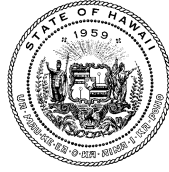


DAVID Y. IGE
GOVERNOR



CURT T. OTAGURO
COMPTROLLER
AUDREY HIDANO
DEPUTY COMPTROLLER

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

P.O. BOX 119, HONOLULU, HAWAII 96810-0119

WRITTEN TESTIMONY
OF
CURT T. OTAGURO, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
COMMITTEE ON FINANCE
ON
FEBRUARY 22, 2019, 12:30 PM
CONFERENCE ROOM 308, STATE CAPITOL

H.B. 81 H.D. 1
RELATING TO CONTRACTORS.

Chair Luke, Vice Chair Cullen, and Members of the Committee, thank you for the opportunity to submit testimony on H.B. 81 H.D. 1.

The Department of Accounting and General Services (DAGS) has strong concerns that the proposed legislation changes the intent of Section 444-8(c), Hawaii Revised Statutes. The proposed revision to Section 444-8(c) only applies when a specialty contractor is functioning as a subcontractor. This creates ambiguity and leaves the specialty contractor's ability to function as a prime contractor on a project unaddressed.

Thank you for the opportunity to submit testimony on this matter.

Testimony of the Contractors License Board

**Before the
House Committee on Finance
Friday, February 22, 2019
12:30 p.m.
State Capitol, Conference Room 308**

**On the following measure:
H.B. 81, H.D. 1, RELATING TO CONTRACTORS**

Chair Luke and Members of the Committee:

My name is Candace Ito, and I am the Executive Officer of the Contractors License Board (Board). The Board strongly opposes this bill.

The purposes of this bill are to: (1) prohibit the performance of incidental and supplemental work outside the scope of licensure by a specialty contractor acting as a subcontractor on any project requiring the seal or stamp of a licensed structural engineer; and (2) specify that the performance of work in certain crafts or trades shall not be considered incidental and supplemental. H.D. 1 amends this measure by changing its effective date to January 1, 2050, to encourage further discussion.

The Board believes too many variables exist in construction work to carve out specialty classifications that cannot be performed as incidental and supplemental work. The Board respectfully submits that its Final Order Upon Remand issued October 18, 2013 (BFO)¹, should remain the current standard in the construction industry for incidental and supplemental work.

In addition, the Board respectfully submits that the limit of incidental and supplemental work that all specialty contractors can perform has already been established by the Hawaii Supreme Court in District Council 50 v. Lopez, 129 Hawaii'i 281, 298 P.3d 1045 (2013) (DC 50). Among other things, the Court in DC 50 interpreted the term "incidental and supplemental" in Hawaii Revised Statutes chapter 444 to be less than a majority. The Board complied with this directive and interpreted less than a majority to mean less than 50 percent. The Board also determined that to

¹ See In the Matter of the Petition for Declaratory Relief of District Council 50 of the International Union of Painters and Allied Trades and Aloha Glass Sales & Service, Inc., CLB-DR-2006-2, for the BFO.

qualify as incidental and supplemental work, that work must be subordinate to, directly related to, and necessary for the completion of the work of greater importance that is within the scope of the licensee's license (i.e., the primary work the specialty contractor is licensed to perform), and that work must represent less than 50 percent of the project (as measured in relation to the project's total cost or extent).

Since October 2013, the Board has consistently applied this standard to numerous scope of work inquiries. The Board carefully considers each inquiry pertaining to incidental and supplemental work and studies each project's plans and specifications. The Board considers many factors, including: life safety; cost; extent of work; number of man hours; amount of materials involved; proximity of other specialty contracting work to the primary work; and whether the work is less than a majority of the project. The Board's current implementation of its BFO is comprehensive, fair, and protects the public's health and safety.

Lastly, the bill's restriction of incidental and supplemental work to specialty contractors acting as subcontractors eliminates the ability of specialty contractors acting as prime contractors to perform any incidental and supplemental work.

Thank you for the opportunity to testify on this bill.

SAH - Subcontractors Association of Hawaii

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

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

February 22, 2019

Testimony To: House Committee on Finance
Representative Sylvia Luke, Chair

Presented By: Tim Lyons, President

Subject: H.B. 81, HD 1 – RELATNG TO CONTRACTORS.

Chair Luke 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 contracting trade organizations.

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 opposed to this bill as written.

We do not oppose the intent of this bill however we have noticed only recently the four (4) words in Section 1, Subsection c that reads "acting as a subcontractor". Those little words prohibit a specialty contractor from acting as a prime contractor on a job and subbing the specialty work to himself. We don't think that was the intent of this bill and although we were given assurances that this would change, it has not changed in either of the last two (2) Committees. Therefore we oppose the bill.

We would respectfully ask this Committee to consider deleting those words in the first part of the bill and then we have no problem with the remainder of the bill.

Thank you for your consideration.

HB-81-HD-1

Submitted on: 2/21/2019 9:46:40 AM

Testimony for FIN on 2/22/2019 12:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Arnold	Ironworkers Stabilization	Support	Yes

Comments:

HB-81-HD-1

Submitted on: 2/20/2019 11:33:18 AM

Testimony for FIN on 2/22/2019 12:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Karin Nomura	Individual	Support	Yes

Comments:

As someone who's been damaged by another party's use of what now seems to be a supplemental or incidental project loop hole, feel that if a project requires the stamp of a professional that it must be handled by a professional in that field. Also hope that this includes, not accepting photo's or video alone on dangerous projects, when they are not onsite and using unlicensed and uninsured contractors to actually build the projects. (as apparently this happens frequently)



LATE

Luna O Na Papa Alakai

Committee on Finance

Pelekikena
A. Makana Paris

Friday, February 22, 2019
12:30 pm Conference Room 308

Hope Pekekikena
Ekahi
Randi Fernandez

State Capitol
415 South Beretania Street

Hope Pelekikena
Elua
Matthew Gumapac

Re: HB81HD1 - RELATING TO CONTRACTORS

Aloha Chair Sylvia Luke, Vice-Chair Ty Cullen, and members of the House
Committee on Finance:

Puuku
Denise Kekuna

The Prince Kūhiō Hawaiian Civic Club (PKHCC) **SUPPORTS** HB81HD1. This bill prohibits the performance of incidental and supplemental work outside the scope of licensure by a specialty contractor on any project requiring the seal or stamp of a licensed structural engineer and specifies that the performance of work in certain crafts or trades shall not be considered incidental and supplemental. This bill closes a loophole that currently allows contractors to do work outside of their scope of licensure by prohibiting them from doing work that is critical to worker and public safety. Steel erection, reinforcing steel, post-tension, reinforced concrete, structural caprprentry, and other related areas covered by the structural engineer's purview are some of the most dangerous construction work that can lead to worker injury, property damage, and even fatalities. Without closing the loophole, companies and persons not appropriately licensed and experienced would be able to do work covered by the purview of a structural engineer. Does it make sense to allow a C-51 Tile Contractor to put up structural walls for buildings in order to place the tile upon those walls? Does it makes sense to allow a C-42 Roofing contractor to put up steel beam supports in order to to do roofing? Arguably, the current loophole would allow such. Thus, allowing contractors without proper licenses to do such work as "incidental and supplemental" runs contrary to the purpose and spirit of the Contracting statutes, that is, the safety of the public and workers. Let's prevent avoidable injuries and fatalities with such progressive legislation.

Kakauolelo Hoopaa
Sai Furukawa

Kakauolelo Hooholo
Palapala
Kamuela Werner

Pelekikena Hala
Koke
Yvonne 'PeeWee'
Ryan

Luna Alakai
Kuni Agard
Puamana Crabbe
Kanani Pali
Marlene Sai
Jennifer Smythe
Bruce Wong

Mailing Address:
P.O. Box 4728
Honolulu ~ Hawaii
96812

Founded in 1964, PKHCC was organized to promote the education and social welfare of people of Hawaiian ancestry and objectives include supporting high ethical standards in business, industry and the professional fields of enterprise.

PKHCC urges the committee to **PASS** HB81HD1.

www.pkhcc.org

Me ke aloha,


A. Makana Paris
Pelekikena
president@pkhcc.org

Founded in 1964
by Liliuokalani
Kawananakoa Morris