law resulted in confusion, and an actual DECLINE in enrollment in apprenticeship programs. Furthermore, access to these programs have been limited and cost prohibitive for companies across the state...particularly for contractors based on the neighbor islands.

The Hawaii Island Contractors' Association is the voice of the construction industry on Hawaii Island. Established in 1961, we provide industry support, education and advocacy to our members. We are comprised of over 150 contractors, subcontractors (both union and non-union) as well as industry support professionals. We consider our diversity as one of our strengths. Even though we often have differing views regarding our industry, nearly all of our members have come to the conclusion that Act 17 is not working and needs to be repealed immediately.

For the preceding reasons, The Hawaii Island Contractors' Association **strongly supports** SB 2910.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "John E.K. Dill".

John E.K. Dill  
Co-Chair, Legislative Committee, Hawaii Island Contractors' Assn.

1/31/14

Loeffler Construction, Inc.  
1451 Kinoole Street  
Hilo, HI 96720  
(808)935-4422  
Fax: (808) 961-5588  
Email: [cloeffler@interpac.net](mailto:cloeffler@interpac.net)

Testimony to the Senate Committee on Economic Development, Government Operations and Housing.

February 3<sup>rd</sup>, 2014

3:20 p.m.

Capitol, Room 016

Regarding: S.B.2910, Relating to Procurement

Dear Chair Dela Cruz, Vice-Chair Slom, and members of the Committee:

Loeffler Construction, Inc. **strongly supports S.B.2910**, which proposes to Repeal the five per cent preference for bidders on public works construction contracts who are party to an apprenticeship agreement.

When this bill first came into effect, Loeffler Construction did extensive research in order to become affiliated with an apprentice program so we could be competitive with companies affiliated with Apprentice Programs when bidding on County and State projects. We found no such programs available to us on island, and the programs we did find elsewhere in the state did not pertain to the type of work that we are licensed to perform. This puts us and other Outer Island contractors at a HUGE disadvantage.

During the recent economic downturn, the additional cost for contracts awarded where the 5% advantage is applied, has cost our State and taxpayers a large amount of money that could have been used for additional CIP projects.

Small Businesses, which include those in Construction, are the backbone to keeping communities going. Repealing the 5% preference will allow small construction companies and suppliers to hire additional employees, provide additional funding for more public works projects, and result in more employment opportunities for Hawaii residents.

Loeffler Construction, Inc. **strongly supports SB2910**. Thank you for giving us the opportunity to share our views.

Carolyn Loeffler



**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [EGHTestimony](#)  
**Cc:** [craig@takamineconstruction.com](mailto:craig@takamineconstruction.com)  
**Subject:** Submitted testimony for SB2910 on Feb 3, 2014 15:20PM  
**Date:** Sunday, February 02, 2014 9:23:01 AM

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**SB2910**

Submitted on: 2/2/2014

Testimony for EGH on Feb 3, 2014 15:20PM in Conference Room 016

| <b>Submitted By</b> | <b>Organization</b>         | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|-----------------------------|---------------------------|---------------------------|
| Craig Takamine      | Takamine Construction, Inc. | Support                   | No                        |

Comments: My name is Craig Takamine and I am the President of Takamine Construction, Inc. We are in Strong support of SB 2910, which proposes to repeal the five per cent preference for bidders on public works construction contracts who are party to an apprenticeship agreement. When this Act 17 was passed and put into law two years ago, the intent was to promote education in various trades for Hawaii residents. While well intentioned, the application of the law resulted in confusion, and an actual DECLINE in enrollment in apprenticeship programs. Furthermore, access to these programs have been limited and cost prohibitive for companies across the state...particularly for contractors based on the neighbor islands. Thank you for your consideration.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)