

Testimony of the Contractors License Board

Before the
House Committee on Labor and Public Employment
Tuesday, January 29, 2019
9:00 a.m.
State Capitol, Conference Room 309

On the following measure:
H.B. 156, RELATING TO CONTRACTORS LICENSE BOARD

Chair Johanson and Members of the Committee:

My name is Candace Ito, and I am the Executive Officer of the Contractors License Board (Board). The Board has not had an opportunity to review and discuss this bill at a publicly noticed Board meeting; however, the Board has strongly opposed similar measures in the past.

The purposes of this bill are to: (1) clarify the qualifications for membership for the Board; and (2) specify that the Board must prioritize the protection of the public above all other considerations when exercising its functions.

1. New requirements for specialty contractor Board members.

This bill proposes to restrict the specialty contractor Board members from holding a general contractor's license. This restriction is unreasonable and unnecessary. More often, the Board finds 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. Due to many specialty contractors having other types of contractor's licenses, including general contractor's licenses, it is unreasonable to require specialty contractor Board members to have only 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 toward general contractors or harmed the public. All Board members, regardless of the type(s) of contractor's

licenses they hold, are committed to protecting the public and neutral in their decision-making. Thus, this proposed amendment is unnecessary.

2. Requirements for public Board members.

This bill also prohibits public Board members from having an immediate family member who is a licensee and having any financial interest in the business of a person who holds a license. This amendment appears unnecessary, given the conflict of interest provisions that already exist in Hawaii Revised Statutes 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).

3. Specifying the duty of the Board.

Proposed subsection 444-4(a) is unnecessary because Hawaii Administrative Rules section 16-77-2 sets forth the primary intent of the Board as protecting the health, safety, and general welfare of the public.

Thank you for the opportunity to testify on this bill.

HB-156

Submitted on: 1/28/2019 8:53:42 AM

Testimony for LAB on 1/29/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Oahu County Committee on Legislative Priorities, Democratic Party of Hawai'i	Support	No

Comments:

SAH - Subcontractors Association of Hawaii

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January 29, 2019

LATE

Testimony To: House Committee on Labor & Public Employment
Representative Aaron Ling Johanson, Chair

Presented By: Tim Lyons, President

Subject: H.B. 156 – RELATING TO CONTRACTORS LICENSE BOARD

Chair Johanson and Members of the Committee:

I am Tim Lyons, President of the Subcontractors Association of Hawaii. The Subcontractors Association represents the following nine separate and distinct contracting associations and they are:

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 are primarily opposed to this bill.

The bill would specify that the five (5) specialty contractors that are currently designated on the Contractors License Board could not have general engineering nor general building contractor licenses. We find that to be a ridiculous clause.

There are many specialty contractors who happen to hold a "B" license because of the uniqueness of the Contractors Licensing Law and the application of those laws in the procurement process. As an example, in some instances it has been determined that where a job has been packaged with more than two (2) sub-specialties, a general contractors license is necessary in order to bid on the project. For the mere convenience of marketing in an efficient manner, the specialty contractor then bids as a B contractor and subcontracts the specialty job to himself. There is absolutely nothing illegal about this nor imprudent about it.

There would also be nothing imprudent about that individual sitting on the Contractors License Board as a specialty contractor. It may well be that this individual performs 90% or 95% of all their jobs as a specialty contractor and therefore would hold the views of specialty contractors as primary.

Therefore we have a difficult time seeing the logic of this bill.

We do however have little problem with Section 2 of the bill regarding the priority of Board members being that of protection of the public. Based on the above, we cannot support this bill.

Thank you.

LATE

IRONWORKERS STABILIZATION FUND

January 29, 2019

Aaron Johanson, Chair
Committee on Labor and Public Employment
House of Representative
State Capitol
415 S. Beretania Street
Honolulu, Hawaii 96813

Dear Honorable Chair Johanson and Members of the Committee Labor and Public Employment:

Re: Strong Support for HB156 – Relating to Contractors License Board

We are in strong support of HB 156, Relating to Contractors License Board; that ensures a fair representation on the Contractors License Board.

At first, it may appear that this 13-member board is balanced and would represent and protect the interests of the public which is the cornerstone of HRS Chapter 444, relating to the Contractors License Board. However, in close analysis, the present 13-member board does not provide the protection to the general public as envisioned by the legislature when HRS 444 was initially formulated in 1957 as Act 305.

In practice, in more cases than not, the specialty contractors who sit on the board also possess general engineering or general building contractors licenses. This being the case, it would only be logical for these specialty contractors who sit on the board to exercise their powers as general contractors rather than specialty contractors on issues arising before the board. As such, we believe that those who are appointed should be only specialty contractors.

As also envisioned by HRS Chapter 444, the three non-contractors are supposed to represent and protect the general public in terms of public safety. That is why we believe that the non-contractors should have no affiliations with any construction firm. For example, one member of the non-contractor could be from AARP so they can have a voice to protect their membership.

We believe it is about time for the Contractors License Board to be equitably constituted to truly protect the general public in terms of public safety.

Again we strongly support this measure for the general public of Hawaii. Thank you for your time and consideration.