

SAH - Subcontractors Association of Hawaii

1188 Bishop St., Ste. 1003**Honolulu, Hawaii 96813-2938

Phone: (808) 537-5619 ✦ Fax: (808) 533-2739

January 29, 2016

Testimony To: House Committee on Labor & Public Employment
Representative Mark M. Nakashima, Chair

Presented By: Tim Lyons, President

Subject: H.B. 130 – RELATING TO PUBLIC SAFETY

Chair Nakashima and Members of the Committee:

I am Tim Lyons, President of the Subcontractors Association of Hawaii and we generally support the concept behind this bill. The Subcontractors Association represents the following nine separate and distinct contracting associations who have combined their testimony in the interest of saving time and resources.

HAWAII FLOORING ASSOCIATION

ROOFING CONTRACTORS ASSOCIATION OF HAWAII

HAWAII WALL AND CEILING INDUSTRIES ASSOCIATION

TILE CONTRACTORS PROMOTIONAL PROGRAM

PLUMBING AND MECHANICAL CONTRACTORS ASSOCIATION OF HAWAII

SHEETMETAL CONTRACTORS ASSOCIATION OF HAWAII

PAINTING AND DECORATING CONTRACTORS ASSOCIATION

PACIFIC INSULATION CONTRACTORS ASSOCIATION

The thrust of the bill is in-line with *Okada Trucking* and is that general contractors should not be performing work that they are not otherwise licensed to perform. In the old days, it was thought that a general contractor could undertake any portion of the work with the exception of some specialty individual licensing areas such as plumbing and electrical work. However, in today's more modern and specialized society it has been determined by the court that in order for the consumer to be properly protected individual's, in some cases, as well as the company, in every case, should be properly licensed. We concur.

We do however have some concern about the definition as found in Section 2 of the bill on page 2 of "Incidental and supplemental work" which stipulates that its definition will apply on "a larger project, major project, or operation requiring the specialty license". The definition goes on to say for this kind of work, which is not more than half a percent of the total contract it could be performed by an unlicensed person as incidental and supplemental. We would only like to point out that the contractor's license law applies to big contractors as well as the small contractors. It applies to those who do residential work as well as those who do commercial work and light commercial work. In this case it would appear that incidental and supplemental work on a \$10,000.00 job can only amount to \$50.00. We find that somewhat contradictory in that Chapter 444 already provides that for work under \$1000.00 including material and labor, no license is required at all. (A handyman can do the job).

The incidental and supplemental issue is a complicated one and one that is not likely to be fixed with a "cookie cutter" approach. We are however happy to work with the Committee and any other interested parties in trying to resolve this dilemma and address this issue.

In summary, we support the concept of this bill but have problems with its particulars.

Thank you.

**PRESENTATION OF THE
CONTRACTORS LICENSE BOARD**

TO THE HOUSE COMMITTEE ON
LABOR & PUBLIC EMPLOYMENT

TWENTY-EIGHTH LEGISLATURE
Regular Session of 2016

Friday, January 29, 2016
10:00 a.m.

WRITTEN TESTIMONY ONLY

TESTIMONY ON HOUSE BILL NO. 130, RELATING TO CONTRACTORS.

TO THE HONORABLE MARK M. NAKASHIMA, CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Contractors License Board (“**Board**”) apologizes for not being present at today’s hearing to present our testimony in person. The Board is meeting today from 8:30 a.m. until this afternoon and submits its written testimony.

My name is Peter H.M. Lee, and I am the Chairperson of the Legislative Committee of the Contractors License Board (“**Board**”). Thank you for the opportunity to testify on House Bill No. 130, which proposes to add and define a new term, “incidental and supplemental work”; and requires general contractors to employ responsible managing employees with appropriate specialty contractor licenses and specialty contractors when necessary to complete any contracted work.

The Board **strongly opposes** this bill for the following reasons:

First, the Board believes that this bill is unnecessary because the Hawaii Supreme Court has already interpreted the term “incidental and supplemental” in Hawaii Revised Statutes Chapter 444 in the District Council 50 v. Lopez, 129

Hawai'i 281, 287, 298 P.3d 1045, 1051 (2013), case. The Board complied with this decision, and subsequently determined that to qualify as "incidental and supplemental" work, that work must be subordinate to, directly related to, and necessary for the completion of the work of greater importance that is within the scope of the licensee's license (i.e., the primary work the specialty contractor is licensed to perform), and that work must represent less than 50% of the project (as measured in relation to the project's total cost or extent). See, the October 18, 2013 Board's Final Order Upon Remand ("**BFO**") in In the Matter of the Petition for Declaratory Relief of District Council 50 of the International Union of Painters and Allied Trades and Aloha Glass Sales & Service, Inc., CLB-DR-2006-2. The Board's determination takes into account the cost and extent of the other specialty contracting work, whether the work constitutes less than a majority of the project, and requires that the other specialty contracting work be subordinate and constitute less than a majority of the project.

For your information, the BFO has been upheld by the Circuit Court in November 2014. In addition, the Intermediate Court of Appeals also upheld the BFO in December 2015. Furthermore, the Board is currently in the process of amending its administrative rules to reflect its determination in its BFO, and has invited the interested stakeholders to provide input and comments.

Second, the bill's new definition of "incidental and supplemental work" uses the terms "larger project" or "major project" which are vague and

ambiguous, and may lead to arbitrary and inconsistent interpretations of these terms.

Third, the limitation of “incidental and supplemental work” to not more than half a percent of the total contract is unrealistic because it is too low; adversely affects all contractors (not only general contractors) and the consuming public because more contractors are going to be required to complete a particular project; and may encourage parceling because of the vague term “total contract” (i.e., instead of having one master contract, contractors may split it up into many smaller contracts to be able to perform the “incidental and supplemental work”).

The Board believes that its method of determining “incidental and supplemental” work is more comprehensive and flexible as compared to the proposed limit of “not more than half a percent of the total contract”. Imposing only a percentage on the work that can be “incidental and supplemental” is too rigid because work that is “incidental and supplemental” varies from project to project, and is different in every situation. Each project is separate and distinct, and must be evaluated independently. The specific limitation proposed in this bill will not apply uniformly or fairly to every project and situation. Thus, the Board believes that the proposed “not more than half a percent of the total contract” is very arbitrary, may lead to inequitable results, and will be difficult to implement and enforce.

Fourth, requiring general contractors to employ responsible managing employees (“RME”) with appropriate specialty contractor licenses and specialty

contractors when necessary to complete any contracted work conflicts with the licensing structure of the Board. Contracting entities cannot merely employ an RME or specialty contractor and perform work in the classifications held by its employees; contracting entities themselves must also hold the specialty classifications of its RME(s) to perform work in the classifications held by its RME(s).

In conclusion, this bill is unreasonably biased against general contractors, and will ultimately harm the consuming public. The Board respectfully requests that this bill be **held**, and the Board be allowed to continue addressing this jurisdictional dispute in its administrative rules.

Thank you for the opportunity to testify on House Bill No. 130.

1065 Ahua Street
Honolulu, HI 96819
Phone: 808-833-1681 FAX: 839-4167
Email: info@gcawhawaii.org
Website: www.gcawhawaii.org



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

Uploaded via Capitol Website

January 29, 2016

TO: HONORABLE MARK NAKASHIMA, CHAIR, HONORABLE JARRETT
KEOHOKALOLE, VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE
ON LABOR & PUBLIC EMPLOYMENT

SUBJECT: **OPPOSITION TO H.B. 130, RELATING TO PUBLIC SAFETY.** Prohibits a
general engineering and general building contractor from doing any work that
requires it to act as a specialty contractor in an area the general contractor is not
licensed to operate.

HEARING

DATE: Friday, January 29, 2016
TIME: 10:00 a.m.
PLACE: Conference Room 309

Dear Chair Nakashima, Vice Chair Keohokalole, and Members of the Committee,

The General Contractors Association (GCA) is an organization comprised of over five hundred seventy 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.

HB 130 proposes a new definition to incidental and supplemental and would also require general contractors to employ responsible managing employees with appropriate specialty contractor licenses and specialty contractors when necessary to complete any contracted work. GCA is **strongly opposed** to this measure because it is an attack on the general contractor's ability to perform their work and an attempt to quantify what incidental and supplemental means with a percentage, which would be inapposite of what the Contractor's License Board recently ruled in the *District Council 50 vs. State of Hawaii* case still pending before the Hawaii Supreme Court.

The bill's title alone, Relating to Public Safety, improperly leads a reader to believe that the public's safety is in jeopardy due to work performed by an "A" or "B" general contractor with its current license. Furthermore, the bill proposes a definition of "incidental and supplemental," which improperly attempts to attach a percentage to what would be considered incidental and supplemental.

The GCA believes that the current statute is adequate and placing a percentage value for supplemental and incidental work is improper and would create a problem on small contracts where one half per cent is a very small dollar amount. The determination of what constitutes supplemental and incidental work depends on the nature of the contract and the specialty work involved. The determination of whether the work is incidental and supplemental should be made by the contracting agency and the contractor's license board.

Furthermore, the application of a specific percentage to determine what will constitute supplemental work will merely lead to more protests and delays in the award of state and county construction contract.

The definition of what constitutes work “incidental and supplemental” to specialty contractor work is complex and depends largely on the specific fact situations of the work involved. In addition, if there is ever a dispute with regard to the performance of incidental or supplemental work it is best to leave it to the experts to interpret, particularly the Contractors License Board, which is made up of those well-versed in the construction industry. In relying on the Board to look at situations on a case by case basis and understanding the facts of a project is a better approach than enacting a law that proposes arbitrary limits on work that may be considered “incidental and supplemental.” In addition, the proposed definition of incidental and supplemental could provide another basis of a bid protest by disgruntled non-low bidders seeking to disqualify a low bidder.

For these reasons, the GCA would respectfully request deferral of this measure. Thank you for the opportunity to provide our views on this issue.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, January 26, 2016 2:51 PM
To: LABtestimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HB130 on Jan 29, 2016 10:00AM*

Follow Up Flag: Follow up
Flag Status: Flagged

HB130

Submitted on: 1/26/2016

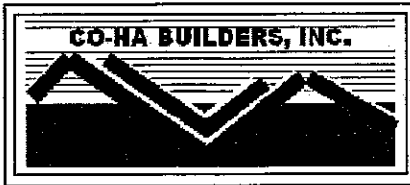
Testimony for LAB on Jan 29, 2016 10:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

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.

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Lic.# ABC-14228

1726 Hau Street
Honolulu, Hawaii 96819
PH: (808) 842-4993

Via E-mail: LABTestimony@capitol.hawaii.gov
Via Fax: (808) 586-8544

January 29, 2016

TO: HONORABLE MARK NAKASHIMA, CHAIR, HONORABLE JARRETT
KEOHOKALOLE, VICE CHAIR AND MEMBERS OF THE HOUSE
COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

SUBJECT: **STRONG OPPOSITION TO H.B. 130, RELATING TO PUBLIC SAFETY.**
Prohibits a general engineering and general building contractor from doing any
work that requires it to act as a specialty contractor in an area the general
contractor is not licensed to operate.

HEARING

DATE: Friday, January 29, 2016
TIME: 10:00 a.m.
PLACE: Conference Room 309

Dear Chair Nakashima, Vice Chair Keohokalole, and Members of the Committee,

As a matter of introduction, my name is Denny Sadowski, owner and managing partner of CO-HA Builders, Inc. CO-HA Builders, Inc. **strongly opposes** H.B. 130, Relating to Public Safety because it is an attack on the long standing interpretation by the Contractors License Board and the application of incidental and supplemental work between general and specialty contractors. The bill proposes a new definition to incidental and supplemental and would also prohibit a general engineering "A" contractor and general building "B" contractor from doing any work that requires it to act as a specialty contractor in an area the general contractor is not licensed to operate.

