

DAVID Y. IGE
GOVERNOR



SARAH ALLEN
ADMINISTRATOR
BONNIE KAHAKUI
ASSISTANT ADMINISTRATOR

**STATE OF HAWAII
STATE PROCUREMENT OFFICE**

P.O. Box 119
Honolulu, Hawaii 96810-0119
Tel: (808) 586-0554
email: state.procurement.office@hawaii.gov
<http://spo.hawaii.gov>
Twitter: [@hawaiispo](https://twitter.com/hawaiispo)

**TESTIMONY
OF
SARAH ALLEN, ADMINISTRATOR
STATE PROCUREMENT OFFICE**

**TO THE SENATE COMMITTEE ON
WAYS AND MEANS
April 3, 2019, 10:20 A.M.
HB838, HD1, SD1
RELATING TO CONTRACTORS**

Chair Dela Cruz, Vice-Chair Keith-Agaran, and members of the committee, thank you for the opportunity to submit testimony on HB838, HD1, SD1. The State Procurement Office's (SPO) offers the following comments:

Comment 1: This bill proposes to exempt a non-profit organization - that meets certain conditions and intends to engage in an operation involving the installation or maintenance of a mooring system for vessels under one hundred gross tons - from licensure requirements. According to Committee Report SSCR1396: "This measure will enable the Department of Land and Natural Resources to contract with a non-profit entity to install and maintain the State's day use mooring system without going through a very expensive and time-consuming procurement process." The procurement process would not be affected by this bill as there is no language that would exempt the installation or maintenance of the mooring system from the procurement code, HRS 103D.

Comment 2: Pursuant to Section 103D-405, HRS and Section 3-122-10, HAR, all specifications shall seek to promote and encourage competition, shall not be unduly restrictive, and provide a fair and equal opportunity to all suppliers able to meet the State's needs. The 10-year requirement, on page 3 lines 19-21, appears disproportionately high and seems to focus on a specific non-profit organization, which is in direct conflict of statutes and rules. SPO recommends allowing the subject matter experts, at the Department of Land and Natural Resources, to determine what the appropriate number years of experience would be necessary to install or maintain a mooring system.

Therefore, SPO recommends deleting in its entirety Page 3, lines 19 to 21:

~~(ii) The organization has performed the same or substantially similar projects or operations for at least ten consecutive years;~~

Thank you.

HB-838-SD-1

Submitted on: 3/29/2019 7:37:34 PM

Testimony for WAM on 4/3/2019 10:20:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Pride Work HI	Testifying for Pride at Work Hawaii	Oppose	Yes

Comments:

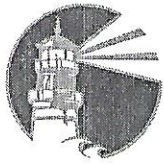
Aloha Senators,

The Pride at Work Hawaii, an affiliate of Hawaii State AFL-CIO, opposes the passage of HB 838 HD 1 SD 1.

Mahalo for your consideration and for the opportunity to testify in opposition of HB 838 HD 1 SD 1.

Mahalo,

Pride at Work - Hawaii



COMMITTEE ON WAYS AND MEANS

Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

NOTICE OF DECISION MAKING

DATE: Wednesday, April 3, 2019
TIME: 10:20AM
PLACE: Conference Room 211

TESTIMONY OF THE OCEAN TOURISM COALITION IN STRONG SUPPORT OF HB838 HD1,SD1

Chair Dela Cruz, Vice Chair Keith-Agaran and members of the WAM Committee:

My name is Jim Coon. President of the Ocean Tourism Coalition (OTC) Speaking in Strong Support of HB 838 HD1,SD1. 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,SD1 and help protect the reefs in our near shore waters.

Sincerely,

A handwritten signature in black ink, appearing to read "James E. Coon". The signature is written in a cursive style with a large initial "J" and "C".

James E. Coon

HB-838-SD-1

Submitted on: 3/31/2019 1:54:35 PM

Testimony for WAM on 4/3/2019 10:20:00 AM

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

Comments:

I represent a marine eco-tour operation in Maui County involving 6 vessels and currently employ 80 vessel staff. I am submitting this testimony in support of HB383.

Anchor damage is a key threat to coral reefs around the world according to the [International Coral Reef Initiative](#) and the [US Coral Reef Task Force](#). Day-use moorings have proven to be an effective tool to help prevent this coral damage by enabling boats to tie up to mooring buoys instead of dropping anchors onto the coral reefs.

There is already a specific partnership in place that allows our crucial day-use moorings in Maui County to be maintained. That partnership should continue as it is the best method and solution for protecting our marine resources. There is no other company or entity that has better knowledge, experience and skill than the service that has been doing it for the past numerous years. Please pass this bill and provide the best protection possible for our precious coral.

Thank you for your time and consideration of this testimony.

HB-838-SD-1

Submitted on: 4/1/2019 9:10:58 AM

Testimony for WAM on 4/3/2019 10:20:00 AM

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

Comments:

Strong support for tis bill.



**Testimony to the Senate Committee Ways and Means
Wednesday, April 3, 2019 at 10:20 A.M.
Conference Room 211, State Capitol**

RE: HB 838 HD1 SD1, RELATING TO CONTRACTORS

Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **opposes** HB 838 HD1 SD1, which proposes 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.

The bill was amended to narrowly apply only to mooring systems by inserting the following language:

"Clarifying that an eleemosynary organization that intends to engage in a public works project or operation involving the installation or maintenance of a mooring system for vessels under one hundred gross tons is exempt from contractor licensure, under certain conditions."

We believe if this bill moves forward, additional language should be added to insure the state is getting the "best value" for the work being done through a "direct negotiation" and not a competitive bid. Safeguards need to be in place to insure there is no collusion among the various eleemosynary organizations on the cost to install the moorings.



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.

Thank you for the opportunity to express our concerns on this matter.



**TESTIMONY TO THE SENATE COMMITTEE ON WAYS AND MEANS
State Capitol, Conference Room 211
415 South Beretania Street
10:20 AM**

April 3, 2019

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

Chair Dela Cruz, Vice Chair Keith-Agaran, 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, SD 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. The work done to date has currently been funded through grants and private donations with a small amount provided by the state.

The bill was amended to narrowly apply only to mooring systems by inserting the following language:

“Clarifying that an eleemosynary organization that intends to engage in a public works project or operation involving the installation or maintenance of a mooring system for vessels under one hundred gross tons is exempt from contractor licensure, under certain conditions.”

We believe if this bill moves forward, additional language should be added to insure the state is getting the “best value” for the work being done through a “direct negotiation” and not a competitive bid. Safeguards need to be in place to insure there is no collusion among the various eleemosynary organizations on the cost to install the moorings.

If the State agency, in this case, the Department of Land and Natural Resources will now be funding the program with public funds, 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. 838 HD 1, SD 1, and appreciate the opportunity to express our views on this matter.

Testimony of the Contractors License Board

**Before the
Senate Committee on Ways and Means
Wednesday, April 3, 2019
10:20 a.m.
State Capitol, Conference Room 211**

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

WRITTEN TESTIMONY ONLY

Chair Dela Cruz 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 from licensure and other requirements of a contractor an eleemosynary organization that meets certain conditions and intends to engage in a public works project or operation involving the installation or maintenance of a mooring system for vessels under one hundred gross tons.

The Board opposes allowing unlicensed individuals to perform this type of public works project because a mooring system could include a concrete block anchor, wharf, pier, or piles. The Board believes that individuals with experience in installing mooring systems and that would qualify the eleemosynary organization for the proposed exemption could instead apply for the C-68UW underwater construction contractor's license. This would accord with the Board's objective to 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.

For these reasons, the Board respectfully requests that this bill be held.

Thank you for the opportunity to testify on this bill.

IRON WORKERS STABILIZATION FUND

April 3, 2019
10:20 am

Committee on Ways and Means
Senate
Conference Room 211
State Capitol
Honolulu, Hawai'i 96813

Re: HB838 HD1 SD1 – Relating to Contractors

Aloha Chair Dela Cruz, Vice-Chair Keith-Agaran, and members of the Senate Committee on Ways and Means:

We **OPPOSE** HB838 HD1 SD1. This measure would exempt an eleemosynary organization that meets certain conditions and intends to engage in a public works project or operation involving the installation or maintenance of a mooring system for vessels under one hundred gross tons from licensure and other requirements of a contractor.

This special legislation is potentially unnecessary and duplicative, given that the Contractors License Board is already able to grant exemptions to licensure under HRS 444-2 section 9.

Further, by providing such an exemption, the legislature will setup a precedent by which other non-profit organizations may call for an exemption for work.

Finally, as we understand it, this measure seeks to ensure that our boating community is not disproportionately burdened in cost to do the repairs to mooring systems themselves. As such, a better vehicle to ensure that the State pays for mooring installation, maintenance, and repair would be HB1460 HD1 Relating to the Statewide Boating program, where the measure defines “state boating facility” to include any day-use mooring buoy system and authorizes funds from the Boating Special Fund to be used for any day-use mooring buoy system in the State.

Mahalo for your time and consideration.

Managing Director T. George Paris

TGP: MP

HB-838-SD-1

Submitted on: 3/31/2019 7:13:58 PM

Testimony for WAM on 4/3/2019 10:20:00 AM

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

Comments:

LATE

HB-838-SD-1

Submitted on: 4/3/2019 12:26:14 AM

Testimony for WAM on 4/3/2019 10:20:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Irish Barber	Testifying for IATSE Local 665	Oppose	No

Comments:

LATE

HB-838-SD-1

Submitted on: 4/3/2019 8:07:45 AM

Testimony for WAM on 4/3/2019 10:20:00 AM

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

Comments:

LATE

HB-838-SD-1

Submitted on: 4/3/2019 8:07:16 AM

Testimony for WAM on 4/3/2019 10:20:00 AM

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

Comments: