

HB838 HD1

Measure Title: RELATING TO CONTRACTORS.
Report Title: Contractors; Eleemosynary Organizations
Description: Exempts an eleemosynary organization that meets certain conditions from licensure and other requirements of a contractor. (HB838 HD1)
Companion:
Package: None
Current Referral: CPH
Introducer(s): TARNAS, ICHIYAMA, JOHANSON, QUINLAN, TAKAYAMA

Testimony of the Contractors License Board

**Before the
Senate Committee on Commerce, Consumer Protection, and Health
Thursday, March 14, 2019
9:00 a.m.
State Capitol, Conference Room 229**

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

Chair Baker and Members of the Committee:

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

The purpose of this bill is to exempt an eleemosynary organization that meets certain conditions from licensure and other requirements of a contractor.

The Board believes that this proposed exemption will increase the likelihood of consumer harm by allowing unlicensed individuals who are members of an eleemosynary organization that has not met the Board's experience, examination, and insurance requirements to legally perform construction work. The Board's requirements protect the health, safety, and welfare of persons contracting with the construction industry and afford the public effective and practical protection against the incompetent, inexperienced, unlawful, and unfair practices of contractors. Additionally, consumers will be adversely affected because they will not be able to file complaints with the Regulated Industries Complaints Office for poor workmanship or other problems.

Thank you for the opportunity to testify on this bill.

HB-838-HD-1

Submitted on: 3/10/2019 8:35:01 AM

Testimony for CPH on 3/14/2019 9:00:00 AM

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

Comments:

It is my understanding this statute will allow non-profit organizations, with experience, to complete public works projects, ***such as day use mooring maintenance***. This is so necessary, especially when the state is unable to complete projects. So many projects don't get done because the state has budgetary and legal limitations. Non-profits are a perfect entity to complete these projects because they aren't motivated by profit.

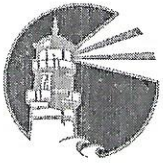
HB-838-HD-1

Submitted on: 3/10/2019 8:35:37 AM

Testimony for CPH on 3/14/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Phil Kasper	Testifying for Malolo Charters	Support	No

Comments:



COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair

NOTICE OF HEARING

DATE: Thursday, March 14, 2019
TIME: 9:00AM
PLACE: Conference Room 229

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

Chair Baker, Vice Chair Chang and members of the CPH 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.

The language in this bill is very narrow in scope and will not have a negative impact the construction industry but it will enable a very effective and proven system to continue to install and maintain the State Day Use Moorings. Please Pass HB 838 HD1 and help protect the reefs in our near shore waters.

Sincerely,



James E. Coon, *President* O.T.C.

HB-838-HD-1

Submitted on: 3/12/2019 1:19:31 PM

Testimony for CPH on 3/14/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Andrew Evans	Testifying for Capt. Andy's Sailing Inc	Comments	No

Comments:

Aloha fom Kauai,

Thank you for the oportunity to present testamony on this bill. I am generaly in support of this bill, but am unclear why you would want to limit the nonprofit organization that would donate valuable work to benifit the people of the state to "(ii) The organization has performed the same or substantially similar projects or operations for at least ten consecutive years; " With this condition removed other nonprofit organizations can gain experience to collectively help improve the reef environment and safety.

Thank you for your consideration

HB-838-HD-1

Submitted on: 3/12/2019 1:53:54 PM

Testimony for CPH on 3/14/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jeff Strahn	Testifying for Alii Nui Charters	Support	No

Comments:

We are in strong support of this bill so that non-profit can help do some of the work for government.

Thanks,

Jeff Strahn

General Manager

HB-838-HD-1

Submitted on: 3/12/2019 2:48:40 PM

Testimony for CPH on 3/14/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kristie Wrigglesworth	Testifying for PacWhale Eco Adventures	Support	No

Comments:

COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair

NOTICE OF HEARING

DATE: Thursday, March 14, 2019
TIME: 9:00AM
PLACE: Conference Room 229

TESTIMONY OF TRILOGY CORPORATION IN STRONG SUPPORT OF HB838 HD1

Chair Baker, Vice Chair Chang and members of the CPH Committee:

Aloha. My name is Denver Saxton Coon. I am general counsel for Trilogy Corporation dba Trilogy Excursions. Trilogy Excursions has been operating on the island of Maui and Lanai for over 45 years and is testifying in strong support to HB 838 HD1 for the purpose of allowing nonprofit organizations to install and maintain the State's Day Use Moorings in our near shore waters. 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.

In addition, I understand that there is concern from various groups regarding the language of HB 838 HD1 and that it may apply more broadly than intended. Accordingly, I would suggest language similar to the following to address this issue:

Any eleemosynary organization that has been certified to be tax exempt under sections 501(c)(1) or 501(c)(3) of the Internal Revenue Code of 1986, as amended, and intends to engage in a public works project or operation involving the installation or maintenance of a mooring system for vessels under 100 gross tons; provided that:¹

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

Mahalo.

Denver Saxton Coon
Trilogy Corporation
General Counsel
Denver.coon@sailtrilogy.com

¹ I am happy to provide additional information on why this language would not qualify as special legislation if such issue is raised.



**TESTIMONY TO THE SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION,
AND HEALTH
State Capitol, Conference Room 229
415 South Beretania Street
9:00 AM**

March 14, 2019

RE: HOUSE BILL NO. 838 HD 1, RELATED TO CONTRACTORS

Chair Baker, Vice Chair Chang, and members of the committee:

My name is Gladys Quinto Marrone, CEO of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii. Our members build the communities we all call home.

BIA-Hawaii is **opposed** to H.B. 838 HD 1, which proposes amend Chapter 444 HRS to exempt an eleemosynary organization that meets certain conditions from licensure and other requirements of a contractor.

We understand that the proposed bill attempts to address a specific situation where a non-profit (501c3), on behalf of a government agency, would be allowed to contract for services, without following the state procurement law, for the installation of day use mooring buoys around the state. The firms selected to install the buoys would be exempt from the requirements of Chapter 444 HRS. Currently, any work being done has been funded through grants and private donations with a small amount provided by the state.

If the state agency, in this case, the Department of Land and Natural Resources, will now be funding the program, we see no reason why this activity should be exempt from the procurement law and Chapter 444 HRS requiring work be done by licensed contractors.

We are opposed to H.B. 837 HD 1, and appreciate the opportunity to express our views on this matter.

HB-838-HD-1

Submitted on: 3/13/2019 8:04:06 AM

Testimony for CPH on 3/14/2019 9:00:00 AM

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

Comments:

As President of Malama Kai Foundation, I strongly support HB 838 HD1. 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 HD1 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 HD1 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 HD1. Mahalo.

HB-838-HD-1

Submitted on: 3/13/2019 9:49:20 AM

Testimony for CPH on 3/14/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
LiAnne Driessen	Testifying for The Blue'Aina Campaign	Support	No

Comments:

Aloha,

I am writing in strong support of HB838 to allow the non-profit Malama Kai to work with DLNR in maintaining our public moorings. I represent The Blue'Aina Campaign-- a community-based reef-cleanup Group on Maui that works in partnership with Trilogy Excursions (they donate their boat and Crew for our monthly cleanups). We rely on the day-use mooring system and have had Malama Kai as one of our NP recipients (we connect corporate sponsors to NPs) to educate our community volunteers on what is a mooring and why they are significant to reef health and sustainability. Having properly maintained day-use moorings is vital for public access to ocean resources. Malama Kai, along with many of the local boating operators on Maui, have done a great job keeping these moorings in safe, working order, for our public use. By having DLNR work with a Non Profit such as Malama Kai, would benefit the public greatly. DLNR will meet its mandate to protect our reefs from anchor damage while the non-profit can provide its niche knowledge and skillset at a cost-savings.

Mahalo for considering my testimony.

Sincerely,

LiAnne Driessen



Founded 1889

PLUMBERS AND FITTERS LOCAL 675 UNITED ASSOCIATION



March 13, 2019

Senator Rosalyn Baker, Chair
Senator Stanley Change, Vice Chair
Senate Committee on Commerce, Consumer Protection and Health
State Capitol, 415 South Beretania Street, Room 229
Honolulu, Hawaii 96813

LATE

Re: HB838, HD1 Relating To Contractors
Thursday, March 14, 2019 at 09:00 am

Aloha Chair, Vice-Chair, and Committee Members;

Chartered in 1919, the Plumbers and Fitters UA, Local 675 is one of the oldest organized labor unions in Hawai'i and one of three 'licensed' skilled-construction trades, steeped in a rich history as one of Hawai'i's construction-industry pioneers.

The Plumber and Fitters UA Local 675 and Business Manager Val Ceria, on behalf of its nearly 2,300 hard-working members and their families, would like to thank this Committee for allowing us to testify on HB838, HD1 which proposes to exempt eleemosynary organizations from chapter 444 (HRS) as it relates to contractor licensing laws and requirements.

Local 675 appreciates the intent of this measure to address specific issues raised by various stakeholders in the maritime industry as it relates to the maintenance and repairs of small boat harbors, moorings and piers, however we are concerned that HB838 HD1 as written, provides an overly broad exemption from chapter 444 (HRS) that may result in significant unintended consequences and adverse impacts to the construction industry and harm to the public due to potential unlicensed construction activity.

We understand that HB1460 HD1, currently scheduled for a hearing in the Senate Committee on Water and Land, directly addresses the concerns raised in this measure without creating broad sweeping impacts beyond the maritime industry. As such, we respectfully request that you HOLD this measure, and further recommend that HB1460 HD1 be used as the vehicle to accomplish the interested stakeholders objectives and outcomes.

Mahalo for the opportunity to testify on this measure.



Chamber of Commerce HAWAII

The Voice of Business

Testimony to the Senate Committee on Commerce, Consumer Protection, and Health

Thursday, March 14, 2019 at 9:00 A.M.
Conference Room 229, State Capitol

RE: HB 838 HD 1, RELATED TO CONTRACTORS

LATE

Chair Baker, Vice Chair Chang, and members of the committee:

The Chamber of Commerce Hawaii (“The Chamber”) is **opposed** to HB 838 HD 1, which proposes to amend Chapter 444 HRS to exempt an eleemosynary organization that meets certain conditions from licensure and other requirements of a contractor.

The Chamber is Hawaii’s leading statewide business advocacy organization, representing 2,000+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the “Voice of Business” in Hawaii, the organization works on behalf of members and the entire business community to improve the state’s economic climate and to foster positive action on issues of common concern.

We understand that the proposed bill attempts to address a specific situation where a non-profit 501 (c)(3) on behalf of a government agency, would be allowed to contract for services, without following the state procurement law, for the installation of day use mooring buoys around the state. The firms selected to install the buoys would be exempt from the requirements of Chapter 444 HRS. The work done to date has been funded through grants and private donations with a small amount provided by the state.

If the state agency, in this case, the Department of Land and Natural Resources would now be funding the program, we see no reason why this activity should be exempt from the procurement law and Chapter 444 HRS requiring work be done by licensed contractors.

Thank you for allowing us the opportunity to testify.

HB-838-HD-1

Submitted on: 3/13/2019 8:20:11 AM

Testimony for CPH on 3/14/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Brennan Henders	Individual	Support	No

Comments:

HB-838-HD-1

Submitted on: 3/13/2019 8:35:17 AM

Testimony for CPH on 3/14/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ginger Lucy	Individual	Support	No

Comments:

I support this bill as it provides an important public service through this type of arrangement, the public receives significant benefits. DLNR would be able to 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.

HB-838-HD-1

Submitted on: 3/13/2019 8:57:22 AM

Testimony for CPH on 3/14/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Karan Pohl	Individual	Support	No

Comments:

By utilizing Malama Kai, the public receives significant benefits. DLNR would be able to protect coral reefs from anchor damage and provide safe public access to public trust. 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 with Malama Kai, the State will receive high-quality specialized services to protect coral reefs and provide public access to these important resources.

HB-838-HD-1

Submitted on: 3/13/2019 11:16:31 AM

Testimony for CPH on 3/14/2019 9:00:00 AM

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

Comments:

Dear members of the Board,

I strongly support Bill HB838 DH1. This would allow the state to be able to contract with more businesses which is a good thing. This can lead to better accountability, efficiency, and allow Non-Profits to do contract work for the state. Ultimately this could potentially save the state taxpayers a lot of money and free up funds to be used elsewhere.

I understand the stance that certain labor unions may take in response to this bill as they may feel threatened with job security, but at the end of the day, if they are doing a good job and the state likes working with them I don't see any cause for concern and it could actually strengthen their working relationships.

Realistically what I do see this bill doing is to provide the state with a quicker and easier process for contracting out certain jobs that save taxpayers significant money.

For Example, the DLNR Department of Aquatic Resources is calling for the following funds:

\$400,000 to install 14 moorings - a Capital expenditure

\$300,000/ yr to inspect and repair existing moorings of moorings ONLY between Makena and Olowalu

\$310,000/ yr to fund a DAR monitoring team

To put this into perspective, the Malama Kai foundation CURRENTLY is able to inspect, service and repair/replace day use moorings in ALL of Maui County for about \$30,000 - \$50,000 per year because they use private donations and are able to find coordinate volunteer help, cars, and vessels for a lot of the work.

over the course of 10 years, this could equate to a savings of \$5.5M and come to the same result or even better result for prompt and accurate mooring repair work. It's wasteful and unnecessary.

Please consider these aspects when making your decision to grant this Bill and think of the positive implications that the people of Hawaii will benefit from.

Mahalo for your consideration,

Riley E Coon