



DAVID Y. IGE
GOVERNOR
SHAN S. TSUTSUI
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

CATHERINE P. AWAKUNI COLÓN
DIRECTOR
JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

PRESENTATION OF
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
REGULATED INDUSTRIES COMPLAINTS OFFICE

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE

TWENTY-EIGHTH STATE LEGISLATURE
REGULAR SESSION, 2015

TUESDAY, FEBRUARY 3, 2015
9:00 A.M.

TESTIMONY ON HOUSE BILL NO. 713
RELATING TO CONTRACTORS

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

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify on House Bill No. 713, Relating to Contractors. My name is Daria Loy-Goto, Complaints and Enforcement Officer for the Department's Regulated Industries Complaints Office ("RICO"). RICO has concerns about the bill.

House Bill No. 713 authorizes the Contractors License Board ("CLB Board") and the Board of Electricians and Plumbers ("E & P Board") (collectively "Boards")

to provide training for and deputize investigators, amends the ratio of licensed to unlicensed persons performing electrical or plumbing work, requires the CLB Board to investigate all applicants for licensure, and increases fines for out-of-scope contracting activity and for violations of any electricians and plumbers laws.

It is unclear what issue or conduct House Bill No. 713 is intended to address. Although the bill authorizes the Boards to train and deputize volunteer investigators, the subject of any investigation, whether a licensee or an applicant, is not identified. In addition, House Bill No. 713 does not specify the scope of the investigations to be conducted by volunteer deputies, such as whether unlicensed activity or out-of-scope practice would be investigated.

In addition, the bill's requirement that remaining individuals performing electrical or plumbing work employed by an electrical or plumbing contractor at a construction site must be either apprentices or trainees would be difficult to enforce. It is RICO's understanding that the E & P Board does not maintain information on apprentices or trainees employed by electrical or plumbing contractors. Without the data needed to verify apprentice or trainee status, RICO would have problems enforcing the ratio requirement.

Thank you for the opportunity to testify on House Bill No. 713. I will be happy to answer any questions the Committee may have.

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

TO THE HOUSE COMMITTEE ON LABOR
AND PUBLIC EMPLOYMENT

TWENTY-EIGHTH LEGISLATURE
Regular Session of 2015

Tuesday, February 3, 2015
9:00 a.m.

WRITTEN TESTIMONY ONLY

TESTIMONY ON HOUSE BILL NO. 713, RELATING TO CONTRACTORS.

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

My name is Christine Rutkowski, Executive Officer of the Board of Electricians and Plumbers ("Board"). Thank you for the opportunity to provide written testimony on House Bill No. 713, Relating to Contractors. The Board has not had an opportunity to discuss this bill, and will do so at its meeting on February 10, 2015. Therefore, the Board is not able to offer comments on the proposed amendments at this time.

Thank you for the opportunity to provide written testimony on House Bill No. 713.

**PRESENTATION OF THE
CONTRACTORS LICENSE BOARD**

TO THE HOUSE COMMITTEE
ON LABOR & PUBLIC EMPLOYMENT

TWENTY-EIGHTH LEGISLATURE
Regular Session of 2015

Tuesday, February 3, 2015
9:00 a.m.

TESTIMONY ON HOUSE BILL NO. 713, RELATING TO CONTRACTORS.

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

My name is Peter H.M. Lee, Chairperson of the Contractors License Board's ("Board") Legislative Committee. Thank you for the opportunity to testify in opposition to House Bill No. 713, Relating to Contractors. This bill proposes to empower the Board and the Board of Electricians and Plumbers to train and deputize individuals to serve as volunteer investigators; require the Boards to submit a joint report of its findings and recommendations on the effectiveness of the training and deputizing of volunteer investigators; require unlicensed individuals performing electrical or plumbing work employed on a construction jobsite to be an apprentice or trainee in accordance with HRS section 448E-9(b); and require the Board to investigate, classify and qualify applicants for contractors' licenses.

The Board has not had the opportunity to meet and establish an official position on this bill. However, the Board has discussed the companion bill, Senate Bill No.168 at its January 23, 2015 meeting, which the Board opposes for the following reasons.

The bill proposes to allow the Board to train and deputize volunteer investigators and does not state what the volunteers will be investigating. However, the summary

description of the bill indicates that volunteers would be investigating the use of unlicensed individuals on construction sites. Because the Board's adjudicatory function includes approving or denying settlement agreements, and reviewing and adopting, modifying or rejecting Findings of Facts, Conclusions of Law and Recommended Orders of the hearings officer, it is not appropriate for the Board to investigate a case for which it will be the final arbiter. Thus, HRS sections 26-9(m) and 436B-8 require the Board to delegate its authority to receive, arbitrate, investigate and prosecute complaints to the Department of Commerce and Consumer Affairs' Regulated Industries Complaints Office ("RICO").

Second, section 5 of the bill proposes to require unlicensed individuals performing electrical or plumbing work employed on a construction jobsite to be an apprentice or trainee in accordance with HRS section 448E-9(b). It may be difficult for RICO to track current apprentice or trainee electricians and plumbers because the Professional and Vocational Licensing Division does not license or register apprentice or trainee electricians and plumbers. Thus, enforcement of this requirement may be problematic.

Lastly, HRS section 444-10 currently authorizes the Board to seek additional information deemed necessary by the Board regarding an applicant's qualifications. The proposed amendment in section 6 of the bill, however, would mandate the Board further investigate every applicant which would lengthen the application process, delay licensing, and place undue burden on the Board and its members who already spend one day a month in addition to its Board meeting to review approximately 200

applications. Further, the language could be read that if an applicant does not meet the requirements for licensure the burden would be placed improperly on the Board to qualify the applicant for a license.

For these reasons, the Board is opposed to House Bill No. 713, and requests that it be held. Thank you for the opportunity to testify on this measure.

SAH - Subcontractors Association of Hawaii

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

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

February 3, 2015

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

Presented By: Tim Lyons
President

Subject: H.B. 713 - RELATING TO CONTRACTORS

Chair Nakashima and Members of the Committee:

I am Tim Lyons, President of the Subcontractors Association of Hawaii and we have some concerns regarding this legislation.

The SAH represents the following nine separate and distinct subcontracting organizations which include:

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
ELECTRICAL CONTRACTORS ASSOCIATION OF HAWAII

First, regarding the volunteer investigators, we don't have any particular problem with the concept however, we do believe that the legislation should specifically identify the need for successful completion of the proper training. An investigator, volunteer or otherwise can totally disrupt a jobsite and if the investigator has not been properly trained they are likely to carry out their duties in a haphazard manner. Further, the legalities surrounding contractor's license carries some legal conditions and it can only make investigators better investigators by having them trained in more specific areas. At present the legislation only says that the Board shall provide training but does not indicate what type of training.

We are also concerned with Section 7 of the bill which increases the fines on currently licensed contractors who perhaps slip out of their scope of classification. We do not believe that this is in order. The license classifications are many and it is entirely possible for a totally legitimate and legal contractor to slip out of his classification and, in some cases unknowingly. We don't think an ultimate fine of \$20,000.00 serves any purpose.

Based on the above, we are not totally opposed to this legislation but do believe that our concerns should be addressed.

Thank you.