H.B. 130 erroneously proposes to quantify "incidental and supplemental" by haphazardly assigning it a percentage which goes directly against the interpretation by the CLB. Furthermore, it attempts to hinder the ability of a general contractor to perform incidental and supplemental work that it is authorized to perform under current contractor licensing laws. The CLB has consistently held that the term "incidental and supplemental" is not a matter of size or percentages, but must be reviewed on a case by case basis if there is a concern. To quantify incidental and supplemental would go against industry standard and its historical interpretation. This bill would lead to further confusion by the procurement officers that execute contracts for public works contracts and delay progress of infrastructure projects because of the potential increase in bid protests that would result if this legislation was to become law.

The proposed legislation would negatively impact the industry and create further confusion for those interpreting the law.

Accordingly, CO-HA Builders, Inc. **strongly opposes** H.B. 130 and recommends that the bill be held by the committee.

Denny Sadowski



S & M SAKAMOTO, INC.
GENERAL CONTRACTORS

Via E-mail: LABTestimony@capitol.hawaii.gov
Via Fax: (808) 586-8544

January 29, 2016

TO: HONORABLE MARK NAKASHIMA, CHAIR, HONORABLE JARRETT
KEOHOKALOLE, VICE CHAIR AND MEMBERS OF THE HOUSE
COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

SUBJECT: **STRONG OPPOSITION TO H.B. 130, RELATING TO PUBLIC SAFETY.**
Prohibits a general engineering and general building contractor from doing any
work that requires it to act as a specialty contractor in an area the general
contractor is not licensed to operate.

HEARING

DATE: Friday, January 29, 2016

TIME: 10:00 a.m.

PLACE: Conference Room 309

Dear Chair Nakashima, Vice Chair Keohokalole, and Members of the Committee,

S & M Sakamoto, Inc. **strongly opposes** H.B. 130, Relating to Public Safety because it is an
attack on the long standing interpretation by the Contractors License Board and the application
of incidental and supplemental work between general and specialty contractors.

The bill proposes a new definition to incidental and supplemental and would also prohibit a
general engineering "A" contractor and general building "B" contractor from doing any work that
requires it to act as a specialty contractor in an area the general contractor is not licensed to
operate.

H.B. 130 erroneously proposes to quantify "incidental and supplemental" by haphazardly
assigning it a percentage which goes directly against the interpretation by the CLB.
Furthermore, it attempts to hinder the ability of a general contractor to perform incidental and
supplemental work that it is authorized to perform under current contractor licensing laws. The
CLB has consistently held that the term "incidental and supplemental" is not a matter of size or
percentages, but must be reviewed on a case by case basis if there is a concern. To quantify
incidental and supplemental would go against industry standard and its historical interpretation.
This bill would lead to further confusion by the procurement officers that execute contracts for
public works contracts and delay progress of infrastructure projects because of the potential
increase in bid protests that would result if this legislation was to become law.

The proposed legislation would negatively impact the industry and create further confusion for
those interpreting the law.

**Accordingly, S & M Sakamoto, Inc. strongly opposes H.B. 130 and recommends that the
bill be held by the committee.**



Via E-mail: LABTestimony@capitol.hawaii.gov
Via Fax: (808) 586-8544

January 29, 2016

TO: HONORABLE MARK NAKASHIMA, CHAIR, HONORABLE JARRETT
KEOHOKALOLE, VICE CHAIR AND MEMBERS OF THE HOUSE
COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

SUBJECT: **STRONG OPPOSITION TO H.B. 130, RELATING TO PUBLIC SAFETY.**
Prohibits a general engineering and general building contractor from doing any
work that requires it to act as a specialty contractor in an area the general
contractor is not licensed to operate.

HEARING

DATE: Friday, January 29, 2016
TIME: 10:00 a.m.
PLACE: Conference Room 309

Dear Chair Nakashima, Vice Chair Keohokalole, and Members of the Committee,

Swinerton Builders **strongly opposes** H.B. 130, Relating to Public Safety because it is an attack on the long standing interpretation by the Contractors License Board and the application of incidental and supplemental work between general and specialty contractors. The bill proposes a new definition to incidental and supplemental and would also prohibit a general engineering "A" contractor and general building "B" contractor from doing any work that requires it to act as a specialty contractor in an area the general contractor is not licensed to operate.

H.B. 130 erroneously proposes to quantify "incidental and supplemental" by haphazardly assigning it a percentage which goes directly against the interpretation by the CLB. Furthermore, it attempts to hinder the ability of a general contractor to perform incidental and supplemental work that it is authorized to perform under current contractor licensing laws. The CLB has consistently held that the term "incidental and supplemental" is not a matter of size or percentages, but must be reviewed on a case by case basis if there is a concern. To quantify incidental and supplemental would go against industry standard and its historical interpretation. This bill would lead to further confusion by the procurement officers that execute contracts for public works contracts and delay progress of infrastructure projects because of the potential increase in bid protests that would result if this legislation was to become law.

The proposed legislation would negatively impact the industry and create further confusion for those interpreting the law.

Swinerton Builders License No. ABC-3753
Pauahi Tower, 1003 Bishop Street, Suite 1340, Honolulu, HI 96813-6401
Tel: 808.521.8408 Fax: 808.521.8438 www.swinerton.com

Accordingly, Swinerton Builders strongly opposes H.B. 130 and recommends that the bill be held by the committee.

Sincerely,

SWINERTON BUILDERS



George S. Ehara
Vice President & Division Manager



Alan Shintani Inc.
GENERAL CONTRACTOR BC 13068

January 28, 2016

TO: HONORABLE MARK NAKASHIMA, CHAIR, HONORABLE JARRETT KEOHOKALOLE, VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

SUBJECT: **STRONG OPPOSITION TO H.B. 130, RELATING TO PUBLIC SAFETY.**
Prohibits a general engineering and general building contractor from doing any work that requires it to act as a specialty contractor in an area the general contractor is not licensed to operate

HEARING

DATE: Friday, January 29, 2016

TIME: 10:00 am

PLACE: Conference Room 309

Dear Chair Nakashima, Vice Chair Keohokalole, and Members of the Committee,

Alan Shintani, Inc. has been providing general contracting and construction management services for homes, commercial buildings and government projects since 1984.

Alan Shintani, Inc. **strongly opposes** H.B. 130, Relating to Public Safety because it is an attack on the long standing interpretation by the Contractors License Board and the application of incidental and supplemental work between general and specialty contractors.

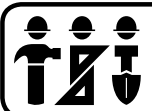
The bill proposes a new definition to incidental and supplemental and would also prohibit a general engineering "A" contractor and general building "B" contractor from doing any work that requires it to act as a specialty contractor in an area the general contractor is not licensed to operate.

H.B. 130 erroneously proposes to quantify "incidental and supplemental" by haphazardly assigning it a percentage which goes directly against the interpretation by the CLB. Furthermore, it attempts to hinder the ability of a general contractor to perform incidental and supplemental work that it is authorized to perform under current contractor licensing laws. The CLB has consistently held that the term "incidental and supplemental" is not a matter of size or percentages, but must be reviewed on a case by case basis if there is a concern. To quantify incidental and supplemental would go against industry standard and its historical interpretation. This bill would lead to further confusion by the procurement officers that execute contracts for public works contracts and delay progress of infrastructure projects because of the potential increase in bid protests that would result if this legislation was to become law.

The proposed legislation would negatively impact the industry and create further confusion for those interpreting the law.

Accordingly, Alan Shintani, Inc. **strongly opposes** H.B. 130 and recommends that the bill be held by the committee.

Alan Shintani
President



RALPH S. INOUE CO LTD
GENERAL CONTRACTOR

500 Alakawa St., #220E
Honolulu, Hawaii 96817

T: 808.839.9002
F: 808.833.5971

License No. ABC-457
Founded in 1962

Via E-mail: LABTestimony@capitol.hawaii.gov
Via Fax: (808) 586-8544

January 27, 2016

TO: HONORABLE MARK NAKASHIMA, CHAIR, HONORABLE JARRETT
KEOHOKALOLE, VICE CHAIR AND MEMBERS OF THE HOUSE
COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

SUBJECT: **OPPOSITION TO H.B. 130, RELATING TO PUBLIC SAFETY.** Prohibits a
general engineering and general building contractor from doing any work
that requires it to act as a specialty contractor in an area the general
contractor is not licensed to operate.

HEARING

DATE: Friday, January 29, 2016
TIME: 10:00 a.m.
PLACE: Conference Room 309

Dear Chair Nakashima, Vice Chair Keohokalole, and Members of the Committee,

My name is Lance M. Inouye and I am President of Ralph S. Inouye Co., Ltd. (RSI), a State of Hawaii General Contractor and member of the General Contractors Association of Hawaii.

RSI **strongly opposes** H.B. 130, Relating to Public Safety because it is an attack on the long standing interpretation by the Contractors License Board and the application of incidental and supplemental work between general and specialty contractors. The bill proposes a new definition to incidental and supplemental and would also prohibit a general engineering "A" contractor and general building "B" contractor from doing any work that requires it to act as a specialty contractor in an area the general contractor is not licensed to operate.

H.B. 130 erroneously proposes to quantify "incidental and supplemental" by haphazardly assigning it a percentage which goes directly against the interpretation by the CLB. Furthermore, it attempts to hinder the ability of a general contractor to perform incidental and supplemental work that it is authorized to perform under current contractor licensing laws. The CLB has consistently held that the term "incidental and supplemental" is not a matter of size or percentages, but must be reviewed on a case by case basis if there is a concern. To quantify incidental and supplemental would go against industry standard and its historical interpretation. This bill would lead to further confusion by the procurement officers that execute contracts for public works contracts and delay progress of infrastructure projects because of the potential increase in bid protests that would result if this legislation was to become law.

The proposed legislation would negatively impact the industry and create further confusion for those interpreting the law.

Accordingly, RSI strongly opposes H.B. 130 and recommends that the bill be held by the committee.



Genba Hawaii, Inc.
Civil Construction Consulting

LATE

January 29, 2016

TO: HONORABLE MARK NAKASHIMA, CHAIR, HONORABLE JARRETT KEOHOKALOLE,
VICE CHAIR AND MEMBERS OF THE HOUSE
COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

SUBJECT: **STRONG OPPOSITION TO H.B. 130, RELATING TO PUBLIC SAFETY.**
Prohibits a general engineering and general building contractor from doing any work that requires it to act as a specialty contractor in an area the general contractor is not licensed to operate.

HEARING

DATE: Friday, January 29, 2016
TIME: 10:00 a.m.
PLACE: Conference Room 309

Dear Chair Nakashima, Vice Chair Keohokalole, and Members of the Committee,

Genba Hawaii, Inc. **strongly opposes** H.B. 130, Relating to Public Safety because it is an attack on the long standing interpretation by the Contractors License Board and the application of incidental and supplemental work between general and specialty contractors.

The bill proposes a new definition to incidental and supplemental and would also prohibit a general engineering "A" contractor and general building "B" contractor from doing any work that requires it to act as a specialty contractor in an area the general contractor is not licensed to operate.

H.B. 130 erroneously proposes to quantify "incidental and supplemental" by haphazardly assigning it a percentage which goes directly against the interpretation by the CLB. Furthermore, it attempts to hinder the ability of a general contractor to perform incidental and supplemental work that it is authorized to perform under current contractor licensing laws. The CLB has consistently held that the term "incidental and supplemental" is not a matter of size or percentages, but must be reviewed on a case by case basis if there is a concern. To quantify incidental and supplemental would go against industry standard and its historical interpretation. This bill would lead to further confusion by the procurement officers that execute contracts for public works contracts and delay progress of infrastructure projects because of the potential increase in bid protests that would result if this legislation was to become law.

