

Testimony of the Contractors License Board

**Before the
House Committee on Labor and Public Employment
Tuesday, February 11, 2020
9:10 a.m.
State Capitol, Conference Room 309**

**On the following measure:
H.B. 1799, RELATING TO CONTRACTORS**

Chair Johanson and Members of the Committee:

My name is Neal Arita, and I am the Legislative Committee Chairperson of the Contractors License Board (Board). The Board offers comments on this bill.

The purpose of this bill is to require a specialty contractor to obtain a C-48 specialty license (structural steel contractor) or sublicense if the performance of work on a contract requires a C-48 specialty license or sublicense and the specialty contractor does not have that specialty license or sublicense.

The Board will review this bill at its next publicly noticed meeting on February 14, 2020. In the meantime, the Board offers comments on this bill based on its strong opposition to similar bills in the past. The Board believes too many variables exist in construction work to carve out a specialty classification 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 Haw. 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 qualify as

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.

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.

Thank you for the opportunity to testify on this bill.

IRONWORKERS STABILIZATION FUND

February 10, 2020

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 on Labor and Public Employment:

Re: Strong Support for HB 1799 – Relating to Contractors

We are in Strong Support of HB 1799, Relating to Contractors.

First, it should be recognized that this bill states any new structural steel projects. We believe that there should not be any incidental or supplemental work for any structural steel projects. Since, structural steel is the backbone and supports the load of the building. We believe that it should only be done by licensed firms that have the required knowledge and expertise to erect and install the structure of a building.

Additionally, it is incomprehensible to believe that anybody in this State would let their family and friends live or work in buildings not built by licensed contractors. We firmly believe that if the building would be allowed to be built or fixed by an unlicensed contractor it may be subject to fail.

The licensing requirement was done to protect public safety. We don't see how it is in the best interest of the State to allow unlicensed contractors to do incidental or supplemental work on a structure of a building.

Consequently, we ask you support this bill as it will lead to the protection of the general public. Thank you for your consideration on this matter.

HB-1799

Submitted on: 2/8/2020 4:10:21 PM

Testimony for LAB on 2/11/2020 9:10:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Karin Nomura	Individual	Support	No

Comments: