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

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February 16, 2016

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

SUBJECT: **OPPOSITION TO H.B. 2009, RELATING TO HOISTING MACHINE
OPERATORS.** Repeals the Hoisting Machine Operators' Certification Revolving
Fund and the position of the executive director. Tasks the DLIR with the
responsibility of administrative duties for the Hoisting Machine Operators
Advisory Board. Allows the Hoisting Machine Operators Advisory Board to
establish fees for the issuance of permits or certificates by administrative rule.

HEARING

DATE: Tuesday, February 16, 2016
TIME: 10:00 a.m.
PLACE: Conference Room 309

Dear Chair Nakashima and Vice Chair Keohokalole and Members,

The General Contractors Association of Hawaii (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. 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 **opposes** H.B. 2009, Relating to Hoisting Machine Operators, which proposes to repeal the Hoisting Machine Operators Advisory Board ("Hoisting Board") for reasons unknown as the proposal does not include a preamble. This proposal to repeal the Hoisting Board is premature and not appropriate as it is unknown who will fill the role of the Board. While there has been discussion that federal oversight may be on the horizon with regard to crane operators, such decisions have yet been initiated, therefore it would be shortsighted to dismantle the Board without such confirmation in place.

The role of the Hoisting Board is to provide public and worker safety, as it was created in 1998 by Hawaii State Legislature and was tasked to adopt Hawaii Administrative Rules (HAR) for the certification of hoisting machine operators. This was done by adding Sections 19 and 20 to the Occupational Safety and Health Law, [Chapter 396](#) of the Hawaii Revised Statutes (HRS). The HMOAB developed and adopted [Chapter 12-48](#) (HAR), Hoisting Machine Operators, which became effective on December 6, 2002. Under these rules, certification is required for operators using equipment covered by American Society of Mechanical Engineers (ASME) B30.5 Mobile and Locomotive Cranes, having a lifting capacity of more than one ton and that are used to perform construction work as defined by Section 12-50-2 HAR.

The rules require operators to show that they have the experience, training, qualifications and certification to safely operate these hoisting machines. Enforcement of this requirement is covered in Section 12-110-50 HAR.

Several questions must be raised as to what this measure proposes, particularly with regard to the proposal that the Department of Labor and Industrial Relations take over the day to day operations, this is of concern because there has been a shortage of staff at HIOSH regarding management duties of licensing and permitting. Further, with regard to the funding that this Board currently

For these reasons we request this measure be deferred. Thank you for the opportunity to share our opposition to H.B. 2009.

LATE



STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Hoisting Machine Operators Advisory Board
830 Punchbowl Street, Room 114
Honolulu, HI 96813
(808) 586-8146; HMOAB@hawaii.gov

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DEPUTY DIRECTOR

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HMOAB CHAIRPERSON

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ANGELA CHINEN
RICHARD E. LENTES III
JAMES WEANDER

ROBERT M. ARMSTRONG
EXECUTIVE DIRECTOR

February 29, 2016

Sylvia Luke, Chair
Scott Y. Nishimoto, Vice-Chair
House Committee on Finance
Hawai'i House of Representatives
Hawai'i State Capitol
415 South Beretania Street
Honolulu, HI 96813

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

The Hoisting Machine Operators Advisory Board (Board) **opposes** HB2009 HD1 based on several concerns regarding the bill and its harm. This measure, if enacted, would impact the health and safety of the construction workforce by limiting the Director's capabilities to certify and decertify crane operators for the industry. We respectfully ask the Committee to hold the measure and allow the Board to work with stakeholders and report back to the 2017 Legislature.

The current law, with the revolving fund and executive director position, ensures the Board can "stay ahead" of the issues impacting worker safety and health. Changing the law would hamper the Board's ability to improve our application and licensing process, regulations to stay current with the industry, partner with the Hawaii Occupational Safety and Health Division (HIOSH), and liaison with the Director of the Department of Labor and Industrial Relations (DLIR).

The executive director is a part time position with limited impact to DLIR's operating budget since the position is allocated within the revolving fund of the Board. The Board oversees and scrutinizes the executive director position to ensure operations function efficiently within the scope of the law. Operations would cease without the executive director, even with the administrative support as provided for in the proposal.

The Board is in the process of analyzing new OSHA regulations pertaining to hoisting machine operators and reassessing the Board's regulation over operators in the state. The Board prefers completing that process and working with stakeholders and reporting back to the 2017 Legislature on potential statutory changes. Therefore, we respectfully ask that this measure be held.

Thank you for the opportunity to submit testimony on the measure. .

Joaquin M. Diaz, MM, CSP
HMOAB Chairperson

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March 1, 2016

The Honorable Sylvia Luke, Chair
The Honorable Scott Y. Nishimoto, Vice Chair
and members
House Committee on Finance
Hawai'i State Legislature
Honolulu, Hawai'i 96813

RE: Strong Support for HB2009, Relating to Hoisting Machine Operators

Dear Chair Luke, Vice Chair Nishimoto, 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 Hawai'i's construction industry.

We strongly support HB2009, Relating to Hoisting Machine Operators. The bill would repeal the Hoisting Machine Operators' Certification Revolving Fund and the position of its executive director, task DLIR with the responsibility of administrative duties for the Hoisting Machine Operators Advisory Board, and allow the Hoisting Machine Operators Advisory Board to establish fees for the issuance of permits or certificates by administrative rule.

Current Process to Become a Hoisting Machine Operator in the State of Hawai'i

Currently, anyone operating a hoisting machine (e.g. a crane) in the State of Hawai'i must be certified by the Hoisting Machine Operators Advisory Board. In order to receive a certificate, one must fill out the "Hoisting Machine Operators Certification Application" and submit the application to the Board. There are five certification requirements which need to be met:

1. Two current forms of identification, such as a driver's license, passport, etc.
2. A recent photo of the applicant
3. A physical examination certificate
4. A current copy of a certificate from an accredited crane operator testing organization:
 - a. NCCCO (National Commission for the Certification of Crane Operators)
 - b. CIC (Crane Institute Certification)
 - c. NCCER (National Center for Construction Education and Research)
 - d. Operating Engineers
5. A \$50.00 fee, plus \$100.00 per year (up \$500.00 to five years)

Additionally, the application for state certification asks whether applicants have a criminal history, any physical or mental conditions that would impair their ability to work, any history of substance use, and any history of accidents while operating a hoisting machine.

OSHA Regulations Applicable to Hoisting Machine Operators

OSHA recently issued new rules that revise the safety requirements for cranes and derricks in construction (29 CFR Part 1926). The new federal OSHA rules provide for four options for operator qualification or certification, all of which OSHA believes are satisfactory to ensure the health and safety of operators and the public. The four options are:

1. Certification by an accredited crane operator testing organization
2. Qualification by an audited employer program
3. Qualification by the U.S. Military
4. Licensing by a government entity

The federal OSHA rules provide for a number of other strict requirements which all hoisting machine operators in Hawai'i and all other states must abide by.

New OSHA Regulations Render Hawai'i Certification Process Redundant

As explained in the previous section, OSHA regulations provide that hoisting machine operators must be certified by either a nationally recognized accreditation organization or an audited employer program such as that provided by the Operating Engineers.

The Hawai'i Hoisting Machine Operators Certification Application is therefore redundant, since one has to receive a federally-recognized certification or qualification from either an accredited crane operator testing organization" or a certificate from the Operating Engineers in order to receive the Hawai'i certification. The additional steps in the process to become certified by the state of Hawai'i, such as the expensive fee, the requirement to submit a photograph, and the requirement to receive a physical examination as part of one's certification (rather than at the time of hire by an employer), are also unnecessary, and may prove burdensome for hoisting machine operators and their employers.

For the above reasons, we **strongly and respectfully request your committee's favorable action on HB2009, Relating to Hoisting Machine Operators.**

Mahalo,



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

LATE

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March 2, 2016

TO: HONORABLE SYLVIA LUKE, CHAIR, HONORABLE SCOTT NISHIMOTO, VICE CHAIR, HOUSE COMMITTEE ON FINANCE

SUBJECT: **OPPOSITION TO H.B. 2009, HD1, RELATING TO HOISTING MACHINE OPERATORS.** Repeals the Hoisting Machine Operators' Certification Revolving Fund and the position of the executive director. Tasks the DLIR with the responsibility of administrative duties for the Hoisting Machine Operators Advisory Board. Allows the Hoisting Machine Operators Advisory Board to establish fees for the issuance of permits or certificates by administrative rule.

HEARING

DATE: Wednesday, March 2, 2016
TIME: 11:00 a.m.
PLACE: Conference Room 308

Dear Chair Luke and Vice Chair Nishimoto and Members,

The General Contractors Association of Hawaii (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. 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 **opposes** H.B. 2009, HD1, Relating to Hoisting Machine Operators ("Board"), which proposes to repeal the Hoisting Machine Operators Advisory Board's Certification Revolving Fund by transferring it to the general fund and would eliminate the position of the Board's Executive Director, which is currently a half time position. This proposal to repeal the Hoisting Board's Revolving Fund and its Executive Director is premature and not appropriate as the Board attempts to address future administrative rules governing Hawaii's crane operators. While there has been discussion that federal oversight may be on the horizon with regard to crane operators such decisions have yet to be implemented, therefore it would be shortsighted to dismantle the Board without such confirmation in place.

The role of the Hoisting Board is to provide public and worker safety regarding crane use and operation. The Board was created in 1998 by Hawaii State Legislature and was tasked to adopt Hawaii Administrative Rules (HAR) for the certification of hoisting machine operators. This was done by adding Sections 19 and 20 to the Occupational Safety and Health Law, Chapter 396 of the Hawaii Revised Statutes (HRS). The HMOAB developed and adopted Chapter 12-48 (HAR), Hoisting Machine Operators, which became effective on December 6, 2002. Under these rules, certification is required for operators using equipment covered by American Society of Mechanical Engineers (ASME) B30.5 Mobile and Locomotive Cranes, having a lifting capacity of more than one ton and that are used to perform construction work as defined by Section 12-50-2 HAR.

The rules require operators to show that they have the experience, training, qualifications and certification to safely operate these hoisting machines. Enforcement of this requirement is covered in Section 12-110-50 HAR.

Several questions must be raised as to what this measure proposes, particularly with regard to the proposal that the Department of Labor and Industrial Relations take over the day to day operations, which is of great concern because there has been a shortage of staff at HIOSH regarding management duties of licensing and permitting. Furthermore, the depletion of this Board's Revolving Fund and the transfer of its existing budget to the general fund will make it difficult and nearly impossible to amend administrative rules, if the federal guidelines are introduced and must be incorporated into state law.

For these reasons we request this measure be held. **Thank you for the opportunity to share our opposition to H.B. 2009, HD1.**