

**PRESENTATION OF THE
CONTRACTORS LICENSE BOARD**

**TO THE HOUSE COMMITTEE ON
ECONOMIC REVITALIZATION, BUSINESS, & MILITARY AFFAIRS**

**TWENTY-FIFTH LEGISLATURE
Regular Session of 2010**

**Tuesday, February 9, 2010
8:30 a.m.**

WRITTEN TESTIMONY ONLY

**TESTIMONY ON HOUSE BILL NO. 2434, RELATING TO PERMIT, LICENSE, AND
APPROVAL APPLICATION PROCESSING.**

**TO THE HONORABLE ANGUS L. K. MCKELVEY, CHAIR,
AND MEMBERS OF THE COMMITTEE:**

The Contractors License Board ("Board") appreciates the opportunity to present testimony expressing its concerns with House Bill No. 2434, which proposes to authorize each county to provide a third-party with permit, license, and approval processing review powers to increase the efficiency and timeliness of the approval process.

Section 2 of the bill (specifically page 2, lines 12 through 16) includes in this process license applications submitted to the State. While the intent of the bill does not appear to include contractor license applications, the language is very broad and the Board would like to express its opposition should the bill be interpreted in this manner.

Currently, each application for a contractor license is reviewed by the Board to ensure that the applicant is minimally qualified to perform contracting services for the public. The Board reviews financial information and experience certificates, and applicants must successfully complete license examinations. The Board feels that this

process supports the Board's purpose of protecting the public, and we are opposed to relinquishing this responsibility to a third-party.

Thank you for the opportunity to express our concerns regarding this bill.



HAWAII BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO

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Laborers' International Union of North

America Local 368

DOUGLAS FULP

International Association of

Heat & Frost Insulators

& Allied Workers Local 132

Honorable Representative Angus L. K. McKelvey, Chair
Honorable Representative Issac W. Choy, Vice Chair
Members of the House Committee on Economic Revitalization,
Business, and Military Affairs
Hawaii State Capital
415 South Beretania Street
Honolulu, HI 96813

RE: **IN SUPPORT OF HB 2434**
RELATING TO PERMIT, LICENSE, AND APPROVAL
APPLICATION PROCESSING.
Hearing: Tues., February 9, 2010, 8:30 a.m., Room 312

Dear Chair McKelvey, Vice Chair Choy and the House Committee on
Economic Revitalization, Business, and Military Affairs:

For the Record my name is Buzz Hong the Executive Director for
the Hawaii Building & Construction Trades Council, AFL-CIO. Our
Council is comprised of 16-construction unions and a membership
of 26,000 statewide.

Our Council **SUPPORTS** the passage of **HB 2434** that establishes a
maximum time period that an application for permit, license, or
approval shall be deemed grantede if not acted upon by the
designated agency; authorizes each county to contract with a third-
party reviewer to streamline the processing of applications; clarifies
that previously approved projects that do not impact historic
properties are not subject to subsequent reviews by the SHPD.

Thank you for the opportunity to submit this testimony in support
of **HB 2434**.

Sincerely,

W. Hong/dg

William "Buzz" Hong
Executive Director

WBH/dg



Testimony of C. Mike Kido
External Affairs
The Pacific Resource Partnership

House Committee on Economic Revitalization, Business, & Military Affairs
Rep. Angus McKelvey, Chair
Rep. Isaac Choy, Vice Chair

HB 2434 – Relating to Permit, License, and Approval Application Processing
Tuesday, February 9, 2010
8:30 A.M.
Conference Room 312

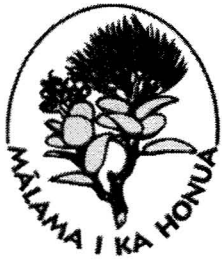
Chair Angus McKelvey and members of the committee:

My name is C. Mike Kido, External Affairs for the Pacific Resource Partnership (PRP), a labor-management consortium representing over 240 signatory contractors and the Hawaii Carpenters Union.

