

Honolulu, Hawaii

APR 07 2017

RE: H.B. No. 573
H.D. 1
S.D. 2

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sir:

Your Committees on Judiciary and Labor and Ways and Means, to which was referred H.B. No. 573, H.D. 1, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PROCUREMENT,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Provide a bidder of a public works construction project with two hours after the closing of bids to clarify and correct certain information regarding subcontractors;
- (2) Provide that bids for construction shall be opened no sooner than two hours after the closing of the invitation for bids;
- (3) Prohibit bid shopping and bid peddling for the competitive sealed bidding process; and
- (4) Afford a means of legal redress to originally listed subcontractors affected by bid shopping and bid peddling practices in public works construction projects.

Your Committees received testimony in support of this measure from Alan Shintani, Inc.; Building Industry Association of Hawaii; General Contractors Association of Hawaii; Hawaiian Dredging



Construction Company, Inc.; Healy Tibbitts Builders, Inc.; Heartwood Pacific, LLC; Isemoto Contracting Co., Ltd.; Jayar Construction, Inc.; LYZ, Inc.; Nordic PCL Construction, Inc.; Ralph S. Inouye Co., Ltd.; S & M Sakamoto, Inc.; TOMCO CORP.; and one individual. Your Committees received testimony in opposition to this measure from the State Procurement Office; Painting Industry of Hawaii Labor Management Cooperation Trust Fund; Hawaii Tapers Market Recovery Trust Fund; Hawaii Glaziers; Architectural Metal Glassworkers Local Union 1889 AFL-CIO Stabilization Trust Fund; Carpet, Linoleum and Soft Tile Local Union 1926 Market Recovery Trust Fund; and Plumbing & Mechanical Contractors Association of Hawaii. Your Committees received comments on this measure from the Department of Accounting and General Services; Regulated Industries Complaints Office, Department of Commerce and Consumer Affairs; Subcontractors Association of Hawaii; and Blazy Construction Inc.

Your Committees find that efforts should be made to deter the unscrupulous practice of bid shopping and bid peddling in the competitive sealed bidding process, and permit injured subcontractor-plaintiffs to recover monetary damages from bidders and substituted subcontractors. This measure accomplishes this goal by prohibiting bid shopping and bid peddling and allowing only limited circumstances under which subcontractors may be substituted for originally listed subcontractors. This measure also provides prime contractors with up to two hours after the closing of bids to ensure the accuracy of subcontractor information included in their bids, thereby reducing the likelihood of bid challenges and subsequent delays in the procurement process.

Your Committees have amended this measure by:

- (1) Inserting a sunset date of July 1, 2019; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Judiciary and Labor and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 573, H.D. 1, S.D. 1, as amended



herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 573, H.D. 1, S.D. 2.

Respectfully submitted on
behalf of the members of the
Committees on Judiciary and
Labor and Ways and Means,



JILL N. TOKUDA, Chair



GILBERT S.C. KEITH-AGARAN, Chair



