



HAWAI`I CIVIL RIGHTS COMMISSION

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February 23, 2010
Rm. 325, 2:00 p.m.

To: The Honorable Jon Riki Karamatsu, Chair
Members of the House Committee on Judiciary

From: Coral Wong Pietsch, Chair
and the Commissioners of the Hawai`i Civil Rights Commission

RE: H.B. No. 2897

The Hawai`i Civil Rights Commission (HCRC) has enforcement jurisdiction over Hawai`i's laws prohibiting discrimination in employment, housing, public accommodations, and access to State and State-funded services. The HCRC carries out the Hawai`i constitutional mandate that no person shall be discriminated against in the exercise of their civil rights. Art. I, Sect. 5.

The HCRC opposes H.B. No. 2897 which would amend Hawai`i Revised Statutes § 444-17(22) to subject contractors on any project or operation who knowingly or intentionally employ workers who are not eligible to work in the United States to license revocation, suspension, or refusal to renew.

The reasons for HCRC opposition to H.B. 2897 are two-fold:

- 1) The proposed statute would result in the application of federal law standards in state law contexts, requiring state agencies and courts to interpret complex federal laws that are better left to the appropriate federal agencies for enforcement.

- 2) The proposed prohibition and license revocation create a likelihood of increased ancestry / national origin discrimination in employment. If contractors face the serious penalties under state law as proposed, in addition to the sanctions faced under federal law, affecting their contractors' licenses and livelihood, it will encourage them to avoid the potential penalties by not hiring workers who appear to be non-native, foreign-born, or immigrant. This will result in unlawful discrimination against those whose language, accent, or other characteristics are not typically "American," creating a climate of discrimination against immigrant workers.

The HCRC opposes H.B. No. 2897, and urges the Committee to hold this measure.

Testimony In Support of
HB2897
Relating to Contractors

By
Al Lardizabal, Director
Government Relations
Hawaii Laborers' Union

Tuesday, February 23, 2010, Rm. 325, 2:00 p.m.

To the
Judiciary Committee

Representative Jon Riki Karamatsu, Chairman and Members of the
Committee:

HB2897 subjects a contractor to revocation or suspension of its license for knowingly or intentionally employing a person who is not eligible to work in the United States under federal law to perform work on any project or program.

The Hawaii Laborers' Union supports this bill. We believe that it is the unscrupulous contractor that knowingly entices an ineligible worker to break U.S. laws that should be penalized accordingly.

The passage of this bill into law will level the playing field for contractors that play by the rules. Bidding will be more competitive causing government to get better prices, decreasing cost to the Hawaii taxpayer and creating employment opportunities for Hawaii workers.

Thank you for the opportunity to submit this testimony.

The Twenty-Fifth Legislature
Regular Session of 2010

HOUSE OF REPRESENTATIVES
Committee on Judiciary
Rep. Jon Riki Karamatsu, Chair
Rep. Ken Ito, Vice Chair

State Capitol, Conference Room 325
Tuesday, February 23, 2010; 2:00 p.m.

**STATEMENT OF THE ILWU LOCAL 142 ON H.B. 2897
RELATING TO CONTRACTORS**

The ILWU Local 142 supports H.B. 2897, which subjects a contractor to revocation or suspension of license for knowingly or intentionally employing a person who is not eligible to work in the United States under federal law to perform work on any project or operation.

All employers should obey the law. Since the Immigration Reform and Control Act was passed in 1986, employers have been required to certify that their employees are legally authorized to work in this country. Each employee must complete and submit to the employer an I-9 form and show proof of U.S. citizenship or lawful permission to work in the U.S.

H.B. 2897 will serve to reinforce what federal law already provides for and will deny contractors their own license to work on public works project for violation of the law. We believe that any contractor who violates the law that prohibits hiring of undocumented aliens should have their licenses revoked for work on any project.

While we understand the desire for workers from other countries to come to the U.S. for work, employers who allow them to work on their projects knowing they either have no documents or their documents are not valid should be penalized for violating the law. These employers are not only exploiting foreign workers but are depriving U.S. citizens and others who have legal authorization to work the opportunity for gainful employment. The livelihoods of these employers should be affected by their actions.

The ILWU urges passage of H.B. 2897. Thank you for considering our testimony.



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

Before the Committee on Judiciary

Tuesday, February 23, 2010
Conference Room 325
2:00 p.m.

Aloha Chair Karamatsu, Vice Chair Ito, and members of the Committee on Judiciary:

The Pacific Resource Partnership (PRP) is a joint partnership of the Hawaii Carpenters Union and their 240 signatory contractors. PRP strongly supports **HB 2897 – Relating to Contractors**, which subjects a contractor to revocation or suspension of license for knowingly or intentionally employing a person who is not eligible to work in the United State under federal law to perform work on any project or operation.

Below are answers to the questions that came about during the previous hearing:

- **Targets minorities:** There is no targeting of an ethnic minority. There is no targeting of any individual in this Bill. The only target in this Bill is those contractors who “knowingly and intentionally” hire a person that does not have the proper permit or status to work in the U.S.
- **Knowingly and Intentionally:** Is just what it sounds like. Where a contractor knows that an individual is not properly documented to work in the U.S., then chooses to ignore or “turn a blind eye” to this knowledge and hires that person in light of knowledge on the part of the contractor. The contractor has then also intentionally hired the person in violation of this section.

This section DOES NOT require a contractor to look beyond the face of the documentation presented by the prospective employer. Neither does this section require a contractor to test the veracity of the information or documents given by signing up with an information verification service.

Most importantly, this section DOES NOT recommend or require action by CLB for negligent hiring of an undocumented worker. A negligent or inadvertent hiring could occur if documents presented to the employer were fraudulent. This takes much the same course as the Federal Government where employers are not held liable for fraudulent documents presented to an employer UNLESS it was the employer who help create or procure those fraudulent documents.

- **Feds Already Regulate:** It is true that the Federal Government already regulates in the area of illegal employment of undocumented workers. However, it appears that they will only prosecute or indict only the individuals that did the actual hiring or recruiting. Many times this allows owner of the offending companies to continue on with their business with little or no repercussions in spite of the activity of their agents who may or may not have been doing the bidding of the owner.

The State of Hawaii has the power to regulate many aspects of contractor licensing within the state. Therefore, it should be incumbent upon the State, in order to maintain the professional integrity of the construction trade to ensure that contractors are not engaging in hiring practices that put at risk the public for whom these contractors perform services, by risking quality, safety and training by hiring potentially unqualified and under-trained workers, merely to add padding to a contractor's bottom line.

- **Abuses:** Further, those undocumented workers hired by the unscrupulous contractors are subject to many potential abuses such as living in a warehouse in Halawa Valley, or having 40 people crammed into 2 separate 2 bedroom apartments in Waipahu, or living in converted cargo containers in Ewa.

Historically, the range of abuses that undocumented workers are potentially subject to is far greater than those who would seek to exploit this law to avoid hiring an undocumented worker.

While CLB has limited power to regulate those who operate unlicensed in the industry when it comes to using illegal labor, a law such as this will help to at least level the playing field between licensed contractors to help ensure that an unscrupulous contractor cannot make huge labor cost savings through the use of illegal labor. Since, most undocumented workers are paid under-the-table and in cash, avoiding income tax withholding as well as workers' compensation and other fees that legitimate contractors must account for in their labor costs.

Thank you for your time and PRP respectfully asks that this legislative proposal be given full consideration in the course of your legislative deliberations.

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GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

February 21, 2010

TO: THE HONORABLE REPRESENTATIVE JON RIKI KARAMATSU, CHAIR AND
MEMBERS OF THE COMMITTEE ON JUDICIARY

SUBJECT: H.B.2897, RELATING TO CONTRACTORS.

NOTICE OF HEARING

AMENDED NOTICE OF HEARING

DATE: Tuesday, February 23, 2010
TIME: 2:00 p.m.
PLACE: Conference Room 325

Dear Chair and Members of the Committee:

The General Contractors Association (GCA), an organization comprised of over five hundred and seventy (570) general contractors, subcontractors, and construction related firms, **supports** the passage of H.B. 2897, Relating To Contractors.

H.B. 2897, amends Section 444-17, HRS, to extend the authority of the contractors licensing board to revoke or suspend the license of any contractor found to have knowingly or intentionally employing any individual not eligible to work in the United States under federal law to any contractor subject to Chapter 444, not just those working on state and county contracts.

The GCA believes that this statute enacted in 2009, as Act 145-09, should apply to all contractors licensed by the state of Hawaii, and not just to those working on contracts subject to Chapter 104, HRS.

The GCA supports the passage of H.B. 2897 and recommends it be passed by the House Committee on Labor & Public Employment.

Thank you for the opportunity to provide our views on this issue.

**PRESENTATION OF THE
CONTRACTORS LICENSE BOARD**

TO THE HOUSE COMMITTEE ON JUDICIARY

TWENTY-FIFTH LEGISLATURE
Regular Session of 2010

Tuesday, February 23, 2010
2:00 p.m.

TESTIMONY ON HOUSE BILL NO. 2897, RELATING TO CONTRACTORS.

TO THE HONORABLE JON RIKI KARAMATSU, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Denny Sadowski, Legislative Committee Chair of the Contractors License Board ("Board"). Thank you for the opportunity to present testimony on House Bill No. 2897, which proposes to make it a licensing violation for a contractor to knowingly and intentionally employ a person who is not eligible to work in the United States on any project, not just public work projects. The Board has concerns with this bill.

To give you some background on this measure, last year House Bill No. 643 was introduced which proposed to require the Department of Labor and Industrial Relations to investigate and enforce complaints relating to the employment of ineligible workers. This bill evolved into Act 145, which made it a licensing violation for contractors to knowingly employ ineligible persons on public work projects.

As the Board testified last year, we question the need for penalties specific to contractors. There are federal statutes and enforcement agencies already in place to address this issue, and employers must submit employment verification forms indicating that the individual is authorized to work in the U.S. We feel that any employer using ineligible workers should be dealt with by the proper authorities, whether or not the employer is a contractor.

Thank you for the opportunity to testify on House Bill No. 2897.