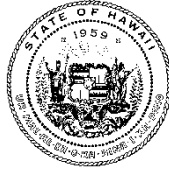


DAVID Y. IGE
GOVERNOR



BONNIE KAHAKUI
ACTING 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>

TESTIMONY
OF
BONNIE KAHAKUI, ACTING ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE SENATE COMMITTEE
ON
GOVERNMENT REFORM
FEBRUARY 5, 2021, 9:00 a.m.

HOUSE BILL 1355
RELATING TO STATE PROCUREMENT REFORM

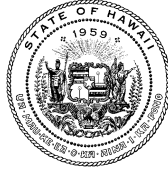
Chair McKelvey, Vice-Chair Wildberger, and members of the committee, thank you for the opportunity to submit testimony on HB1355. The State Procurement Office (SPO) offers the following comments and recommendation.

The bill proposes to add two new sections to the Chapter 103D, amending Section 103D-110 and Section 103D-206, Hawaii Revised Statutes (HRS). The SPO requires additional time to review the proposed changes to make any recommendation. It is unclear if there is additional information as Section 2 is missing.

In Section 5, the requirement is for the Chief Procurement Officer to adopt or amend rules to allow state procurement officers to request that cost or pricing data be certified upon the initial bid submission and not after the conclusion of contract negotiations. This conflicts with HRS Section 103D-202 - Authority and duties of the policy board. The Procurement Policy Board has the authority and responsibility to adopt rules, consistent with Chapter 103D, HRS.

Thank you.

DAVID Y. IGE
GOVERNOR



CURT T. OTAGURO
COMPTROLLER
AUDREY HIDANO
DEPUTY COMPTROLLER

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
P.O. BOX 119, HONOLULU, HAWAII 96810-0119

WRITTEN TESTIMONY
OF
CURT T. OTAGURO, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
HOUSE COMMITTEE ON GOVERNMENT REFORM

FRIDAY, FEBRUARY 5, 2021, 9:00 A.M.
CONFERENCE ROOM 309, STATE CAPITOL

H.B. 1355

RELATING TO STATE PROCUREMENT REFORM

Chair McKelvey, Vice Chair Wildberger, and members of the Committee, thank you for the opportunity to submit testimony with strong concerns regarding House Bill (H.B.) 1355, requiring: procurement officers to document whether to pursue a design professional for damages in the event of construction cost overruns; the chief procurement officer to compile a public list of construction companies or design professionals that are in noncompliance with the procurement code or owe penalties; the state procurement office to include training on the duty of procurement officers to hold design professionals liable for breaches of professional standards; and the legislative reference bureau to conduct a study on the laws and regulations relating to construction management policies and procedures applicable to the procurement code.

The bill presupposes that construction cost overruns are always or primarily due to the actions or inactions of design professionals, a position that is demonstrably false. A literature search regarding construction cost overruns on government capital projects shows that the major causes of construction cost overruns can be ranked as follows:

1. Inadequate budget estimates based on poorly defined scope
2. Unforeseen conditions and mid-project changes in regulatory requirements
3. Client/user requests that expand project scope
4. Use of a low-bid selection method, which can incentivize bidders' understatement of project costs
5. Negligence of design professionals (i.e., actions or inactions of design professional that fall outside the professional's normal duty of care)

Design errors/omissions contribute to a small percentage of change orders, but it is not common that such errors/omissions fall outside the design professional's duty of care and can be determined to constitute negligence. CIP agencies already have, and use, policies and procedures to assess or otherwise recover damages from design professionals whose actions or inactions are determined by the agency to constitute negligence, and to require design professionals to have insurance to ensure financial capability to cover the costs involved.

If this measure is passed, it is unlikely to withstand judicial challenge, as long and broadly established case law delineates an owner's (e.g., the State's) reasonable expectation of a design professional's duty of care. If the State wishes to contractually demand performance above-and-beyond that usual duty, as would be the case with enactment and implementation of

this bill, the State must be prepared to (1) pay substantially higher-than-normal design fees to compensate for extension of each design professional's contractual liability beyond that normally encountered in the marketplace; and (2) to receive expressions of interest in doing business with the State from a vastly reduced pool of design professionals, as those design professionals will be entering into uninsurable design contracts and will, therefore, be required to rely on internal financial capability to offset the costs associated with State-driven claims of design negligence. These effects run counter to the State's wishes to obtain professional design services at reasonable cost, and to encourage wide and open competition in the marketplace.

We note that the requirement to maintain a public list of construction companies and design professionals who are in noncompliance or owe penalties may conflict with existing provisions of law and rule regarding debarment. We also note that conflation of construction companies and design professionals is unusual and unique to this provision of the bill.

Lastly, the requirement that the state procurement office conduct training on the duty of procurement officers to hold design professionals liable for breaches of professional standards implies that such professional standards exist. They do not and, therefore, it would not be possible for the state procurement office to implement this requirement.

Thank you for the opportunity to submit testimony on this measure.

LATE



Charlotte A. Carter-Yamauchi
Director

Shawn K. Nakama
First Assistant

Research (808) 587-0666
Revisor (808) 587-0670
Fax (808) 587-0681

LEGISLATIVE REFERENCE BUREAU
State of Hawaii
State Capitol, Room 446
415 S. Beretania Street
Honolulu, Hawaii 96813

Written Comments

HB1355

RELATING TO STATE PROCUREMENT REFORM

Testimony by the Legislative Reference Bureau
Charlotte A. Carter-Yamauchi, Director

Presented to the House Committee on Government Reform

Friday, February 5, 2021, 9:00 a.m.
Via Video Conference

Chair McKelvey and Members of the Committee:

Good morning Chair McKelvey and members of the Committee, my name is Charlotte Carter-Yamauchi and I am the Director of the Legislative Reference Bureau. Thank you for providing the opportunity to submit written comments on H.B. No. 1355, Relating to State Procurement Reform.

The purpose of this measure is to promote the more efficient public procurement of design professional and construction services.

More specifically, the measure requires:

- (1) Procurement officers to document a determination to pursue damages against a design professional if a construction cost overrun occurs;
- (2) The Chief Procurement Officer to compile a public list of construction companies or design professionals that are in noncompliance with the procurement code or owe penalties;
- (3) The State Procurement Office to train procurement officers on the duty to hold design professionals liable for breaches of professional standards; and

- (4) The Legislative Reference Bureau to conduct a study on the laws and regulations relating to construction management policies and procedures applicable to the procurement code.

The measure also requests that the Bureau submit a report of its findings and recommendations, including any proposed legislation, to the Legislature no later than twenty days prior to the convening of the Regular Session of 2022.

While the Legislative Reference Bureau takes no position on the merits of the measure, we submit the following comments for your consideration.

The Bureau does not retain subject matter experts in the fields of public procurement enforcement, design professionals, or construction management. Consequently, the Bureau would have to contract the services of such experts and do so by drafting a Request for Proposals on this project and executing a contract that is subject to the State Procurement Code. In all likelihood, we would not be able to complete the contracting process, much less the study itself, within the limited timeframe provided for in this measure. Accordingly, we would need an exemption from the procurement code requirements, additional time in which to complete the study, or both. Moreover, the Bureau's annual operating budget does not contain funds for the contracting of study services, and thus a specific amount for this purpose would need to be appropriated.

Furthermore, as currently drafted, it is unclear exactly what the Bureau would be studying. The only reference to the study's subject matter are the following two sentences:

The legislative reference bureau shall conduct a study of the laws and regulations relating to construction management policies and procedures applicable to the procurement code. This study shall consider the level of oversight over contractors performing management services.

Without further explicit guidance on the study provision's intent, the Bureau would be hard-pressed to be able to determine why the Legislature would like "the laws and regulations relating to construction management policies and procedures applicable to the procurement code" to be studied, and for what purpose the ". . . study shall consider the level of oversight over contractors performing management services."

In closing, based on the Bureau's lack of inherent subject matter expertise and the limited information contained in the measure as currently drafted, the Bureau does not currently believe it could conduct the requested study and produce any useful findings for the Legislature.

Thank you again for your consideration.

HB-1355

Submitted on: 2/4/2021 12:49:04 AM

Testimony for GVR on 2/5/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Janice Marsters	Hart Crowser, Inc.	Oppose	No

Comments:

Aloha e Chair McKelvey and Committee Members:

Hart Crowser is a geotechnical and environmental engineering consulting firm with 16 engineering and scientific staff on O’ahu, Maui and the island of Hawai’i. We stand behind our professional services and would take responsibility in any situation where our work was negligent. However, we question the necessity and nature of this bill. We respectfully provide the following comments:

Regarding the proposed **§103D- "Cost overruns; liability determination."**

- Most construction cost overruns are not the result of designer negligence but instead arise from situations such as unexpected site conditions, unexpected changes in materials availability and costs (such as is occurring now with covid supply chain disruption), and client requested changes. The bill incorrectly implies that design negligence is a major cause of project cost overruns.
- The above uncertainties that occur during construction means that agencies must provide contingency funds in the construction budgets but, too often, this doesn't occur and agencies look to the design professionals and their insurance to fund their projects. This is simply unfair.
- Designers are held to the "Professional Standard of Care," not perfection, due partly to unexpected conditions and findings that occur during construction. The fact is that investigation and design is always a trade-off between cost and "certainty" as defined by the owner. Project owners often limit our fees or reduce our scope in the design phase. For example a client who says they will only pay for 3 geotechnical borings instead of our recommended 5 can hardly claim negligence when an unexpected subsurface condition is encountered between the borings. This scenario is common. The law recognizes that in situations that "betterment" (something the agency would have had to pay for anyway if it had been discovered during design) is an obligation of the owner, not the designer.
- There are already suitable avenues to pursue design professionals where negligence occurs. State and County contracts provide for damage claims, and the State's Design Claims Conciliation Panel (DCCP) process is used to evaluate claims against designers before they are brought to court.

- Design and construction, and the causes of delays and cost overruns, are complicated, and we question whether a procurement officer would be qualified to make an appropriate determination of fault. Again, the DCCP seems to be a more efficient and less burdensome avenue to investigate design professional negligence, since it uses engineering and legal experts to evaluate the case.
- The Qualification-Based Selection process for procuring design services already provides agencies with the opportunity to spurn firms that they feel don't provide the design quality the agency expects.
- Given the other processes to hold design professional firms accountable, we believe this provision would impose an unnecessary burden on limited agency procurement resources, struggling to perform their core mission of soliciting the planning, design, and construction services for essential government infrastructure projects. We anticipate that federal economic stimulus will focus on infrastructure investments, and that procurement officers will need to focus on getting those projects out on the street and putting the construction industry back to work.

Regarding the proposed **§103D- "Professional services; disqualified vendors."**

- One concern with this clause is who would be making this determination and its basis. We contend that any such "listing" would have to be based on an adjudicated process, not simply a claim of a cost overrun that may or may not be due to designer negligence. It would be inappropriate and unfair to automatically list design firms because of construction cost overruns.
- If there were such a listing, how long would firms remain on the list? Would firms be removed from the list and given another chance after a certain period? The Federal Acquisition Rules, for example, allow a disbarred firm to regain eligibility after a certain period of time.
- Many government agencies already have a design professional performance appraisal program, conducted by the agency project manager who is much more qualified to conduct the evaluation. We maintain that agency assertion of past performance issues through the QBS process is the best way to manage designer performance issues.

Regarding the addition to **§103D-110** providing for training sessions on the procurement officers duty to hold design professionals contractually liable for breaches of professional standards:

- To make the determination proposed by this bill, the procurement officer would need training not about their duty, but about the legal responsibilities of designers, how designers differ from construction contractors in liability, what constitutes professional negligence, the financial complications of construction projects, and the complex technical knowledge required to evaluate negligence.
- Again, we feel these determinations are best left to the DCCP and its technical and legal experts.

In summary, we believe this bill will inappropriately target designers on construction cost overruns and unnecessarily burden procurement officers. Rigorous processes are already in place to address design professional performance and claims of negligence,

.

I appreciate the opportunity to testify and am available should you have questions.

Regards,

Janice Marsters



February 4, 2021

House Committee on Government Reform
Hearing Date: Wednesday, February 5, 2021, 9:00 a.m.

Subject: HB 1355, Relating to State Procurement Reform
STRONG OPPOSITION

Dear Honorable Representatives Angus L.K. McKelvey, Chair; Tina Wildberger, Vice Chair; and Members of the House Committee on Government Reform:

We have provided professional Construction Management services for State and County projects in Hawaii for more than 20 years. We strongly oppose HB 1355 for the following reasons:

- The language in HB1355 appears to automatically implicate the design professional for any cost overrun rather than to require the procurement officer to determine who or what is responsible.

Cost overruns and “change orders” are almost always caused by complicated, multiple interwoven reasons that the design professionals do not have any control over and/or are excluded from their scope and fee. E.g. unforeseen conditions, increase in material costs, contractor inefficiency and poor quality, etc.

- Procurement Officers, in virtually all instances, do not possess the technical expertise, time or resources to accurately understand and determine whether a design professional is negligent and responsible. It is totally unrealistic to believe that training Procurement Officers would solve that problem
- Ironically, this bill would increase costs for the State as well creating added work and responsibility for procurement staff, as well as the departments and agencies that contract with the design professionals.
- State contracts and existing State laws already provide for processes for that determine and pay for cost overruns that are caused by designer negligence (and the funding is provided through existing requirements for designers to carry professional liability insurance).

Please do not hesitate to contact us if you have any questions regarding this letter of opposition.

Yours truly,
Yogi Kwong Engineers, LLC

A handwritten signature in black ink that reads "Jeffrey K. Kalani". The signature is written in a cursive, flowing style.

Jeffrey Kalani, P.E.
President/CEO



February 4, 2021

House Committee on Government Reform
Hearing Date: Friday, February 5, 2021, 9:00 a.m.

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Website: www.acechawaii.org

Honorable Chairs McKelvey and Wildberger and Members of the House Committee on Government Reform

Subject: **STRONG OPPOSITION - HB 1355, Relating to State Procurement Reform**

Dear Chairs McKelvey and Wildberger and Committee Members:

The American Council of Engineering Companies of Hawaii (ACECH) represents more than 70 member firms with over 1,500 employees throughout Hawaii. ACECH member firm projects directly affect the quality of the water we drink and the food we eat; the safety of our buildings, highways, bridges, and infrastructure; and the quality of the environment in which we work and play.

ACECH supports efforts to uphold the professional Standard of Care, which is held in common law as the ordinary and reasonable care usually exercised by a design professional, on the same type of project, at the same time and in the same place, under similar circumstances and conditions. However, ACECH has significant concerns regarding this bill, particularly in the vagueness of the proposed amendments.

This bill proposes the following amendments *italicized* followed by our comments:

- ***“103D- Cost overruns; liability determination. In the event of construction cost overruns, a procurement officer shall create a report documenting the determination whether to pursue damages against a design professional. The report shall identify the factors used by the procurement officer in making the procurement officer’s determination.”***

ACECH is concerned regarding the lack of definition of the term “cost overruns”. What is the basis of determining a cost overrun, i.e., the professional engineer’s opinion of probable construction cost, or the contractor bid price, or some other method? With many projects seeing cost over-runs for varying reasons that have nothing to do with designer negligence, this bill would create additional work for the design professional just to defend their design whether found to be negligent or not, leading to an increase in the cost to do business.

The language of the amendment appears to automatically implicate the design professional for any cost overrun rather than to require the procurement officer to determine who or what is responsible. ACECH emphasizes to the committee that performance at the standard of care can result in cost overruns due to unforeseen conditions, increase in material costs, contractor delays and efficiency, etc. We emphasize that design professionals mitigate risks associated with construction, they do not eliminate all of them.

Chapter 103D indicates that the procurement officer shall establish and maintain programs for the inspection, testing, and acceptance of goods, services, and construction. However, determination of whether a design

February 4, 2021

Page 2 of 2

professional's design was negligent, and such negligence was the cause of cost overruns may be beyond the scope and technical expertise required to make such a determination.

ACECH also believes that the amendment would increase costs for the State as well creating added responsibility for procurement staff. The standard State contracts that we work with currently already include processes that address negligence.

- ***“103D- Professional services; disqualified vendors. The chief procurement officer shall develop a list of all construction companies and design professionals who are in noncompliance with a provision of this chapter or have outstanding fines or other penalties incurred for violations of this chapter. This list shall be made publicly available on the state procurement office’s website.”***

ACECH requests clarification on the definition of “noncompliance with a provision of this chapter”. Is the intent that any design professional firm that has any projects with cost overruns in construction would be disqualified from future work with the State even before negligence is established? This section does not establish how often the list of design professionals in noncompliance will be updated. ACECH is also concerned regarding publicly posting this list due to the vagueness of what constitutes “noncompliance”. Improper implementation or maintenance of the list may hinder our member firm’s ability to have an equal opportunity to compete in a fair and open environment.