PRP **supports** HB 2434 – Relating to Permit, License, and Approval Application Processing which establishes a maximum time period that an application for permit, license, or approval shall be deemed granted if not acted upon by the designated agency; authorizes each county to contract with a third-party reviewer to streamline the processing of applications; clarifies that previously approved projects that do not impact historic properties are not subject to subsequent reviews by the SHPD.

PRP understands and appreciates the difficulty faced by the Legislature in determining ways to achieve a quick economic recovery and thus support HB 2434 to help streamline and enhance the efficiency of the permit and license review and the approval process; this will expedite the start of construction for workforce housing projects throughout the State and will result in the generation of construction and other related jobs that are much needed in our economy.

Thank you for the opportunity to share our opinion and we kindly ask for your support of HB 2434 – Relating to Permit, License, and Approval Application Processing.



Sierra Club Hawai'i Chapter

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HOUSE COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS, & MILITARY AFFAIRS

February 9, 2010, 8:30 A.M.

(Testimony is 2 pages long)

TESTIMONY IN OPPOSITION TO SECTIONS 3 AND 4 OF HB 2434

Aloha Chair McKelvey and Members of the Committee:

The Hawai'i Chapter of the Sierra Club opposes sections 3 and 4 of HB 2434, which automatically approves -- in the absence of any other regulations -- **all** ministerial permits after 30 days. While we support efforts to encourage economic development, this measure may undermine the desired goals of the policy and run counter to the concept of a democratically administered society.

The "automatic approval" of any permit is simply poor policy. Permits should be granted on their merits, not by mistake or governmental inefficiency. ***No community should suffer because government failed to perform.*** Consider:

- What happens when a building is automatically approved that doesn't meet health and safety standards? Is the State liable for any resulting injuries?
- What happens when additional information is required by the department or agency and the deadline passes?
- What happens when complex issues like subdivision approval of a massive development project -- that directly impacts traffic, public access, and smart growth -- are automatically approved because of timing blunder?
- What happens if an applicant fails to submit all the necessary information? Would building, electrical and plumbing permits be deemed "approved" because the agency did not have a completed application?
- What happens when there are complex environmental assessments and the like that need to be completed pursuant to Haw. Rev. Stat. Chapter 343 and the deadline passes?

- What happens when a contested case hearing is requested pursuant to chapter 91, HRS, and for any other period for administrative appeals and review and the deadline passes?
- Is it ever appropriate to automatically approve a permit that will irreparably damage the environment or native Hawaiian rights? Doesn't that violate protections provided by the State Constitution?

This measure also fails to consider a number of procedural concerns. For example, what happens with a tie vote? A tie vote on a board or committee usually signals that the measure or proposal didn't garner enough supporting votes. Under the current law, a tie vote means inaction and therefore automatic approval if the deadline passes.

Similarly, what happens when there is a lack of a majority? Under current law, if a commission has a quorum to take a valid vote but there is not the required majority vote to approve or deny, the permit is approved by default if a deadline passes. For example, if a 6-member board votes 3-2 AGAINST a project, but a majority is required to ratify any action, the project may be automatically approved.

The above situations turn logic on its head. An application could be approved by:

1. an affirmative majority vote (the appropriate route);
2. a tie vote with time lapsing; or
3. a less than majority vote with time lapsing.

Logically, if an applicant can't get a majority of commission or board members to support the application, the application should not be approved.

Again, we understand and appreciate the intent of this measure. Perhaps other incentives besides "automatic approval" could be incorporated to expedite construction of environmentally beneficial projects. For example, perhaps an ombudsman program could be developed to shepherd projects of this nature through the review process. Or an "expedited fee" could be charged to pay for additional review staff and resources that would automatically be refunded if the project is not approved within a set period of time?

Thank you for this opportunity to provide testimony.