

**PRESENTATION OF THE  
CONTRACTORS LICENSE BOARD**

TO THE HOUSE COMMITTEE ON  
CONSUMER PROTECTION & COMMERCE

TWENTY-NINTH LEGISLATURE  
Regular Session of 2017

Tuesday, January 31, 2017  
2:00 p.m.

**TESTIMONY ON HOUSE BILL NO. 204, RELATING TO THE CONTRACTORS LICENSE BOARD.**

TO THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR,  
AND MEMBERS OF THE COMMITTEE:

My name is Peter H.M. Lee, Chairperson of the Contractors License Board (“Board”) Legislative Committee. Thank you for the opportunity to testify on House Bill No. 204, which proposes to change the composition of the Board by increasing the number of Board members and changing the qualifications of each member.

The Board has not had the opportunity to discuss this bill and will be discussing this measure at its next meeting on February 17, 2017. However, in the past the Board has testified in strong opposition to similar measures that proposed to change the composition of the Board.

1. Number and qualifications of Board members.

Currently, under Hawaii Revised Statutes section 444-3, there are thirteen (13) Board members: five (5) are general contractors, five (5) are specialty contractors, and three (3) are public members who are not contractors. This composition provides an equal number of general and specialty contractor Board members, with the addition of three noncontractors or public members. The current composition is balanced and has

worked well for many years as industry, business and consumer interests are all represented.

This bill proposes to raise the number of Board members from thirteen (13) to (15). More importantly, this bill proposes to change the qualifications of each Board member by reducing the contractor Board members from ten (10) to eight (8), and increasing the public members from three (3) to seven (7). In the past, the Board has opposed similar proposals for the following reasons.

First, the Board increasingly deals with complex scope of work questions that require the expertise and input from the people who are most familiar with the construction industry: the contractor Board members. This expertise is essential in order to conduct Board business. Reducing the number of contractor positions would reduce the broad scope of knowledge and expertise in the various trades that is provided by having ten contractor members.

Additionally, in the past the Board felt that it was not necessary to increase the number of public members.

The Board believes that the current composition and number of Board members has worked well for several decades, and its dynamics should not be changed. The Board is unaware of any instance or situation where the public was harmed based on the current composition of the Board.

2. New requirements for specialty contractor Board members.

In addition to the above changes, this bill also proposes to restrict the specialty contractor Board members from holding a general contractor's license. This restriction is unreasonable and unnecessary.

More and more, the Board is finding that project owners are requiring a general contractor's license to bid on specialty projects. Although a specialty contractor's license is sufficient for the project, many project owners seem to want a general contractor on the project. In response to this, many specialty contractors have obtained or are in the process of obtaining their own general contractor's licenses to bid for specialty projects, even though their primary work is in a specialty classification. Because many specialty contractors have other types of contractor's licenses, including general contractor's licenses, it is unreasonable to require specialty contractor Board members to only have a specialty contractor's license.

Furthermore, there is no proof that a specialty contractor Board member who also holds a general contractor's license has been biased in favor of general contractors or harmed the public. All Board members, regardless of the types of contractor's licenses they hold, are committed to protecting the public, and have not evidenced any bias towards either specialty or general contractors. Board members are neutral in their decision-making because they wear their "consumer hats" during the meetings. Thus, this proposed amendment is unnecessary.

This bill also prohibits public members from being a "relative" of a contractor Board member. The purpose of this amendment is unclear and seems excessive in

light of the conflict of interest provisions of the State's Ethics Code in HRS chapter 84 (e.g., it is a conflict of interest if a board member takes official action that directly affects a business or undertaking in which the board member, the board member's spouse, or board member's dependent child has a financial interest in). The proposed language includes persons in the term "relative" which greatly exceed those addressed by the Ethics Code. For this reason, the language is unwarranted.

3. Compensation of Board members and reference to the definitions of the various contractor classifications.

The new proposed subsections (d) and (f) are not necessary because HRS section 436B-5 already addresses the compensation and reimbursement of travel expenses for board members, and HRS chapter 444 already defines the various contractor license classifications.

Thank you for the opportunity to provide comments on House Bill No. 204.

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# GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

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**LATE**

January 31, 2017

TO: HONORABLE ANGUS MCKELVEY, CHAIR, HONORABLE LINDA ICHIYAMA, VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

SUBJECT: **OPPOSITION TO H.B. 204, RELATING TO CONTRACTORS LICENSING BOARD.** Increases and amends the membership of the contractors license board. Establishes residency and domiciliary requirements for membership on the board.

HEARING

DATE: Tuesday, January 31, 2017  
TIME: 2:00 PM  
PLACE: Conference Room 329

Dear Chair McKelvey, Vice Chair Ichiyama and Members of the Committee,

The General Contractors Association (GCA) is an organization comprised of over 500 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 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 is in opposition** to H.B. 204, Relating to Contractors License Board because it proposes to amend the members of the Board and does not provide a rational basis as to why such change is necessary. The Contractors License Board is a longstanding and well-respected board that works diligently on issues affecting the construction industry.

H.B. 204 proposes to increase the number of members on the Contractors License Board (Board) from 13 to 15 and require that members shall be residents for at least five years. The Board is established under Chapter 444, Hawaii Revised Statute (HRS) are responsible, among other things, to grant licenses to contractors, adopt and amend rules affecting construction contractors, suspend or revoke licenses, educate, ensure administration of testing, order summary suspension of licensees, and issue informal nonbinding interpretations of inquiries.

The current balance of general contractors, specialty contractors and public members required under the statute has worked well with a balanced composition from each island represented insuring varied viewpoints and experience to properly evaluate each applicant's request for a contractor's license and all requests that come before the Board. The license application evaluation insures that the applicant has the education, work experience, and background to provide the work in a safe and workman like manner if granted a license. The GCA believes that the current balance of general contractors and

subcontractors on the Board is important because they have the background and expertise to determine if a candidate for a particular license is qualified. The current composition of the public members of the Board can assist in evaluating each license applicant's education and work experience and insures that the views and interests of the general public are adequately protected.

In comparison, the Board of Electricians and Plumbers established under Chapter 448-E, HRS, is charged with reviewing and granting licenses to electricians and plumbers, required to perform work in the state of Hawaii. This seven member board is composed of two licensed electricians, two licensed plumbers and three public members, no specialty or general contractor is represented on the board.

Both boards are charged with the responsibility of granting licenses and their composition of experience and knowledge represented insures only qualified applicants are granted licenses.

The GCA urges the committee to retain the current statute for appointing members to the Contractors License Board and request deferral of H.B. 204.

Thank you for this opportunity to present our views on this very important measure.



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TESTIMONY OF HAWAII LECET  
CLYDE T. HAYASHI - DIRECTOR

**LATE**

HOUSE OF REPRESENTATIVES  
THE TWENTY-NINTH LEGISLATURE  
REGULAR SESSION OF 2017

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Angus L.K. McKelvey, Chair  
Rep. Linda Ichiyama, Vice Chair

NOTICE OF HEARING

DATE: Tuesday, January 31, 2017  
TIME: 2:00 PM  
PLACE: Conference Room 329  
State Capitol  
415 South Beretania Street

**TESTIMONY ON HOUSE BILL NO. 204, RELATING TO THE CONTRACTORS LICENSE BOARD.**

ALOHA COMMITTEE CHAIR ANGUS MCKELVEY, COMMITTEE VICE CHAIR LINDA ICHIYAMA, AND MEMBERS OF THE COMMITTEE ON CONSUMER PROTECTION & COMMERCE:

My name is Clyde T. Hayashi, and I am the Director of Hawaii LECET. Hawaii LECET is a labor-management partnership between the Hawaii Laborers Union, Local 368, and its unionized contractors.

Mahalo for the opportunity to testify in **OPPOSITION** to House Bill No. 204. This bill proposes to increase and amend the membership of the Contractors License Board (CLB) and establishes residency and domiciliary requirements for membership on the board.

The CLB's current membership of 5 General Contractors, 5 Specialty Contractors, and 3 Non-Contractors is fair and have worked well for years. The board requires a level of knowledge and expertise from its members in order to conduct board business efficiently. Lowering the number of Contractors from 10 to 8, and more than doubling the number of Non-Contractors from 3 to 7 could make it difficult to complete agenda items timely.

In addition, this bill essentially penalizes Specialty Contractors from serving on the CLB if they also held a General Contractors license. On certain projects, procuring agencies require a General Contracting license in order to bid on solicitations ...specifically projects that are predominantly specialty work contracts (ie: cooling schools, re-roofing, highway lighting, field turf, etc...). Many Specialty Contractors apply for a General Contractor's license for this reason alone.

Lastly, this bill asserts that there is or was a conflict of interest by a Non-Contractor member who is related to, or have a financial interest with a Contractor member on the CLB. I don't know any time in the CLB's history that this occurred. Board members are required to attend ethics training from the Hawaii State Ethics Commission. Such issues, should they arise are usually addressed with the board's Deputy Attorney General. This assertion is unfounded and this bill is not necessary.

For these reasons, I **strongly oppose** House Bill No. 204 and humbly ask that it is deferred.

# ***SAH - Subcontractors Association of Hawaii***

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January 31, 2017

Testimony To: House Committee on Consumer Protection & Commerce  
Representative Angus L.K. McKelvey, Chair

Presented By: Tim Lyons, President

Subject: H.B. 204 – RELATING TO THE CONTRACTORS LICENSE BOARD.

Chair McKelvey and Members of the Committee:

I am Tim Lyons, President of the Subcontractors Association of Hawaii and while we support the intent of this bill we cannot endorse it as it is written. The SAH represents the following nine separate and distinct contracting trade organizations.

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



We believe that the intent of this bill is to establish a more level playing field between general contractors and subcontractors in matters pertaining to both at the Contractors License Board and, to that end we are in concert. We are however concerned that this bill goes too far.

This bill establishes a residency requirement for Board members. The Board already requires RME's to be in residency while a project is on-going but a Board member who is not consistently in state cannot attend meetings and perhaps should be removed.

This bill also says that a subcontractor representative cannot hold a general engineering or general building contractors license. There are some subcontractors in the state who actually hold a general building contractors license although they primarily act as a subcontractor. They hold the "B" contractors license either because of past work experience or because they have found that on occasion they need to bid as a general contractor however it is only on rare occasions and in more than the majority of time they act as subcontractors. We find that there have been several subcontractor representatives on the Board who have served in subcontractor positions and have had general contractor licenses who have served the subcontracting community well and we would hate to see that prevented in the future.

Additionally, this bill also calls for (Subsection e on page 3) a violation of 444-17 becomes grounds for removal from the Board. 444-17 includes a wide variety of offenses some of which might be serious enough to constitute grounds for removal but others clearly are not. As an example, it includes any violation of the labor law. So a contractor who did not have someone with a first aid certificate or someone with a complete first aid kit in their office or the proper notice posted would technically be cited for violation of a labor law however that would constitute grounds for removal

from the Contractors License Board? Or, in other cases perhaps it was a violation of the Little Davis Bacon law but it was something so minor to be a bookkeeping transposition error that resulted in a \$100.00 or less underpayment. Contractors have routinely complained about the Disclosure of Lien Rights statement and the Contractors License Board has routinely fined contractors who have not included this Disclosure of Lien Rights \$100.00, \$500.00 and even \$1000.00 fines for failing to attach that piece of paper to their contracts and for that we are going to remove them from the Board (444-17(12))? Or even in the instance where a contractor has let their workers compensation insurance policy lapse by one (1) day but then successfully reinstated it, this would be a violation of labor law and subject to 444-17(16). In short, while we don't think the Board Members should be people who violate the law, just like traffic violations, there are serious ones and there are not so serious ones and for some offenses we issue a \$50.00 citation and for other offenses we take away their license. The same should apply in this instance.

In conclusion, while we support any attempts to assist subcontractors and create a more level playing field for them at the Contractors License Board, we fail to see how the current 5 (five) – 5 (five) balance of general contractor, subcontractor seats is improved or threatened by changing it to a 4 (four) – 4 (four) balance.

Based on that, and while we appreciate the effort, we do not support this bill as it is currently written.

Thank you.

# IRON WORKERS STABILIZATION FUND

**LATE**

January 31, 2017

Rep. Angus L.K. McKelvey, Chair  
Committee on Consumer Protection & Commerce  
House of Representatives  
State Capitol  
Honolulu, HI 96813

**Re: HB204 – Relating to the Contractors License Board**

Dear Chair McKelvey and Honorable Members:

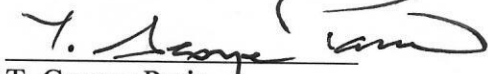
We **SUPPORT** the passage of this bill that will better protect public safety. This bill seeks to: (1) ensure specialty contractor representation; (2) increase non-biased public member representation; (3) provide an explicit provision for the removal of board members in violation of contractors law; and (4) guarantee that all contractors sitting on the board have contracting experience in Hawai'i.

The public is unnecessarily put at risk because of the current board composition. The board is composed of five (5) general contractor positions, five (5) specialty contractor positions, and three (3) public positions. Under current law, general contractors may hold any of the five (5) specialty contractor (sub-specialty) positions on the board. General contractors may hold up to ten (10) of the thirteen (13) positions on the board allowing them a super majority to pass policy that favors their own interest. Thus, the board composition favors general contractors, causing the interest of general contractors to rise above that of specialty contractors *and that of the general public*. Thus, under current law, general contractors are unfairly privileged in representation on the board to the detriment of specialty license holders, and more importantly, the public. This bill will make the board composition fair by ensuring specialty contractors hold specialty contractor board positions and by increasing non-biased public member representation.

Further, the public is unnecessarily put at risk because of the lack of an explicit removal provision for board members in violation of the contractors law (HRS §444-17 - Revocation, suspension, and renewal of licenses). Currently, the board self-polices and would have to determine if one of its own member's are in violation of the contractors law. To our knowledge, there has never been a case in which a member of the contractor license board was removed. The bill adds the provision to ensure that the board contractor members are held to the same standard that they are supposed to uphold across all licensed contractors. Additionally, the bill affords language that will ensure that board contractor members have sufficient experience in the state of Hawai'i and its unique contracting environment.

Mahalo for making contracting fairer and protecting public safety for all of Hawai'i.

Sincerely,

  
T. George Paris  
Managing Director