- ***“Section 103D-110 (1) A mandatory fundamental training and development session; provided that such session includes training on the procurement officer’s duty to hold design professionals contractually liable for breaches of professional standards;”***

ACECH is concerned that the language appears to establish that the procurement officer will determine if a design professional is contractually liable for breaches of professional standards. Pursuant to Act 207 all malpractice claims against design professionals must be submitted to the Design Claim Conciliation Panel (DCCP). The DCCP is responsible for conducting informal hearings by legal and technical professionals to assess a claim’s validity before proceeding to a lawsuit. If the procurement office is making the determination, is the claim to be submitted to DCCP and will the design professional be included on the “disqualified vendor” list only if DCCP determines the claim should be pursued?

- ***“SECTION 5. The chief procurement office shall adopt or amend rules pursuant to chapter 91 to allow state procurement officers to request that cost or pricing data be certified upon the initial bid submission and not after the conclusion of contract negotiations.”***

It is unclear if this amendment applies to procurement of professional services and how the design professionals’ cost would be certified. ACECH strongly advises that this section be clarified such that it does not contradict Section 103D-304, procurement of professional services.

We appreciate the opportunity to provide testimony on this matter. Please do not hesitate to contact us if you have any questions.

Respectfully submitted,
AMERICAN COUNCIL OF ENGINEERING COMPANIES OF HAWAII



Garret Masuda, P.E.
President

HB-1355

Submitted on: 2/4/2021 8:55:03 AM

Testimony for GVR on 2/5/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Charles Jury	OKAHARA AND ASSOCIATES, INC.	Oppose	No

Comments:

Okahara and Associates, Inc. is a Hawai'i based, multi-disciplined (civil, mechanical and landscape architecture) consulting engineering firm, which has been doing business in Hawai'i for the past 40 years. We have significant concerns regarding this bill. We are is concerned regarding the lack of definition of the term "cost overruns" and what the basis of determining an overrun is. Many projects seeing cost over-runs for varying reasons that have nothing to do with designer negligence. We are also concerned whether a procurement officer has the expertise to evaluate the technical merits of the design.

We have concerns regarding the language "noncompliance with a provision of this chapter". Is the intent that any design professional firm that has any projects with cost overruns in construction would be disqualified from future work with the State even before negligence is established? This section does not establish how often the list of design professionals in noncompliance will be updated.

We support upholding the profession Standard of Care, however the amendments in this bill are vague and we are concerned of the potential negative impacts it may have on our ability to do business in the State.



House Committee on Government Reform
Hearing Date: Friday, February 5, 2021, 9:00 a.m.

February 4, 2021

Honorable Chairs McKelvey and Wildberger and Members of the House Committee on Government Reform

Subject: **STRONG OPPOSITION - HB 1355, Relating to State Procurement Reform**

Dear Chairs McKelvey and Wildberger and Committee Members:

CONSOR Engineers, LLC (CONSOR) is a multi-discipline, hybrid design and inspection company focused on providing innovative engineering solutions for today's infrastructure challenges. CONSOR's project portfolio, spans thousands of transportation projects across North America, Canada, Hawaii, and Overseas. Our firm's extensive roster of clients is comprised of numerous state departments of transportation, the US Army Corps of Engineers, the US Coast Guard, the US Navy, and the US Department of the Interior, among others. With 60 offices and more than 1,200 employees, including 330+ professional engineers, CONSOR provides engineering services for structural engineering, water-wastewater, transportation planning and design, and construction services. *In 2020, CONSOR was ranked #125 on Engineering News-Record's Top 500 firms list.*

CONSOR has conducted engineering work in 49 states and is familiar with numerous state and local procurement and contracting regulations. The language throughout HB1355 is very vague and leaves too much open for interpretation and needs further refinement and clarification.

The evaluation of cost overruns can be very intricate and complicated and requires a highly technical and knowledgeable person in that field to provide a just determination/report. Therefore, the procurement officer, conducting the determination, shall have a high-level of knowledge in all the design disciplines; Structural, Civil, Hydraulic, Environmental, Mechanical/Electrical, and Architectural.

