

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. 838, 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 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 have not met the Board's experience, examination and insurance requirements to legally perform construction work. The Board is mandated by law to protect the public health, safety, and general welfare in dealing with persons engaged in the construction industry, and to provide the public with 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.



February 21, 2019

2019 ABC Executive Committee

Jeffrey Durham
C C Engineering &
Construction, Inc.
Chairman

Joseph Ferrara
Consolidated Painting, LLC
Past Chairman

Jarrett Walters
Hawaiian Building Maintenance

Ross Kawano
ECA, LLP
Secretary / Treasurer

2019 ABC Board of Directors

Malcolm Barcarse, Jr.
A&B Electric Co., Inc.

Lance Kakimoto
Morgan Stanley Smith Barney

Steve Jorgensen
Arita /Poulson General
Contracting, LLC

Paul Vierling
Hawaii Geophysical Services

Catherine Akau
PSH Insurance, Inc.

2019 ABC Advisory Council

Steve Nelson
Jacobsen Construction
Company

TO: House Committee on Finance
Rep. Sylvia Luke, Chair
Rep. Ty J.K. Cullen, Vice Chair

RE: Testimony in **OPPOSITION** to HB 838, HD1
Relating to Contractors.

Chair Luke, Vice Chair Cullen, 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

2019 CEF Board Executive Committee

Maurice Torigoe
M. Torigoe Plumbing
Chairman

Jeffrey Durham
C C Engineering &
Construction, Inc.
Past Chairman

Scott Massner
Helix Electric, Inc.
Chairman Elect 2020

David Tsuda
First Hawaiian Bank
Secretary / Treasurer

2019 CEF Board of Directors

Joseph Ferrara
Consolidated Painting LLC

John Caro
JSC Construction

Daryl Arita
Arita/Poulson
General Contracting, LLC

2019 ABC Hawaii Staff

Jonathan Young
President / CEO

Renee Rosehill
Operations Manager

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



**TESTIMONY TO THE HOUSE ON FINANCE
State Capitol, Conference Room 308
415 South Beretania Street
12:30 PM**

February 22, 2019

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

Chair Luke, Vice Chair Cullen, 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.

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: 2/20/2019 3:19:08 PM

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

Submitted By	Organization	Testifier Position	Present at Hearing
Zachary LaPrade	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.

LATE

HB-838-HD-1

Submitted on: 2/21/2019 5:43:13 PM

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

LATE

HB-838-HD-1

Submitted on: 2/22/2019 6:51:59 AM

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

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

Comments:

Dear Sir or Maddam,

I am in support of HB838. This bill would benefit the state and its people tremendously. It is a reasonable bill and allows the state more options when finding contractors and provides them the opportunity to practice good decision making in the best interest of our people. This can help lower costs for projects and opens the door for non-profits to provide more services to the state. For instance, the day use mooring program under a for profit commercial operations would costs millions of dollars just to maintain Maui Counties day use moorings. Malama Kai Foundation has been able to successfully achieve this over the past few years for only in the tens of thousands! This has been provided by private citizen and local company donations and is a wonderful example of Maui people coming together to support something that is effective, transparent, and makes sense.

Consider the Honolulu rail- I wonder if we'd be in the same situation we currently are with that project if this bill had been in place 10 years ago.

Mahalo for your consideration,

Riley E. Coon

Coon Brothers Inc.

LATE

HB-838-HD-1

Submitted on: 2/22/2019 11:32:06 AM
Testimony for FIN on 2/22/2019 12:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jeffrey Masatsugu	Individual	Oppose	No

Comments: