

SB2005

Measure Title: RELATING TO THE CONTRACTORS LICENSE BOARD.

Report Title: Contractors License Board

Description: Amends the composition of and sets residency requirements for members of the Contractors License Board (Board). Specifies that the protection of the public shall be of the highest priority of the Board in the exercise of the Board's licensing, regulatory, and disciplinary functions.

Companion: [HB1618](#)

Package: None

Current Referral: CPH

Introducer(s): K. RHOADS, BAKER



HAWAII LABORERS-EMPLOYERS COOPERATION AND EDUCATION TRUST
650 Iwilei Road, Suite 285 · Honolulu, HI 96817 · Phone: 808-845-3238 · Fax: 808-845-8300 · URL: hilecet.org

February 23, 2018

THE SENATE
THE TWENTY-NINTH LEGISLATURE
REGULAR SESSION OF 2018

COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

NOTICE OF HEARING

DATE: Friday, February 23, 2018
TIME: 10:00AM
PLACE: Conference Room 229

RE: STRONG OPPOSITION TO SB 2005 - RELATING TO THE CONTRACTORS LICENSE BOARD

Aloha Chair Roz Baker, Vice Chair Jill Tokuda, and members of the Committee on Commerce, Consumer Protection, and Health...

The Hawaii Laborers-Employers Cooperation and Education Trust (LECET) is a labor-management partnership between the 5000+ members of the Hawaii Laborers Union and its 250+ unionized contractors.

Hawaii LECET STRONGLY OPPOSES SB 2005 which proposes to amend the composition of and sets residency requirements for members of the Contractors License Board (Board) and specifies that the protection of the public shall be of the highest priority of the Board in the exercise of the Board's licensing, regulatory, and disciplinary functions.

The proposed items in this bill are both unnecessary and unwarranted. It requires a contractor member to be a resident of and domiciled in the State for no fewer than five years preceding the member's appointment. This has never been an issue and should be left for the Governor or the Senate under advise and consent to consider.

In regards to the proposal of increasing a contractor member's years engaged in the contracting business from 5 years to 10 years and being licensed at the time of appointment, this only makes it more difficult for board seats to be filled by otherwise qualified volunteers. The board already has difficulty making quorum to conduct board business. At the January 2018 meeting, 3 board members were excused, and there are 3 available board seats (1 being a current holdover and his term will expire at the end of the 2018 Legislative session) available for appointment by the Governor.

This bill also proposes that a specialty contractor member cannot hold a general engineering or general building license at the time of appointment. There seems to be the assumption that specialty contractor board members that also hold a general engineering or general building license are unable to represent themselves as a specialty contractor on the board. We find this utterly absurd. All board members have a voice and vote regardless of their representation on the board.

As for the proposal that a public member do not have any family member who is a licensee, and do not have any financial interest in the business of any licensee of the board...both are unjustified. These requirements are over and above the rules and guidelines set forth in the Hawaii State Ethics Code.

Lastly, the proposal states that, "The protection of the public shall be of the highest priority..." is unnecessary because HRS section 444-4 and Hawaii Administrative Rules section 16-77-2 sets forth the primary intent of the Board as being for the protection of the public, health, safety, and general welfare of the public.

For these reasons, we ask for your consideration to **defer SB 2005 indefinitely.**

With respect,

Joy N. Kimura
Hawaii Laborers-Employers Cooperation
and Education Trust

IRONWORKERS STABILIZATION FUND

February 22, 2018

Rosalyn Baker, Chair
Committee on Commerce and Consumer Protection
State Senate
State Capitol
415 S. Beretania Street
Honolulu, Hawaii 96813

Dear Honorable Chair Baker and Members of the Committee on Commerce and Consumer Protection:

Re: Strong Support for SB2005 – Relating to Contractors License Board

We are in strong support of SB 2005, Relating to Contractors License Board; that ensures a fair representation on the Contractors License Board.

The purpose of this bill is to ensure fair representation of contractor's license board members for each category. Right now there are equal representation of general engineers, general building and specialty contractors. However, when reviewing the amount of specialty contractors in the Hawaii Administrative Rule the amount of specialty contractors far exceeds the amount of general engineers or general building contractors. Consequently, to ensure public safety it is only proper to have additional specialty contractors to review their area of expertise. Additionally, when reviewing any major construction project approximately 80% of the job is done by a specialty licensed contractor.

Again we strongly support this measure for the working men and women of Hawaii. Thank you for your time and consideration.

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GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

Uploaded via Capitol Website

February 23, 2018

TO: HONORABLE ROSALYN BAKER, CHAIR HONORABLE JILL TOKUDA, VICE CHAIR AND MEMBERS OF THE COMMITTEE ON COMMERCE, CONSUMER PROTECTION AND HEALTH

SUBJECT: **OPPOSITION TO S.B. 2005, RELATING TO CONTRACTORS LICENSE BOARD.** Amends the composition of and sets residency requirements for members of the Contractors License Board (Board). Specifies that the protection of the public shall be of the highest priority of the Board in the exercise of the Board's licensing, regulatory, and disciplinary functions.
HEARING

DATE: February 23, 2018
TIME: 10:00 a.m.
PLACE: Conference Room 229

Dear Chair Baker, Vice Chair Tokuda and Committee Members,

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. 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 is in opposition to S.B. 2005, Relating to Contractors License Board because it unnecessarily proposes to amend the members of the Contractors License Board (Board) and does not provide any rational reasons as to why such change is necessary. The Contractors License Board is a longstanding and well-respected board that has been in place since 1957 and it works diligently on various issues affecting the construction industry.

S.B. 2005 proposes to require that members of the Board be domiciled as state residents for not less than five years, have at least ten years of contracting experience, and places restrictions on the public member, among other amendments. The Board is established under Chapter 444, Hawaii Revised Statute (HRS) and 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 make up of the Board includes a total of thirteen members, including five general contractors, five specialty contractors and three public members. The composition of the Board is required under the statute and has worked well with a

balanced composition from each island represented. The various viewpoints and experience of the board members invite an even evaluation of each application and licensing inquiry. The Board must assess every license application and insure that the applicant has the education, credibility, proper 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 makeup of the Board including general contractors, subcontractors and members of the public is important because they have the background and expertise to determine if a candidate for a particular license is qualified and can make scope determinations upon request as it relates to the construction industry. 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.

The section of the bill that proposes to require a board member to be domiciled at least five years before appointment and have contracting experience for at least ten years (current statute requires five years) is without merit. Any applicant for a contractor's license is required to have at least four years of supervisory experience in the particular field in which one is applying, thereafter if a licensee was interested in serving on the Board he or she would require at least five years of contracting experience. Therefore, one serving on the licensing board would have sufficient experience in the business of construction before even being considered as a Board nominee.

Furthermore, the Senate's advise and consent process allows proper vetting and discussion about a nominee's qualifications and abilities. If a member of the public had a concern with a nominee to the Board, it would have ample opportunity to raise those issues at an Advise and Consent public hearing or by speaking directly with the members of the Hawaii State Senate. The administrative rules in section 16-77-2, HAR recognizes the importance and the role of the Board which is to protect public health and safety, therefore the suggestive language regarding highest priority are unnecessary.

The GCA urges the committee to retain the current statute for appointing members to the Contractors License Board and request deferral of S.B. 2005 and cautions against any dilution of the membership of the Board. Thank you for this opportunity to present our views on this very important measure.



LiUNA!

**TESTIMONY OF RYAN K. KOBAYASHI
GOVERNMENT AND COMMUNITY RELATIONS DIRECTOR
HAWAII LABORERS UNION LOCAL 368**

PETER A. GANABAN
*Business Manager/
Secretary-Treasurer*

ALFONSO OLIVER
President

JOBY NORTH II
Vice President

TONI FIGUEROA
Recording Secretary

JAMES DRUMGOLD JR.
Executive Board

ORLANDO PAESTE
Executive Board

JOSEPH YAW
Executive Board

MARTIN ARANAYDO
Auditor

RUSSELL NAPIHA'A
Auditor

MARK TRAVALINO
Auditor

ALFRED HUFANA JR.
Sergeant-At-Arms

COMMITTEE COMMERCE CONSUMER PROTECTION & HEALTH

NOTICE OF HEARING

DATE: Friday, February 23, 2018

TIME: 10:00 a.m.

PLACE: Room 229

**TESTIMONY IN OPPOSITION TO SB 2005 RELATING TO THE
CONTRACTORS LICENSE BOARD**

ALOHA COMMITTEE CHAIR BAKER, VICE-CHAIR TOKUDA, AND
COMMITTEE MEMBERS,

My name is Ryan K. Kobayashi, Government and Community Relations Director for the Hawaii Laborers Union Local 368. The Hawaii Laborers Union is made up of over 5000 working and retired members across the State of Hawaii, and we **OPPOSE SB 2005 Relating to the Contractors License Board.**

We feel that the present composition of the State of Hawaii Contractors License Board is adequate and that this bill is therefore, unnecessary.

First, this bill would require a contractor to be a resident **domiciled** in the State for a period of five years prior to being eligible for appointment. The purpose of this requirement is not clear as to why a licensed contractor would be more "qualified" to serve on the Contractors Licensed Board after being domiciled in the State for a minimum of five years before being eligible for appointment to the Board. If time of domicile is in some way relevant, it can be presently vetted in the Governor's Office or in the Senate.

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Feel the Power

Secondly, we feel that extending a contractors experience in the field from five to ten years (essentially doubling the experience requirement) only serves to make it more difficult to find people to sit on the Board. The Board presently has three vacancies which at present remain unfilled, it is our position that the State can better address any perceived inadequacies in the Board by promptly appointing replacements to fill those vacancies, rather than making it more difficult to be appointed to the Board.

In light of the above, the Hawaii Laborers Union, Local 368 is **opposed** SB 2005 and requests that this bill be **deferred**.

SAH - Subcontractors Association of Hawaii

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

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

February 23, 2018

Testimony To: Senate Committee on Consumer Protection , and Health
Senator Rosalyn H. Baker, Chair

Presented By: Tim Lyons, President

Subject: S.B. 2005 – RELATING TO THE CONTRACTORS LICENSE BOARD.

Chair Baker and Members of the Committee:

I am Tim Lyons, President of the Subcontractors Association of Hawaii. The SAH represents the following nine separate and distinct subcontracting associations and we do not support this bill.

HAWAII FLOORING ASSOCIATION

ROOFING CONTRACTORS ASSOCIATION OF HAWAII

HAWAII WALL AND CEILING INDUSTRIES ASSOCIATION

ELECTRICAL CONTRACTORS ASSOCIATION OF HAWAII

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 are perhaps most concerned with the proposed new language in Section 444-3(b)(1)(B) which specifies that the five (5) specialty contractors seated shall not hold a general engineering or general building contractors license.

It is a fact that many subcontractors or specialty contractor licensees also hold "B" general building contractor's licenses for the convenience of being able to bid on jobs which involve a variety of trades or different license disciplines.

As an example, a specialty contractor may primarily do business in one particular field however a proposed job calls for not only work in that field but additionally work in three (3) or four (4) other fields. If the specialty contractor happens to hold a general contractors license, he can bid as a general contractor, list himself as the specialty contractor doing that work and also list other subcontractors as doing the other required specialty work. In this manner he is able to get the job. Without that "B" license he is subject to a whole different set of marketing strategies. We see no problem with that particular way of bidding and in fact many subcontractors have obtained their general contractors license for this very reason however again, they primarily act as subcontractors.

To disqualify them merely because they happen to hold a general contractors license seems to us discriminatory particularly in light of the fact that they act 90% or 95% of the time as specialty contractors.

To eliminate all the subcontractors who happen to hold an "A" or "B" license, active or inactive, seems to limit severely the pool of eligible and willing appointees. It seems to us that those seats are there so that subcontractors get the opportunity for proper representation and input...it should

be irrelevant that they also hold or do not hold a general engineering or general building contractors license as long as they primarily act as subcontractors.

It seems that these restrictions will make it even harder for the Board and the Governor to find qualified people who have the time and are willing to serve in these positions. We don't think that is desirable.

Lastly, we are not quite sure what the justification is to lengthen the experience requirement from being in the industry from five to ten years as we have not seen or heard of any difficulties arising from this prerequisite.

Based on that, we cannot support this bill as written.

Thank you.

SB-2005

Submitted on: 2/20/2018 12:41:47 PM

Testimony for CPH on 2/23/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Karin Nomura	Individual	Support	No

Comments:

Recently an incident occurred that brought to my attention, how dangerous projects can be (even for those not directly involved), and the limited amount of resources one has. With this came the regulations currently in place and the type of disciplinary actions that might be taken. I was disappointed that inspection of the structure was unnecessary (though it does seem as if inspection started occurring); the structure just barely making 6 months, is already missing pieces and seems structurally unsound; with the discipline being a fine - which I'm told is usually paid, but that they just go out and do it again, so seems ineffective in protecting the public from further damage. (Especially as according to the IBC/IRC a request can be made to the property to request verification of the stability of the structure the permit was granted for, especially if the inspector is mentioning "scary" and "dangerous". Told this would not occur so, felt the "public safety" wasn't taken seriously enough.) With while the boards main objective may be to ensure licensed and qualified contractors are available to the general public, feel that the regulatory and disciplinary portions are not enforced enough. So, hope that if it's put in writing, the component of public safety will be enforced by the board in future. With if the agency's require the publics assistance, which I'm told they do to regulate and notify them of, that a look into how the public can distinguish the difference and effectively assist would be helpful.

**PRESENTATION OF THE
CONTRACTORS LICENSE BOARD**

TO THE SENATE COMMITTEE ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH

TWENTY-NINTH LEGISLATURE
Regular Session of 2018

Friday, February 23, 2018
10:00 a.m.

**TESTIMONY ON SENATE BILL NO. 2005, RELATING TO THE CONTRACTORS
LICENSE BOARD.**

TO THE HONORABLE ROSALYN H. BAKER, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is Peter H.M. Lee, and I am the Chairperson of the Contractors License Board ("Board") Legislative Committee. Thank you for the opportunity to testify in strong opposition to S.B. 2005, which is a companion to H.B. 1618.

This measure proposes to change the qualifications of each Board member. The Board strongly opposes this measure for the following reasons:

1. New qualifications for contractor board members.

Currently, contractors who wish to serve on the Board must be actively engaged in the contracting business for five years preceding the date of their appointment to the Board. This bill proposes to increase this requirement to ten years. The proposed requirement seems excessive and unwarranted because a licensed contractor has already demonstrated at least four years of supervisory experience in the field to qualify for a contractor's license. In addition, five years of being actively engaged in the contracting business are required to be eligible to serve on the Board. The Board believes that five years of active engagement in the contracting business are sufficient to carry out board member duties and make meaningful board contributions.

Further, increasing the number of years to be actively engaged in the contracting business will reduce the number of qualified contractors eligible to serve on the Board. Board members are volunteers who give their time and expertise to, among other things, review applications, respond to scope of work inquiries, and amend board administrative rules. It is difficult to find contractors who can take time from work for as

many as three days a month to conduct board business, who are not pursuing their own agendas, and who are not biased in their decision-making on board matters.

2. New requirements for specialty contractor board members.

This bill also proposes to restrict specialty contractor board members from holding general contractor's licenses. 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 on 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 have only specialty contractor's licenses.

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 has 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.

3. Requirements for public board members.

In addition to the above changes, this bill also prohibits public members from having any family member who is a licensee and having any financial interest in the business of any licensee of the Board. 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 Hawaii Revised Statutes ("HRS") chapter 84. For example, 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, board member's spouse, or board member's dependent child

has a financial interest. The proposed language includes persons in the term “any family member,” which greatly exceed those addressed by the Ethics Code. For this reason, the language is unwarranted.

4. Specifying the duty of the Board and reference to the definitions of the various contractor classifications.

The new proposed subsections (e) and (f) are not necessary because HRS section 444-4 and Hawaii Administrative Rules section 16-77-2 set forth the primary intent of the Board as protecting the health, safety, and general welfare of the public. Further, HRS chapter 444 defines contractor license classifications.

Thank you for the opportunity to testify in strong opposition to S.B. 2005.