The proposed legislation would negatively impact the industry and create further confusion for those interpreting the law.

Genba Hawaii, Inc. **strongly opposes** H.B. 130 and recommends that the bill be held by the committee.

Sincerely,

Glenn M. Nohara
President

Hawai'i Construction Alliance



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

January 28, 2016

The Honorable Mark M. Nakashima, Chair
The Honorable Jarrett Keohokalole, Vice Chair
and members
House Committee on Labor and Public Employment
Hawai'i State Legislature
Honolulu, Hawai'i 96813

Dear Chair Nakashima, Vice Chair Keohokalole, and members:

The Hawai'i Construction Alliance is comprised of the Hawai'i Regional Council of Carpenters; the Operative Plasterers' and Cement Masons' Union, Local 630; International Union of Bricklayers & Allied Craftworkers, Local 1; the Laborers' International Union of North America, Local 368; and the Operating Engineers, Local Union No. 3. Together, the member unions of the Hawai'i Construction Alliance represent 15,000 working men and women in the basic crafts of our state's construction industry.

The Hawai'i Construction Alliance **is opposed to HB130**, which would prohibit a General Engineering and General Building Contractor from doing any work that requires it to act as a specialty contractor in an area the General Contractor is not licensed to operate..

HB130 is an unnecessary measure which would radically change current construction industry practice and disrupt the current licensing procedures of all contractors by the Contractor's License Board (CLB).

The bill misguidedly attempts to quantify the terms "incidental and supplemental" by setting a specific percentage for that work, which contradicts years of established practice and interpretation by the CLB. The CLB has consistently held that the term "incidental and supplemental" is not a matter of size or percentages; instead, the CLB has defined these terms as work in other trades directly related to and necessary for the completion of the project undertaken. To attempt to quantify "incidental and supplemental" as a percentage would have a disruptive effect on the construction industry.

We also believe that Section 5 represents an attempt to eliminate the type of work that the general contractor can now perform because of qualifications successfully met. This proposal will disrupt the recognized work performed by the general contractor.

Therefore, we humbly request that this bill be **held**.

Mahalo for the opportunity to provide this testimony.

Aloha,

A handwritten signature in black ink that reads "Tyler Dos Santos-Tam".

Tyler Dos Santos-Tam
Executive Director
Hawai'i Construction Alliance
execdir@hawaiiiconstructionalliance.org

BIA-HAWAII

BUILDING INDUSTRY ASSOCIATION

THE VOICE OF THE CONSTRUCTION INDUSTRY

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HONOLULU WOOD TREATING, LLC

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COLDWELL BANKER PACIFIC
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MAILING
P.O. BOX 970967
WAIPAHU, HAWAII
96797-0967

STREET
94-487 AKOKI STREET,
WAIPAHU, HAWAII 96797

P 808.847.4666
F 808.440.1198
E INFO@BIAHAWAII.ORG

WWW.BIAHAWAII.ORG

Testimony to the House Committee on Labor & Public Employment The Honorable Mark Nakashima, Chair The Honorable Jarrett Keohokalole, Vice-Chair Members of the Committee Friday, January 29, 2016

LATE

RE: HB 130, RELATING TO CONTRACTORS. Prohibits a general engineering and general building contractor from doing any work that requires it to act as a specialty contractor in an area the general contractor is not licensed to operate.

Dear Chair Nakashima, Vice-Chair Keohokalole, and members of the Committee:

My name is Gladys Marrone, Chief Executive Officer 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 strongly opposes HB 130, Relating to Public Safety because it would go against the long-standing interpretation by the Contractors License Board, and the application of incidental and supplemental work between general and specialty contractors. The bill proposes a new definition to incidental and supplemental and would also prohibit a general engineering "A" contractor and general building "B" contractor from doing any work that requires it to act as a specialty contractor in an area the general contractor is not licensed to operate.

