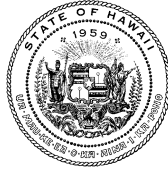


DAVID Y. IGE
GOVERNOR



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
COMMITTEE ON GOVERNMENT REFORM

WEDNESDAY, FEBRUARY 3, 2021, 8:30 A.M.
CONFERENCE ROOM 309, STATE CAPITOL

H.B. 877

RELATING TO THE APPRENTICESHIP AGREEMENT PREFERENCE

Chair McKelvey, Vice Chair Wildberger, and members of the Committee, thank you for the opportunity to submit testimony on H.B. 877.

The Department of Accounting and General Services (DAGS) strongly supports the proposed legislation to eliminate the Apprenticeship Agreement Preference by repealing Section 103-55.6, Hawaii Revised Statutes for the following reasons:

- Lack of statistical evidence it has achieved its goal.

Section 103-55.6 was intended to incentivize the use of State-certified apprenticeship programs by bidders to ensure a well-trained work force for public works construction. However, we are unaware of any statistical evidence that this legislation has been responsible for increased enrollment or participation in apprenticeship programs.

- This Preference has decreased the transparency, perceived impartiality, efficiency, and economy of the construction procurement process.

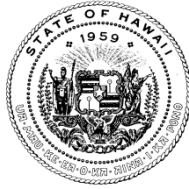
- The transparency of the construction procurement process is reduced because to properly apply the preference, agencies are forced to make both project- and bid-specific determinations about which bidders qualify for the preference. The difficulty of making these decisions is often compounded by: 1) a lack of information provided by bidders (i.e. information about multi-skilled workers a bidder intends to employ, how a bidder intends to accomplish certain components of work, etc.); and 2) the need for procurement personnel to be knowledgeable about construction trade-work.
- The reduction in the transparency of the construction procurement process has negatively impacted the perception of impartiality in the construction procurement process, because the need for project- and bid-specific decisions has introduced a degree of subjectivity to even the most objective procurement method.
- The Apprenticeship Agreement Preference has reduced the efficiency of the procurement process for construction because: 1) it has prolonged the bid evaluation process, and 2) the reduction in transparency has resulted in protests which also prolong the overall procurement process. It is often difficult for agencies to determine who qualifies for the preference, because such determinations must be made on a project- and bidder-specific basis and requires procurement personnel to be knowledgeable about construction trade-work.
- The preference has also decreased the economy of the construction procurement process because it has required government agencies to reduce, for the purposes of evaluation, the bid price of qualified bidders by five

percent. This can have a huge budgetary impact on an individual project and the ability of an agency to make an award, especially in the current economy.

In summary, the Apprenticeship Agreement Preference should be repealed because it has negatively impacted the effectiveness of the construction procurement process (by reducing its transparency, perceived impartiality, efficiency, and economy) without clear evidence that it has achieved its goal.

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

DAVID Y. IGE
GOVERNOR



TESTIMONY BY:

JADE T. BUTAY
DIRECTOR

Deputy Directors
LYNN A.S. ARAKI-REGAN
DEREK J. CHOW
ROSS M. HIGASHI
EDWIN H. SNIFFEN

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

February 3, 2021
8:30 A.M.
State Capitol
Conference Room 309
VIA VIDEO CONFERENCE

H.B. 0877
RELATING TO THE APPRENTICESHIP AGREEMENT PREFERENCE

House Committee on Government Reform

The Department of Transportation (DOT) **supports** the bill to eliminate the Apprenticeship Agreement Preference in an effort to increase the economy, effectiveness, and impartiality of the public works construction procurement process through repeal of section 103-55.6, Hawaii Revised Statutes.

Thank you for the opportunity to provide testimony.



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

Kathryn Mashima
Mashima Electric
Chairman Elect

Ross Kawano
ECA, LLP
Treasurer/Secretary

Jarrett Walters
Hawaiian Building
Maintenance

Canaan Shon
Hawaii Geophysical Services

Ralph Sakauye
Bora, Inc.

Kevin Schmid
Oceanic Companies, Inc.



Geoffrey Chu
Oceanic Companies, Inc.
Chairman

Kimo Pierce
Hawaii Plumbing Group, LLC
Chairman Elect

David Tsuda
First Hawaiian Bank
Treasurer

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ECA, LLP
Secretary

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M. Torigoe Plumbing, Inc.

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February 3, 2021

Committee on Government Reform
Rep. Angus L.K. McKelvey, Chair
Rep. Tina Wildberger, Vice Chair

Associated Builders and Contractors Hawaii Chapter testimony in **OPPOSITION** to HB 877 RELATING TO THE APPRENTICESHIP AGREEMENT PREFERENCE.

Chair McKelvey, Vice Chair Wildberger and members of the Committee:

Thank you for the opportunity to testify, I am Malcolm Barcarse, Jr the Chair of Associated Builders and Contractors, Hawaii Chapter which represents over 170 member companies in the Construction Industry. We also have a State Approved Trade Apprenticeship Program in the trades of Carpentry, Electrical, Painting, Plumbing and Roofing.

We stand in opposition to this bill as we take exception with the claim by the proponents of this bill that the increased costs of the construction process were an unintended consequence. Back in 2009 when the State was facing an economic downturn just as we are today, this argument was brought to the Legislature's attention when the Governor vetoed Senate Bill 19 of 2009 which created HRS 103-55.6 (see attached GM 819 of 2009 vetoing SB 19 SD1 HD2 CD1 of 2009.) Despite this issue being brought before the Legislature, they decided to override the Governor's veto and pass this bill into law despite entering an economic downturn. In fact, during the Legislature's deliberations on this bill the necessity of having a well-trained workforce during an economic downturn was cited as one of the reasons for the passage of the bill. (see attached Conference Committee Report 80 of 2009.)

The one area where we agree with the proponents of this bill is that HRS 103-55.6 has led to inefficiencies in the procurement process. However, the problem is not the statute itself necessitating repeal, rather the issue is the lack of clear and coherent rules implementing this law. The only guidance regarding implementation of this statute is Comptrollers Memorandum 2011-25 (attached) which left a lot of the evaluation of the preference open to interpretation which resulted in different agencies interpreting the preference differently leading to inefficiencies and bid protests. Therefore, we ask that the Legislature urge the administration to promulgate rules pursuant to Chapter 91 to implement HRS 103-55.6 which they have authority to do under HRS 103-11 where the administration and the relevant stakeholders can work together to make this law work more efficiently and we also ask that this bill be HELD.

Thank you for the opportunity to testify.

ABC Hawaii Staff

Jeffrey Durham – President/CEO **Renee Rosehill – Operations Manager**
Ken Wilson – Education Director **Justin Ou – CEF Service Coordinator**



GOV. MSG. NO. 819

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

July 15, 2009

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith SB19 SD1 HD2 CD1, without my approval, and with the statement of objections relating to the measure.

SB19 SD1 HD2 CD1

A BILL FOR AN ACT
RELATING TO PROCUREMENT.

Sincerely,



LINDA LINGLE

EXECUTIVE CHAMBERS

HONOLULU

July 15, 2009

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 19

Honorable Members
Twenty-Fifth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 19, entitled "A Bill for an Act Relating to Procurement."

The purpose of this bill is to create a five percent procurement preference for offerors who bid on public works construction contracts valued at not less than \$250,000 if, at the time of bidding, the offerors are parties to an apprenticeship agreement that is registered with the Department of Labor and Industrial Relations for each apprenticeable trade the offeror will employ if awarded the contract. This reduction in bidding price is for evaluation purposes only and does not reduce the cost of the offer to the contracting governmental body.