The term "cost overruns" needs further defining. What is the basis of determining a cost overrun? Is it the contractors bid price? Is it the contractor's inefficiency to conduct the work? Unforeseen/unknown conditions which require a change order? Project delays and liquidated damages?

These are just a few of our concerns with this bill and we strongly oppose it and recommend that it clarify the definition of "cost overrun" and the technical and knowledge requirements of the Procurement Officer.

Mahalo for hearing our testimony, if you would like to discuss further, I can be available for consultation on this matter.

Ikaika Kincaid, PE, CCM
Regional Director, Hawaii

A handwritten signature in blue ink that reads "Ikaika Kincaid". The signature is fluid and cursive, written in a professional style.

LATE

HB-1355

Submitted on: 2/4/2021 12:02:29 PM

Testimony for GVR on 2/5/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Keith Uemura	ParEn Inc. dba Park Engineering	Oppose	No

Comments:

Dear Representative McKelvey and committee members:

As a design professional licensed in the State of Hawaii with three decades of engineering experience, I oppose the HB1355. Specifically, the section on “Cost overruns; liability determination” seems to unfairly target the design professional.

The proposed language implicates only the design professional as the cause for cost overruns. Based on my experience, there could be numerous other causes or parties responsible for the cost overruns. It is unfortunate that the bill was drafted to single out the design professional.

In addition, the proposed language gives the procurement officer the sole discretion to make a determination to pursue the design professional for damages. To my knowledge, all professional services contracts include language for dispute resolution, typically allowing both parties to reach a mutually agreeable resolution as the first step. There already is a process to resolve conflicts as a result of the design professionals errors, omissions and willful misconduct.

Thank you for the opportunity to submit my testimony.

Sincerely,

Keith S. Uemura, P.E.

LATE

HB-1355

Submitted on: 2/4/2021 12:32:53 PM

Testimony for GVR on 2/5/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Sheryl Nojima	Gray Hong Nojima & Assoc., Inc.	Oppose	No

Comments:

Gray, Hong, Nojima & Associates, Inc. has been a small business consulting engineering firm in Honolulu, Hawaii for almost 50 years. We **oppose HB 1355, Relating to State Procurement Reform**. Our major concern is that HB1355 would implicate the design professional as the cause for cost overruns; however, there could be numerous other causes or parties responsible for an overrun. It appears to require that the procurement officer focus on why the design professional is or is not responsible for the overrun rather than investigating and determining the responsible party. It should be noted that all contracts typically include language for dispute resolution allowing parties to reach a mutually agreeable resolution as the first step.

We appreciate the opportunity to provide testimony regarding HB 1355. Please do not hesitate to contact me at (808) 521-0306 if you have any questions regarding this testimony.

Respectfully submitted,

GRAY, HONG, NOJIMA & ASSOCIATES, INC.

Sheryl E. Nojima, PhD, PE

President

LATE

February 4, 2021

Subject: **HB 1355, RELATING TO STATE PROCUREMENT REFORM**

TESTIMONY IN OPPOSITION

Dear Legislators,

Fukunaga & Associates, Inc. is a locally owned, small business Civil Engineering firm operating in Hawaii since 1969. We are **in opposition to HB 1355**, Relating to State Procurement Reform, which proposes to require procurement officers to document whether to pursue a design professional for damages in the event of construction cost overruns.

Construction cost overruns are typically due to unforeseen conditions, modifications to scope of work during construction, and other factors besides the actual design, and this bill seems to target and require an evaluation of the design professional. If construction cost is being utilized as the trigger for evaluation of the design professional and possible web listing / disqualification, this could have other adverse effects to avoid justifiable construction cost increases which includes owner-requested design changes to accommodate future plans unknown during the design phase, increase of change orders on a time and material basis requiring additional manpower and cost disputes, incorporating less expensive alternatives instead of accounting for maintenance and life cycle, and other unforeseen consequences. The overall intention to establish accountability of escalating construction costs is understood however this bill may not be in the best interest of the State.

I appreciate the opportunity to provide testimony regarding this matter. Please do not hesitate to contact me should you have any questions regarding my testimony.

Very truly yours,

Jon Muraoka, P.E.
Fukunaga & Associates, Inc.