H.B. 130 erroneously proposes to quantify "incidental and supplemental" by haphazardly assigning it a percentage which goes directly against the interpretation by the CLB. Furthermore, it attempts to hinder the ability of a general contractor to perform incidental and supplemental work that it is authorized to perform under current contractor licensing laws. The CLB has consistently held that the term "incidental and supplemental" is not a matter of size or percentages, but must be reviewed on a case by case basis if there is a concern. To quantify incidental and supplemental would go against industry standard and its historical interpretation. This bill would lead to further confusion by the procurement officers that execute contracts for public works contracts and delay progress of infrastructure projects because of the potential increase in bid protests that would result if this legislation was to become law.

The proposed legislation would negatively impact the industry and create further confusion for those interpreting the law.

Thank you for the opportunity to provide comments.

LATE

Testimony of Brooke Wilson
The Pacific Resource Partnership

State of Hawaii
House Committee on Labor & Public Employment

Representative Mark Nakashima, Chair
Representative Jarrett Keohokalole, Vice Chair

HB 130 – Relating to Public Safety
Friday, January 29, 2016
10:00 a.m.
Conference Room 309

Aloha Chair Nakashima, Vice Chair Keohokalole and Members of the Committee:

We are in **opposition** of HB 130. This bill prohibits a general engineering and general building contractor from doing any work that requires it to act as a specialty contractor in an area the general contractor is not licensed to operate.

This bill is unnecessary because the Hawaii Supreme Court has already interpreted “incidental and supplemental” in HRS, Chapter 444 and the Contractors License Board has complied with their decision, and subsequently determined that to qualify as “incidental and supplemental” work, that work must be subordinate to, directly related to, and necessary for the completion of the work of greater importance that is within the scope of the licensee’s license and that work must represent less than 50% of the project.

Thank you for the opportunity to share our opinion and we respectfully request HB 130 to be held in committee.

About PRP

Pacific Resource Partnership (PRP) is a not-for-profit organization that represents the Hawaii Regional Council of Carpenters, the largest construction union in the state, and more than 240 of Hawaii’s top contractors. Through this unique partnership, PRP has become an influential voice for responsible construction and an advocate for creating a stronger, more sustainable Hawaii in a way that promotes a vibrant economy, creates jobs and enhances the quality of life for all residents.





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HAWAII BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO

735 Bishop Street, Suite 412 * Honolulu, Hawaii 96823
(808) 524-2249 - FAX (808) 524-6893

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January 28, 2016

Honorable Representative Mark Nakashima
Honorable Representative Jarrett Keohokalole
Members of the Committee on Labor & Public Employment
Hawaii State Capitol
415 S. Beretania Street
Honolulu, HI 96813

RE: IN OPPOSITION to HB130

Honorable Chair, Vice Chair and the members of the committee;

The Hawaii Building & Construction Trades Council, AFL-CIO is comprised of 16 out of 17 construction trade unions throughout Hawai'i. With an estimated membership of 20,000 statewide, our primary mission is to provide employment opportunities & living wages for the many working men and women we represent.

The Building Trades Council OPPOSES HB130, RELATING TO PUBLIC SAFETY. The intent of HB130 as noted in Section 1 is to protect the public from instances in which, "...public safety is unduly put in jeopardy when a general contractor is allowed to act as a specialty contractor in an area in which the general contractor is not licensed to operate."

The intent of HB130, however, is negated by its actual content. In fact, this bill codifies unlicensed behavior by renaming it, "Incidental and Supplemental Work" and tying it to cost. I ask you, Mr. Chair and members of the committee, where do we draw the line? At what price point does cost trump public safety?

The men and women of our affiliate unions commit years of their lives to achieving excellence in their trade. Our highest commitment is to public safety. As such, the Building Trades Council respectfully requests that you vote down this bill.

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