This bill is objectionable because implementation of this new bid preference will increase the cost of the State's public works projects. If the preference of five percent results in the bidder being awarded the contract, the State must still pay the full contract price, even though there was a lower offer. Given the State's current financial situation, we simply cannot afford to overpay for public works projects in this manner. Additional costs would also be incurred through an unnecessary increase in the administration and oversight

STATEMENT OF OBJECTIONS
SENATE BILL NO. 19
Page 2.

responsibilities of government contracting agencies, which would have to ensure that apprenticeship agreements are being maintained for the length of the contract.

Further, this bill would also place construction contractors that do not have registered apprentice programs at a competitive disadvantage without compelling justification. Apprenticeship programs are useful training programs when a trade requires a length of time to become proficient, but are not necessary to ensure the qualification of contractors to perform State work. The purpose of the public works bidding process is to ensure the State obtains the specified work at the best possible price. An essential element of this process is a level playing field whereby the most efficient, skilled, and well-managed companies are awarded contracts.

For the foregoing reasons, I am returning Senate Bill No. 19 without my approval.

Respectfully,



LINDA LINGLE
Governor of Hawaii

A BILL FOR AN ACT

RELATING TO PROCUREMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 103, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:
4 "§103- Public works construction; apprenticeship
5 agreement. (a) A governmental body, as defined in section
6 103D-104, that enters into a public works contract under this
7 chapter having an estimated value of not less than \$250,000,
8 shall decrease the bid amount of a bidder by five per cent if
9 the bidder is a party to an apprenticeship agreement registered
10 with the department of labor and industrial relations for each
11 apprenticeable trade the bidder will employ to construct the
12 public works, and in conformance with chapter 372. The lowest
13 total bid, taking the preference into consideration, shall be
14 awarded the contract unless the solicitation provides for
15 additional award criteria. The contract amount awarded,
16 however, shall be the amount of the price offered, exclusive of
17 the preference.



OT3V

1 (b) For purposes of subsection (a), in determining whether
2 there is conformance with chapter 372, the procurement officer
3 shall consider the actual number of apprentices enrolled in and
4 the annual number of graduates of the apprenticeship program.

5 (c) At the time of submission of a competitive sealed bid
6 or a competitive sealed proposal by a bidder, the bidder shall
7 furnish written proof of being a party to a registered
8 apprenticeship agreement for each apprenticeable trade the
9 bidder will employ to construct the public works and, if awarded
10 the contract, shall continue to certify monthly in writing that
11 the bidder is a party to a registered apprenticeship agreement
12 for each apprenticeable trade the bidder will employ to
13 construct the public works for the entire duration of the
14 bidder's work on the project. This subsection shall be deemed
15 to be incorporated into a public works contract. A bidder who
16 is awarded a contract shall be subject to the following
17 sanctions if, after commencement of work, the bidder at any time
18 during the construction is no longer a party to a registered
19 apprenticeship agreement for each apprenticeable trade the
20 bidder will employ to construct the public works:

21 (1) Temporary or permanent cessation of work on the
22 project, without recourse to breach of contract claims

1 by the bidder; provided that the governmental body
2 shall be entitled to restitution for nonperformance or
3 liquidated damages, as appropriate; or

4 (2) Proceedings to debar or suspend under section
5 103D-702.

6 (d) For purposes of this section, "bidder" means an entity
7 that submits a competitive sealed bid under section 103D-302 or
8 submits a competitive sealed proposal under section 103D-303."

9 SECTION 2. New statutory material is underscored.

10 SECTION 3. This Act shall take effect upon its approval.



Honolulu, Hawaii

APR 30 2009 , 2009

RE: S.B. No. 19
S.D. 1
H.D. 2
C.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Madam and Sir:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 19, S.D. 1, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO PROCUREMENT,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to provide a procurement preference to a contractor in a public works construction contract of not less than \$250,000 if the contractor is a party to an apprenticeship agreement registered with the Department of Labor and Industrial Relations at the time of general bidding.

Your Committee on Conference finds that the economic downturn currently being faced across the nation, including in Hawaii, has resulted in both state and federal governments looking to public works projects as a near term means of stimulating the economy. As public works are expected to play a large role in immediate, as well as longer term, economic recovery efforts, it will be essential for



the state to have a well-trained workforce skilled in the various construction trades. As many of these individuals gain their best knowledge of a particular trade through apprenticeship programs, providing incentives for contractors to offer and maintain these programs will work toward developing the necessary skilled workforce to carry on public works projects for years to come.

Your Committee on Conference has amended this measure by correcting statutory cross-references to the appropriate section in chapter 103D, Hawaii Revised Statutes.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 19, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 19, S.D. 1, H.D. 2, C.D. 1.

Respectfully submitted on behalf of the managers:

ON THE PART OF THE HOUSE

ON THE PART OF THE SENATE



KARL RHOADS, Co-Chair



KYLE T. YAMASHITA, Co-Chair



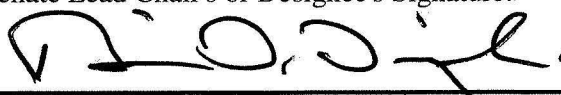
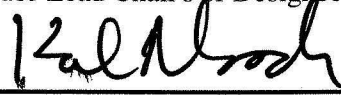
BRIAN T. TANIGUCHI, Chair



Hawaii State Legislature

CCR 80

Record of Votes of a
Conference Committee

Bill / Concurrent Resolution No.: SB 19, SD1, HD2					Date/Time: 4/28/09						
<input checked="" type="checkbox"/> The recommendation of the House and Senate managers is to pass with amendments (CD).											
<input type="checkbox"/> The Committee is reconsidering its previous decision.											
<input type="checkbox"/> The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure					<input type="checkbox"/> The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.						
Senate Managers		A	WR	N	E	House Managers		A	WR	N	E
Taniguchi, Chair		✓				Rhoads, Co-Chair		✓			
Takamine		✓				Yamashita, Co-Chair		✓			
Sloan					✓	Pine		✓			
TOTAL		2	0	0	1	TOTAL		3	0	0	0
A = Aye		WR = Aye with Reservations			N = Nay		E = Excused				
Senate Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted					House Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted						
Senate Lead Chair's or Designee's Signature: 					House Lead Chair's or Designee's Signature: 						
Distribution:		Original <i>File with Conference Committee Report</i>			Yellow <i>House Clerk's Office</i>		Pink <i>Senate Clerk's Office</i>		Goldenrod <i>Drafting Agency</i>		

NEIL ABERCROMBIE
GOVERNOR



BRUCE A. COPPA
COMPTROLLER
JAN S. GOUVEIA
DEPUTY COMPTROLLER

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

October 5, 2011

COMPTROLLER'S MEMORANDUM NO. 2011-25

TO: Heads of Departments and Agencies

SUBJECT: Hawaii Revised Statutes §103-55.6 (Act 17, SLH 2009) –
Apprenticeship Program

This memorandum replaces Comptroller's Memorandum No. 2011-15 and clarifies SECTION 3, Qualification Procedures, paragraph A: "Any offeror seeking the preference must be a party to an apprenticeship agreement registered with the department at the time the offer is made for each apprenticeable trade the offeror will employ to construct the public works project for which the offer is being made."

CONTENTS

- SECTION 1 Purpose and Applicability
- SECTION 2 Definitions
- SECTION 3 Qualification Procedures
- SECTION 4 Solicitation Procedures
- SECTION 5 Evaluations and Contract Award
- SECTION 6 Contract Administration

SECTION 1 Purpose and Applicability

- A. The purpose of these procedures is to implement and administer the 5% bid adjustment for bidders that are parties to apprenticeship agreements pursuant to HRS §103-55.6.
- B. These procedures shall apply to public works contracts that are subject to HRS chapter 103, have an estimated value of \$250,000 or more, and are entered into by a governmental body.

SECTION 2 Definitions

- A. "Apprenticeable trade" shall have the same meaning as "apprenticeable occupation" pursuant to Hawaii Administrative Rules (HAR) §12-30-5.
- B. "Department" means the Department of Labor and Industrial Relations.
- C. "Director" means the director of the Department of Labor and Industrial Relations.
- D. "Employ" means the employment of a person in an employer-employee relationship.
- E. "Governmental body" means as defined in HRS Section 103D-104.
- F. "Party to an apprenticeship agreement" means party to an apprenticeship program registered with the department.
- G. "Preference" means the 5% by which the qualified offeror's offer amount would be decreased for evaluation purposes.
- H. "Public work" shall be as defined in HRS §104-2 and HAR 12-22-1.
- I. "Registered apprenticeship program" means a construction trade program registered with the department pursuant to HAR §12-30-1 and §12-30-4.
- J. "Sponsor" means an operator of an apprenticeship program and in whose name the program is registered with the department pursuant to HAR §12-30-1.

SECTION 3 Qualification Procedures

- A. Any offeror seeking the preference must be a party to an apprenticeship agreement registered with the department at the time the offer is made for each apprenticeable trade the offeror will employ to construct the public works project for which the offer is being made.
 - (1) The apprenticeship agreement shall be registered and conform to the requirements of HRS chapter 372.
 - (2) Subcontractors do not have to be a party to an apprenticeship agreement for the offeror to obtain the preference.

- (3) The offeror is not required to have apprentices in its employ at the time of submittal of an offer to qualify for the preference.
- (4) If an offeror's employee is multi-skilled and able to perform work in more than one trade (for example, a project requires a carpenter and a laborer, and the employee is a carpenter, but is also able to perform the work of a laborer), the offeror need only be a party to the carpenter's apprenticeship agreement and does not need to be a party to the laborer's apprenticeship agreement in order to qualify for the preference. The offeror is not "employing" a laborer, only a carpenter, and so only needs to be a party to the carpenter's apprenticeship agreement.

However, if an offeror employs both a carpenter and a laborer to perform the work, the offeror must be a party to both the carpenter's and laborer's apprenticeship agreements in order to qualify for the preference.

- (5) Qualification for the preference is given on a project-by-project basis and depends upon the specific offer for a specific project. An offeror's employees may vary from project to project and may qualify for the preference on one project but may not qualify on another project. For example, on one project, if the offeror only employs carpenters to perform work in the carpentry and labor trades, then the offeror only needs to be a party to the carpenter's apprenticeship agreement in order to qualify for the preference. However, on another project if the same offeror employs both carpenters and laborers, then the offeror will not qualify for the preference if the offeror is only a party to the carpenter's apprenticeship agreement and not the laborer's apprenticeship agreement.

B. The department shall:

- (1) Develop and maintain a list of construction trades in registered apprenticeship programs which conform to HRS Chapter 372; and
- (2) Electronically post the list, including any amendments, on the department's website.

C. Offeror is responsible to comply with all submission requirements for registration of its apprenticeship program before requesting a preference.

D. Offeror shall provide a certification by the sponsor of the respective registered apprenticeship programs covering the relevant trade(s) for the public works project.

E. *Certification Form 1* issued by the department shall include:

- (1) Contractor information;
- (2) Solicitation reference;
- (3) Trade(s);
- (4) Name of apprenticeship sponsor;
- (5) Signature of authorized official and date of signature of apprenticeship program sponsor certifying that the contractor is a participant in the program, and that the program is registered with the department;
- (6) Contact information for sponsor's authorized representative signing the form;
- (7) Number of apprentices enrolled in the program, number who successfully completed the apprenticeship program in the past 12 months, including whether the contractor is signatory to a collective bargaining agreement for that trade or, if not, provide for attachment a copy of the agreement between the contractor and the program.

SECTION 4 Solicitation Procedures

- A. The procurement officer shall determine whether the solicitation is for a public works construction project with an estimated value of \$250,000 or more, provided that even if all offers submitted are less than \$250,000, the preference shall be applied.
- B. The solicitation for a public works construction project with an estimated value of \$250,000 or more shall include apprenticeship preference provisions which indicate the following:
 - (1) Allow offeror seeking to claim the preference to state the trades the offeror will employ to perform the work;

- (2) For each trade to be employed to perform the work, the offeror shall submit a completed signed original *Certification Form 1* verifying participation in an apprenticeship program registered with the department;
 - (3) The *Certification Form 1* shall be authorized by an apprenticeship sponsor of the department list of registered apprenticeship programs. The authorization shall be an original signature by an authorized official of the apprenticeship sponsor; and
 - (4) The completed *Certification Form 1* for each trade must be submitted by the offeror with the offer. A facsimile or copy is acceptable to be submitted with the offer; however, the signed original must be submitted within five (5) working days of the due date of the offer. If the signed original is not received within this timeframe, the preference may be denied. Previous certifications shall not apply unless allowed by the solicitation.
- C. Upon receiving *Certification Form 1*, the procurement officer will verify with the department that the apprenticeship program is on the list of apprenticeship programs registered with the department. If the programs are not confirmed by the department, the offeror will not qualify for the preference.

SECTION 5 Evaluation and Contract Award

- A. If the offeror certifies participation in an apprenticeship program for each trade which will be employed by the offeror for the project, the procurement officer shall apply the preference and decrease the offeror's total bid amount by five per cent (5%) for evaluation purposes.
- B. Should the offeror qualify for other statutory preferences (for example, Hawaii products), all applicable preferences shall be applied to the offeror's price.
- C. The contract amount shall be the original offer amount, exclusive of any preference. The preference is only for evaluation purposes.
- D. Any claims challenging an offeror's representation that the offeror is a participant in an apprenticeship program(s) as claimed shall be submitted to the procurement officer. The procurement officer will refer the challenge to the Department of Labor and Industrial Relations, which shall investigate any such claims and shall make a determination.

SECTION 6 Contract Administration

- A. For the duration of a contract awarded utilizing the apprenticeship preference, the contractor shall certify each month that work is being conducted on the project and that it continues to be a participant in the relevant apprenticeship program for each trade it employs.
- B. Monthly certification shall be made on *Monthly Certification Form 2* prepared and made available by the department, be a signed original by the respective apprenticeship program sponsor's authorized official, and submitted by the contractor with its monthly payment requests.
- C. Should the contractor fail or refuse to submit its monthly certification forms or, at any time during the construction of the project, cease to be a party to a registered apprenticeship agreement for each apprenticeable trades the contractor employs, or will employ, the contractor will be subject to the following sanctions:
- (1) Withholding of the requested payment until the required form(s) are submitted;
 - (2) Temporary or permanent cessation of work on the project, without recourse to breach of contract claims by the contractor, provided the agency shall be entitled to restitution for nonperformance or liquidated damages claims; or
 - (3) Proceed to debar or suspend pursuant to HRS §103D-702.
- D. If events such as "acts of God," acts of a public enemy, acts of the State or any other governmental body in its sovereign or contractual capacity, fires, floods, epidemics, freight embargoes, unusually severe weather, strikes or other labor disputes prevent the contractor from submitting the certification forms, the contractor shall not be penalized as provided herein, provided the contractor completely and expeditiously complies with the certification process when the event is over.


BRUCE A. COPPOLA
State Comptroller

BOARD OF WATER SUPPLY

CITY AND COUNTY OF HONOLULU
630 SOUTH BERETANIA STREET
HONOLULU, HI 96843
www.boardofwatersupply.com



LATE

RICK BLANGIARDI, MAYOR

BRYAN P. ANDAYA, Chair
KAPUA SPROAT, Vice Chair
RAY C. SOON
MAX J. SWORD

JADE T. BUTAY, Ex-Officio
ROGER BABCOCK, Designate Ex-Officio

ERNEST Y. W. LAU, P.E.
Manager and Chief Engineer

ELLEN E. KITAMURA, P.E.
Deputy Manager and Chief Engineer

February 3, 2021

The Honorable Angus L. K. McKelvey, Chair
and Members
Committee on Government Reform
House of Representatives
Hawaii State Capitol, Room 309
Honolulu, Hawaii 96813

Dear Chair McKelvey and Members:

Subject: House Bill 877 Relating to the Apprenticeship Agreement

The Honolulu Board of Water Supply (BWS) supports House Bill (HB) 877, which proposes to repeal the public works construction bid performance for parties to be registered with apprenticeship agreements provided by section 103-55.6, Hawaii Revised Statutes (HRS).

Since the enactment of HRS §103.55.6 through Senate Bill (SB) 19, Act 17, (2009, Session Laws of Hawaii), there has been no statistical evidence that this legislation has been responsible for increased enrollment or participation in the apprenticeship programs. Instead it has had unintended consequences in decreasing the efficiencies of the procurement process. Further, many agencies are not consistent in how they are applying the preference, leading to different interpretations amongst the procuring agencies. We have had previous discussions with the State Department of Labor and Industrial Relations staff and have been told that the law is "grey" and that it is up to each agency as to how they want to enforce and address the implementation of the statute.

Removal of this preference would serve to streamline and bring back the impartiality of the procurement process.

Thank you for the opportunity to provide testimony in support of H.B. 877.

Very truly yours,

ERNEST Y. W. LAU, P.E.
Manager and Chief Engineer



LiUNA! **LATE**

Testimony of the Hawaii Laborers' Union Local 368

1617 Palama Street

Honolulu, Hawaii 96817

PETER A. GANABAN
*Business Manager/
Secretary-Treasurer*

ALFONSO OLIVER
President

JOBY NORTH II
Vice President

TONI FIGUEROA
Recording Secretary

JAMES DRUMGOLD JR.
Executive Board

ORLANDO PAESTE
Executive Board

JOSEPH YAW
Executive Board

ESTHER AILA
Auditor

RUSSELL NAPIHAA
Auditor

MARK TRAVALINO
Auditor

MARTIN ARANAYDO
Sergeant-At-Arms

DATE: Wednesday, February 3, 2021

TIME: 8:30 a.m.

PLACE: RM 309 (Via Video Conference)

COMMITTEE: Committee on Government Reform

RE: **OPPOSITON** to HB 877 RELATING TO THE APPRENTICESHIP AGREEMENT PREFERENCE

Chair McKelvey, Vice Chair Wilderberger, and Committee Members,

The Hawaii Laborers' Union Local 368 and its 5,000 hardworking members, apprentices, and retirees across the state of Hawaii **very strongly OPPOSE** HB 877 which seeks to repeal the apprenticeship agreement preference also known as Act 17 (2009).

Act 17 (2009) is much more than a bid preference given to contractors who are part of apprenticeship programs, it was created to benefit and create a pipeline of opportunity for work in the construction industry by promoting BOTH unionized apprenticeship programs as well as non-union construction programs in our State. In essence, Act 17 (2009) was a **local** workforce development partnership entered into between the construction industry and the State of Hawaii.

While it is never a good time for the State to turn its back on local workforce development in an industry that has held the State's economy up during the pandemic, and will help lead the way to recovery post-pandemic. Repeal of Act 17 could result in an influx of non-local companies arriving at our shores to take advantage of the "essential work" status that the construction industry has in our State bringing with them out-of-state workers taking jobs that should go to local people, and taking home with them tax dollars and the money they made back home to the mainland.

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LiUNA!

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Auditor

MARK TRAVALINO
Auditor

MARTIN ARANAYDO
Sergeant-At-Arms

Money and tax dollars that would have more well served Hawaii's pandemic economy and post-pandemic economic recovery had the jobs gone to a local contractor who was part of an apprenticeship program under Act 17.

Therefore, **The Hawaii Laborers' Union Local 368 strongly OPPOSES HB877** which seeks to repeal the apprenticeship agreement preference, and urges that the Committee on Government Reform to hold this Bill.

Respectfully,

Ryan Kobayashi

Hawaii Laborers Union Local 368

Government Affairs

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January 3, 2021

The Honorable Angus L.K. McKelvey, Chair
The Honorable Tina Wildberger, Vice Chair
and members
House Committee on Government Reform
415 South Beretania Street
Honolulu, Hawai'i 96813

RE: OPPOSITION for HB877, Relating to the Apprenticeship Agreement Preference

Dear Chair McKelvey, Vice Chair Wildberger, and members:

The Hawai'i Construction Alliance is comprised of the Hawai'i Regional Council of Carpenters; the Laborers' International Union of North America, Local 368; the Operative Plasterers' and Cement Masons' Union, Local 630; International Union of Bricklayers & Allied Craftworkers, Local 1; and the Operating Engineers, Local Union No. 3. Together, the member unions of the Hawai'i Construction Alliance represent 15,000 working men and women in the basic crafts of Hawai'i's construction industry.

The Hawaii Construction Alliance is strongly opposed to HB877 because the proposed bill demonstrates a lack of understanding that apprenticeship programs play in the construction industry.

Without apprenticeship training programs companies will be unable to replenish the ranks of their current workers that are properly qualified with the tools of their trade, or with the safety training that is necessary to keep themselves and their fellow workers safe on the job.

Apprenticeship programs help teach young people a trade and skill that they can use to provide for themselves and their families for their entire lives.

Furthermore any contractor that has enrolled in a state approved apprenticeship program, is allowed to use they apprentices to reign in labor costs, because apprentices are paid only a percentage of the journeyman's wage.

A contractor that is not part of a state approved apprenticeship program must pay the full journeyman's wage for all hour worked on the project, which is on average about 65 dollars an hour (where an apprentice would start at roughly ¼ of that per hour).

Passage of this bill would disincentivize participation in apprenticeship programs, rob future employers of qualified manpower, and would raise the price of construction on public works projects.

Given the outsized role that construction is playing in the state economy, its seems counterproductive to raise the cost of construction and rob future generations of the ability to learn a trade.

Therefore, we strongly ask for your committee's favorable action on HB877.

Mahalo,

A handwritten signature in black ink, appearing to read "Nathaniel Kinney". The signature is fluid and cursive, with the first name being more legible than the last.

Nathaniel Kinney
Executive Director
Hawai'i Construction Alliance
execdir@hawaiiconstructionalliance.org

LATE

Testimony of
Pacific Resource Partnership

House Committees on Government Reform
The Honorable Angus L.K. McKelvey, Chair
The Honorable Tina Wildberger, Vice Chair

HB877 Relating to Apprenticeship Agreement Preference

Wednesday, February 3, 2021
8:30 A.M.
Conference Room 309

Aloha Chair McKelvey, Wildberger Vice Chair, and Members of the Committee:

Pacific Resource Partnership (PRP) writes in strong opposition of HB877, which repeals the public works construction bid performance for parties to registered apprenticeship agreements.

Enacted in 2009, Act 17, or known as Section 103-55.6, does more than provide a bid preference to both union and non-union contractors who are part of an apprenticeship program. It encourages contractors to participate in a state-approved apprenticeship program providing recent high school graduates and job seekers with an opportunity to learn specialized skills in the construction industry. After completing training in an apprenticeship program, apprentices can earn good middle-class wages and pursue other career options in the future, such as becoming an apprentice supervisor, contractor, or business owner.

During these difficult economic times, we need to ensure that our local contractors, who hire a local workforce, are given preference when bidding on public works contracts. We also need to preserve Act 17 to support our apprenticeship programs that provide our local workforce with the proper training and job opportunities that will help to mitigate the impacts that this economic crisis is and will continue to have on Hawaii's residents and businesses.

