

Testimony of the Contractors License Board

**Before the
House Committee on Consumer Protection and Commerce
Wednesday, February 13, 2019
2:00 p.m.
State Capitol, Conference Room 329**

**On the following measure:
H.B. 838, H.D. 1, RELATING TO CONTRACTORS**

Chair Takumi 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 but will do so at its publicly noticed meeting on February 15, 2019.

The purpose of this bill is to exempt an eleemosynary organization from the requirement of licensure as a contractor upon meeting certain conditions.

Thank you for the opportunity to testify on this bill.



Hawaii Chapter

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February 12, 2019

TO: House Committee on Commerce & Consumer
Protection

Rep. Roy M. Takumi, Chair
Rep. Linda Ichiyama, Vice Chair

RE: Testimony in **OPPOSITION** to HB 838 Relating
to Contractors.

Chair Takumi, Vice Chair Ichiyama, and members of
the committee.

Thank you for the opportunity to testify. I
am Malcolm Barcarse, Jr. the chair of the
Legislative Committee for Associated Builders &
Contractors Hawaii Chapter, an organization that
comprises over 150 members throughout the
contraction industry.

We stand in opposition to this bill as we feel
that to protect public health, safety and to ensure
compliance with State laws it is necessary that all
organizations whether for profit or nonprofit shall
be duly licensed to do public works projects.

We feel that the requirement that the
organization has done similar types of projects or
operations for ten consecutive years reaffirms that
such organization has to have requisite experience
to perform the work. Such an organization with
this level of experience should be able to apply for
a contractor's license like all other organizations.

Furthermore, this exemption from the
contractor's license requirements further muddies
the waters in an already complicated State
Procurement Environment. Despite the fact that
this bill is being inserted into HRS Sec 444
concerning contractors and the contractor's license



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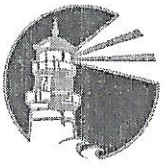
Kennith "Ken" Wilson
Education Director

Justin Ou
CEF Service Coordinator

America's Best Contractors

board, this provision actually is most relevant to public works projects under HRS Section 104 as this exception only pertains to public works project or operation. Our concern is that creates uncertainty in the procurement process as contractors can form a nonprofit arm, or in case of those that already nonprofits could use this provision to get around contracting license requirements and/or get around the subcontractor's license listing requirement, which would lead to more bid protests and construction delays.

Thank you for the opportunity to testify



COMMITTEE ON CONSUMER PROTECTION & COMMERCE

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Rep. Linda Ichiyama, Vice Chair

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Rep. Sharon E. Har	

AMENDED NOTICE OF HEARING

DATE: Wednesday, February 13, 2019
TIME: 2 p.m.
PLACE: Conference Room 329

**TESTIMONY OF THE OCEAN TOURISM COALITION IN STRONG SUPPORT OF
HB838 HD1**

Chair Takumi, Vice Chair Ichiyama and members of the CPC Committee:

My name is Jim Coon. President of the Ocean Tourism Coalition (OTC) Speaking in Strong Support of HB 838 HD1. The OTC represents the approximately 300 commercial boating companies operating primarily out of DOBOR Small Boat Harbors State wide.

The OTC has been an advocate for Day Use Moorings (DUM) for over three decades. During this period Day Use Moorings have been installed in key dive snorkel spots around the State. There are many more areas that still need additional DUM's but have not obtained the funding to put these in. DUM's are the most effective means to prevent anchor damage to reefs.

This measure would help solve an impasse that currently exists within State Government allowing a very specific Public/NonProfit-Private Partnership to address a long standing need in our near shore waters to install and maintain the State's Day Use Moorings. This would enable DLNR to contract with a non-profit entity without going through the very expensive and time consuming procurement process.

By providing this important public service through this type of arrangement, the public receives significant benefits. DLNR would meet its mandate to protect coral reefs from anchor damage while at the same time providing safe public access to public trust resources, and the non-profit could leverage its non-profit status to

provide the services at a reduced rate to the benefit of the public. By working in this public private partnership, the State will receive high-quality specialized services to protect coral reefs and provide public access to these important resources.

Please Pass HB 838 HD1 and help protect the reefs in our near shore waters.

Sincerely,

A handwritten signature in black ink that reads "James E. Coon". The signature is written in a cursive style with a large, sweeping initial "J".

James E. Coon, President

Ocean Tourism Coalition

HB-838-HD-1

Submitted on: 2/12/2019 8:31:09 PM

Testimony for CPC on 2/13/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Carolyn Stewart	Malama Kai Foundation	Support	No

Comments:

As President of Malama Kai Foundation, I strongly support HB 838. While this bill likely has applications in many areas where the state would benefit from public-private (non-profit) partnerships, I will describe how its application will benefit the State in our area of expertise – protection of coral reefs and nearshore resources.

Malama Kai Foundation, a Hawaii-based non-profit organization, has been responsible for the installation and maintenance of the State’s day use mooring buoy system of over 200 public buoys since 1991. Day use mooring buoys are the most effective means to prevent anchor damage to coral reefs. We have raised monies to support this effort through grants and private donations, with a relatively small amount of funding from the State since 1991. More buoys are needed in high use areas where boats continue to drop anchor, but we as a non-profit don’t have the resources, capacity or even the mandate to do this alone.

This is a perfect opportunity for the public- private partnership that HB 838 would allow in these specialized circumstances where the state has a need and a non-profit organization (in this case, Malama Kai Foundation) has long-standing expertise. The definition of “contractor” does not really fit the type of work required for day use mooring buoy installation and maintenance. HB 838 would enable Malama Kai Foundation to be exempted from licensure and other requirements of a contractor and facilitate our partnership with DLNR for work on the day use mooring buoy system.

By providing this important public service through this type of arrangement, the public receives significant benefits. DLNR would meet its mandate to protect coral reefs from anchor damage while at the same time providing safe public access to public trust resources, and Malama Kai Foundation could leverage its non-profit status to provide the services at a reduced rate to the benefit of the public. By working in this public-private partnership, the State will receive high quality specialized services to protect coral reefs and provide public access to these important resources.

Please pass HB 838. Mahalo.

HB-838-HD-1

Submitted on: 2/12/2019 10:26:49 PM

Testimony for CPC on 2/13/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jeff Leicher	Hawaii Island Recreational Scuba Association (HIRSA)	Support	No

Comments:

We strongly support HB838. Since 1987, I have been part of a group of volunteers who have installed and maintained the Day-Use Mooring Program in the State of Hawaii. This program is a great example of a group of competent volunteers who have performed work that could not have been done by licensed contractors. Neither the State nor the non-profit (currently Malama Kai Foundation) had the funding to hire licensed contractors to install and maintain these moorings. Both the commercial dive tourism industry (and the hotels, restaurants, airlines, etc, that benefit from tourism) and the private sector (the public citizens who enjoy a healthy reef ecosystem) have benefitted enomously from having the moorings in place to prevent anchor damage at hundreds of popular reefs statewide. I, and the other volunteers in the Day-Use Mooring Program are skilled professional divers, but do not hold contractor's licenses, as our primary business is teaching and guiding recreational divers. There are likely other non-profits performing similar good deeds that benefit the state tht would benefit from the passing of this bill. Perhaps another example is some of the playgrounds that have been constructed by community volunteers in local parks. Please pass HB838 so that we can continue to install and maintain the moorings which protect acres of healthy coral from becoming lifeless fields of rubble.

HB-838-HD-1

Submitted on: 2/12/2019 10:38:30 PM

Testimony for CPC on 2/13/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Teri Leicher	Jack's Diving Locker	Support	No

Comments:

Aloha,

My name is Teri Leicher, managing partner of Jack's Diving Locker in Kona Hawaii. I am also currently active as a volunteer board or committee member with several community groups such as the Hawaiian Island Recreational Scuba Association, the Kona Kohala Chamber of Commerce, Malama Kai Foundation and OTC.

I have also been actively working in a public private partnership with regards to our State Day Use Mooring Program, which was developed in 1986 to protect Hawaii's fragile coral reef systems.

My company strongly supports HB 838.

While this bill likely has applications in many areas where the state would benefit from public-private (non-profit) partnerships, its application will benefit the State in our area of expertise – protection of coral reefs and nearshore resources. This bill would allow the State to continue to use the expertise of businesses and non profits which in the long run, will save the State millions of dollars.

As an example...

Malama Kai Foundation, a Hawaii-based non-profit organization, was formed and has been responsible for the installation and maintenance of the State's day use mooring buoy system of over 200 public buoys since 1991.

Day use mooring buoys are the most effective means to prevent anchor damage to coral reefs. We have raised hundreds of thousands of actual dollars to support this effort through grants and private donations, with a relatively small amount of funding from the State since 1991.

The buoys need to be maintained and more buoys are needed in high use areas where boats continue to drop anchor. We don't have the mandate to do this alone...and the State needs the help of groups like ours to help with the planning and implementation, as it is too large a task to do alone.

This is a perfect opportunity for the public-private partnership that HB 838 would allow in these specialized circumstances where the state has a need and a non-profit organization (in this case, Malama Kai Foundation) has long-standing expertise.

HB 838 would enable DLNR to contract with Malama Kai Foundation (which would sub-contract the work to fully-vetted dive companies trained in the state-approved buoy installation and maintenance procedures) without going through the arduous and more costly procurement process.

Currently, several dive companies have folks who have been trained by Malama Kai Foundation's State approved trainers (as per DLNR's 10 year plan and maintenance manual). These folks have been ... and will continue to, willingly provide the service at a discounted rate because the work is being done through a nonprofit For a good cause ... to protect our coral reefs.

In addition, the definition of "contractor" does not really fit the type of work required for day use mooring buoy installation and maintenance.

By providing this important public service through this type of arrangement, the public receives significant benefits and the State can use the money it has saved for other important projects.

DLNR would meet its mandate to protect coral reefs from anchor damage while at the same time providing safe public access to public trust resources. Malama Kai Foundation could leverage its non-profit status to provide the services at a reduced rate to the benefit of the public.

By working in this public-private partnership, the State will receive high-quality specialized services to protect coral reefs and continue to provide access to these important resources.

Please pass HB 838.

Mahalo,

Teri Leicher

Jack's Diving Locker

75-5813 Alii Drive

Kailua-Kona, Hawaii

USA

HB-838-HD-1

Submitted on: 2/13/2019 9:24:24 AM

Testimony for CPC on 2/13/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Zachary LaPrade	Calypso Charters	Support	No

Comments:

HB-838-HD-1

Submitted on: 2/13/2019 8:39:40 AM

Testimony for CPC on 2/13/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Riley E. Coon	Individual	Support	No

Comments:

I support Bill HB838 as this will allow qualified non-profits to contract with the state. it is a complete win-win as the state will have more options for whom to contract with, which can help ensure better services and lower costs which will help the state save taxpayer money!

Please allow this bill to move forward as this is a GOOD thing for Hawaii.

HB-838-HD-1

Submitted on: 2/13/2019 9:39:19 AM

Testimony for CPC on 2/13/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Denver Saxton Coon	Trilogy Corporation	Support	No

Comments:

Trilogy Excursions strongly supports this bill. This will allow greater use of the many skills and expertise of non-profit organizations while also having the potential benefit of greater efficiency for various state projects.