



H B 2899

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PRESENTATION OF
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
REGULATED INDUSTRIES COMPLAINTS OFFICE

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE

TWENTY-FIFTH STATE LEGISLATURE
REGULAR SESSION, 2010

MONDAY, FEBRUARY 8, 2010
2:00 P.M.

TESTIMONY ON HOUSE BILL NO. 2899
RELATING TO CONSTRUCTION SITES

TO THE HONORABLE ROBERT N. HERKES, CHAIR,
AND TO THE HONORABLE GLENN WAKAI, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs' Regulated Industries Complaints Office ("RICO") appreciates the opportunity to testify on House Bill No. 2899, Relating To Construction Sites. My name is Jo Ann Uchida, RICO's Complaints and Enforcement Officer. RICO offers the following comments on the bill.

House Bill No. 2899 creates a construction site inspection task force within the Department, comprised of members from the Department, the Department of Labor and Industrial Relations, the Department of Taxation, and each county

permitting department. The members shall facilitate information sharing, coordinate activities, and develop strategies among participating agencies to deter tax evasion, unlicensed contractor activity, and workplace safety violations. The Task Force is authorized to form joint enforcement teams to investigate and inspect the condition or operation of any construction site, enlist the cooperation and participation of other state agencies, establish procedures for soliciting referrals from the public, and evaluate the need for statutory changes.

RICO acknowledges that the purpose and provisions of the bill are laudable and appreciates any initiative that will facilitate more effective enforcement of State contracting laws. RICO notes, however, that the ability of the Task Force to devote resources to carry out its mandates will be dependent upon the staffing and budgets of the participating departments. The current economic situation of State government would not appear to be conducive to adding additional responsibilities at this time. We therefore urge the Committee to take serious consideration of the budgetary constraints each department faces before creating new responsibilities.

Thank you for this opportunity to testify on House Bill No. 2899. I will be happy to answer any questions that the members of the Committee may have.

LINDA LINGLE
GOVERNOR



DARWIN L.D. CHING
DIRECTOR

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February 4, 2010

To: The Honorable Robert N. Herkes, Chair
and Members of the House Committee on Consumer Protection & Commerce

Date: Monday, February 08, 2010
Time: 2:00 p.m.
Place: Conference Room 325
State Capitol

From: Darwin L.D. Ching, Director
Department of Labor and Industrial Relations

H.B. No. 2899 - Relating to Construction Sites

I. OVERVIEW OF PROPOSED LEGISLATION

H.B. No. 2899 amends Chapter 444, Hawaii Revised Statutes ("HRS") by adding a new section to establish a construction site inspection task force from the departments of Commerce and Consumer Affairs and Labor and Industrial Relations, to investigate and inspect construction sites for unlicensed contractors, illegal workers, and workplace safety violations.

This Act is effective July 1, 2010.

II. CURRENT LAW

There is currently no joint task force established under the departments of Commerce and Consumer Affairs and the Labor and Industrial Relations.

III. SENATE BILL

The Department supports the intent of H.B. 2899 but has the following concerns:

1. Adding this type of responsibility at time when resources are thinnest would negatively impact the ability of the Department of Labor and Industrial Relations to carry out the core purpose of assuring a lawful working environment by equitably administering and enforcing labor laws for which the department is responsible.
2. Further, this bill does not address the funding and resources necessary to create an interagency task force. The department will need to provide at least four (4) investigators (one each from UI, DCD, WSD & HIOSH) as well as clerical staff just to man this new office.
3. With the abolishment of RIF and vacant positions, the Wages Standards Division has only three specialists on the neighbor islands when previously there were four, and there are only three specialists on Oahu when previously there were five. Each specialist investigates complaints under six labor laws. There is no position to spare for inclusion in the projected task force.

**PRESENTATION OF THE
CONTRACTORS LICENSE BOARD**

**TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION & COMMERCE**

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

**Monday, February 8, 2010
2:00 p.m.**

TESTIMONY ON HOUSE BILL NO. 2899, RELATING TO CONSTRUCTION SITES.

**TO THE HONORABLE ROBERT N. HERKES, CHAIR,
AND MEMBERS OF THE COMMITTEE:**

My name is Denny Sadowski, Legislative Chair of the Contractors License Board ("Board"). Thank you for this opportunity to present testimony on House Bill No. 2899 which establishes a Construction Site Inspection task force to deter tax evasion, unlicensed activity, and workplace safety violations.

While the Board has not had an opportunity to discuss this bill in depth, we do suggest that the establishment of the task force be placed in a new section, rather than in the contractors licensing statute (Chapter 444, HRS), due to the broad nature of the bill and its impact on issues beyond contractor licensing.

The Board will further discuss this bill at its next meeting on February 19, 2010. However, we defer to DCCA/RICO as to whether this measure is workable or feasible.

Thank you for the opportunity to testify on this measure.

The Honorable Robert Herkes, Chair
Committee on Consumer Protection
State House
State Capitol, Room 325
Honolulu, Hi 96813

Ref: HB2899, Relating to Construction Sites, Mon 2 p.m., Room 325

My name is Scotty Anderson and for the past six years have served as a public member of the State Contractors License (CLB) Board, and since July as its Chair. Prior to this, I have spent over 30 years involved with sales to the construction industry.

Our counties and our State are strapped for money. Our citizens don't want tax or fee increases. HB2899 is a vehicle to raise money for both counties and the State without any increase in taxes or fees. It is revenue positive.

Currently unlicensed work in the construction area is costing our State and counties millions of dollars in uncollected taxes and fees.

Licensed contractors pay GET tax, permit fees, various forms of insurance, license fees etc.

We have an underground economy that is cheating both the construction industry and the citizens of Hawaii by:

- a) not paying their GET tax
- b) not having proper insurance
- c) not applying for proper permits
- d) not using properly licensed electricians or plumbers
- e) not paying proper wages with proper benefits

When faced with the same problems the State of California acted, and enacted an Enforcement agency that is eliminating unlicensed activity, collecting large fines, and making money for the State.

This task force includes not only the construction trades industry but safety and immigration to name a few as well.

Hawaii needs to address this growing problem that creates unfair competition in the industry and cheats our citizens at the same time.

I appreciate the committee's attention to this matter and stand ready to assist in any way possible.

Scotty Anderson
Chair, State Contractors License Board
306-5697

SAH - Subcontractors Association of Hawaii

1188 Bishop St., Ste. 1003**Honolulu, Hawaii 96813-2938

Phone: (808) 537-5619 ♦ Fax: (808) 533-2739

February 8, 2010

Testimony To: House Committee on Consumer Protection & Commerce
Representative Robert N. Herkes, Chair

Presented By: Tim Lyons
President

Subject: H.B. 2899 – RELATING TO CONSTRUCTION SITES.

Chair Herkes and Members of the Committee:

I am Tim Lyons, President of the Subcontractors Association of Hawaii. SAH is composed of nine separate and distinct subcontracting organizations including:

ELECTRICAL CONTRACTORS ASSOCIATION OF HAWAII

HAWAII FLOORING ASSOCIATION

ROOFING CONTRACTORS ASSOCIATION OF HAWAII

HAWAII WALL AND CEILING INDUSTRIES ASSOCIATION

TILE CONTRACTORS PROMOTIONAL PROGRAM

PLUMBING AND MECHANICAL CONTRACTORS ASSOCIATION OF HAWAII

SHEETMETAL CONTRACTORS ASSOCIATION OF HAWAII

PAINTING AND DECORATING CONTRACTORS ASSOCIATION

PACIFIC INSULATION CONTRACTORS ASSOCIATION

We support this bill.

The subject of unlicensed contractors has long been a thorn in the side of contractors. Various sessions of the legislature have dealt with this subject matter establishing everything from forfeiture penalties to the lack of protection for homeowners that use unlicensed contractors. Unfortunately, the problem persists. On the one hand, we feel that the problem persists because the greed factor is at work and people feel they can get a job done cheaper, even though they often times will have to wind up paying more for it later on. The other side is the lack of education and/or enforcement of current and existing laws. We believe this is an example of that situation. No new laws are needed (with the exception of this bill) in order to perform the framework for these investigations.

Unfortunately, in the past, government agencies have had their blinders on and have restricted their activity and their concerns to only THEIR laws. It is typical, we have discovered, that when a contractor is unlicensed and in violation of that law, he is also in violation of a LARGE number of other laws including immigration, hiring employees, paying taxes and having the proper insurances as well as, affording consumers the protection that they deserve when dealing with a contractor.

We would suspect that issues of funding may surface on this bill however, we would submit to you that in every poll that we have taken of our membership, they have never objected to an increase in the Regulated Industry Complaints Office Compliance fee, in order to help fund unlicensed contractors and if that is what is necessary then we would go along with it in order to provide some relief to the legitimate contractors that operate following the laws.

Based on the above, we can highly recommend your support.

The Pacific Resource
PARTNERSHIP



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

Committee on Consumer Protection & Commerce
Representative Robert Herkes, Chair
Representative Glenn Wakai, Vice Chair

HB 2899 – RELATING TO CONSTRUCTION SITES
Monday, February 8, 2010
2:00 pm
Conference Room 325

Chair Herkes, Vice Chair Wakai and members of the House Committee on Consumer Protection & Commerce:

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

PRP supports HB 2899 – Relating to Construction Sites, which establishes a construction site inspection task force to be led by the department of commerce and consumer affairs to investigate and inspect construction sites for unlicensed contractors, illegal workers, and workplace safety violations.

Underground business operations “cheat” our local people out of gainful employment and exploit illegal labor in these tough economic times for the sake of their “bottom line”. Underground business operations typically avoid licensing requirements and pay wages in cash, thereby avoiding income tax contributions that the rest of us pay that goes to support our schools and other social and infrastructure services.

Nearly 52% of unionized carpenters statewide are currently unemployed. The hiring of “illegal” workers “cheats” our local people from obtaining good paying work to support their families, while allowing unscrupulous contractors to increase profits at the expense of our own locally unemployed and those they seek to exploit.

Underground business operations are a threat to our State’s economy and thus PRP highly supports the creation of a construction site inspection task force to investigate and inspect construction sites for unlicensed contractors, illegal workers, and workplace safety violations.

Thank you for the opportunity to share our views with you and we respectfully ask for your support on HB 2899 – Relating to Construction Sites.



HAWAII ELECTRICIANS TRAINING FUND

1935 HAU STREET, ROOM 301 • HONOLULU, HAWAII 96819-5003 • PHONE (808) 847-0629 • FAX (808) 843-8818

TESTIMONY SUPPORTING HB2899, RELATING TO CONSTRUCTION SITES

**TO: HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE
(VIA FAX 843-8818)**

For Hearing on Monday, February 8, 2010, at 2:00 P.M., in Conference Room 325

RE: STRONG SUPPORT FOR HB2899

Honorable Chair Herkes, Vice Chair Wakai, and Consumer Protection and Commerce Committee members,

My name is David Lovelace. I am a Training Coordinator for the Hawaii Electricians Training Fund. We are a non-profit organization that provides substantial training for all our beneficiaries of the International Brotherhood of Electrical Workers Local Union 1186 and, thru contract, others requiring electrical education for the safety and well-being of the industry.

The State of Hawaii has recognized the need to qualify specific tradespersons in their abilities to perform and direct work in a safe and workmanlike manner thereby:

"HRS §448E-9 Unlicensed activity. (a) No person shall act or assume to act as a journey worker electrician, journey worker specialty electrician, supervising electrician, supervising specialty electrician, journey worker plumber, master plumber, maintenance electrician, journey worker industrial electrician, or supervising industrial electrician, or advertise or hold the person's self out as an electrician or plumber, without a license previously obtained in compliance with this chapter and the rules of the board;..."

The need to enforce the above requirement in protecting the people of Hawaii is very substantial. The Department of Commerce and Consumer Affairs Regulated Industries Complaints Offices (RICO) has been understaffed and slow to respond to complaints of unlicensed activities, as well as unsafe activities, verifying the need to provide assistance in protection. The formation of a task force would better facilitate and enforce inspection of construction sites for unlicensed contractors, illegal workers, and workplace safety violations. The task force would enable interagency information sharing and improve the ability of the participating agencies to audit, investigate, and prosecute violations.

We also believe that in order to obtain "a level of skill, abilities and competencies recognized within an industry", as written in 29 CFR 29.5 B (7), a needed ratio of journeyworkers to apprentices be accomplished as quoted:

"A numeric ratio of apprentices to journeyworkers consistent with proper supervision, training, safety, and continuity of employment," and a continuation of the requirement to have a licensed person supervise an apprentice or trainee as stated:



HAWAII ELECTRICIANS TRAINING FUND

1935 HAU STREET, ROOM 301 • HONOLULU, HAWAII 96819-5003 • PHONE (808) 847-0629 • FAX (808) 843-8818

HRS §448E-9 b) An apprentice or trainee learning the trade of a person licensed under this chapter shall not be required to have a license if the apprentice or trainee acts under the supervision of a person appropriately licensed under this chapter.

Allowing the director of DCCA to establish a construction site inspection task force could accomplish the consumer protection the Legislature of Hawaii has so judicially written in the Hawaii Revised Statutes.

Thank you for providing me with the opportunity to testify in strong support for HB2899.

Thank you,

David Lovelace
Hawaii Electricians Training Fund
Training Coordinator

1065 Ahua Street
Honolulu, HI 96819
Phone: 808-833-1681 FAX: 839-4167
Email: info@gcahawaii.org
Website: www.gcahawaii.org



GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

February 5, 2010

TO: THE HONORABLE REPRESENTATIVE N. HERKES, CHAIR AND MEMBERS OF
THE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

SUBJECT: H.B.2899, RELATING TO CONSTRUCTION SITES.

NOTICE OF HEARING

DATE: Monday, February 8, 2010
TIME: 2:00 pm
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. 2899, Relating to Construction Sites. This bill would create a construction site inspection task force to investigate and inspect construction sites for unlicensed contractors, illegal workers, and workplace safety violations.

The GCA feels that such a joint task force could more effectively and, in the long term, more economically deal with those that deliberately violate contractor licensing, labor and safety laws. There is also a provision to establish procedures for soliciting referrals from the public via telephone hotline and sharing of automated data systems. All of which should lead to more effective and timely responses to alleged unlicensed, illegal or unsafe construction site activities.

The GCA **supports** the passage of H.B. 2899 and recommends its passage.

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



HAWAII BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO

GENTRY PACIFIC DESIGN CENTER, STE. 215A • 560 N. NIMITZ HIGHWAY, #50 • HONOLULU, HAWAII 96817
(808) 524-2249 • FAX (808) 524-6893

NOLAN MORIWAKI

President

Bricklayers & Ceramic Tile Setters

Local 1 & Plasterers/Cement

Masons Local 830

February 8, 2010

JOSEPH O'DONNELL

Vice President

Iron Workers Local 625

DAMIEN T. K. KIM

Financial Secretary

International Brotherhood of

Electrical Workers Local 1188

Honorable Representative Robert N. Herkes, Chair
Honorable Representative Glenn Wakai, Vice Chair
Members of the House Committee on Consumer Protection & Commerce
Hawaii State Capital
415 South Beretania Street
Honolulu, HI 96813

ARTHUR TOLENTINO

Treasurer

Sheet Metal Workers I.A. Local 293

RE: **IN SUPPORT OF HB 2899**
RELATING TO CONSTRUCTION SITES.
Hearing: Mon., February 8, 2010, 2:00 p.m., Room 325

REGINALD CASTANARES

Trustee

Plumbers & Fitters Local 675

THADDEUS YOMEI

Elevator Constructors Local 126

Dear Chair Herkes, Vice Chair Wakai and the House Committee on
Consumer Protection & Commerce:

MALCOLM K. AHLO

Carpet, Linoleum, & Soft Tile

Local 1296

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.

JOSEPH BAZEMORE

Drywall, Tapers, & Finishers

Local 1944

Our Council SUPPORTS the passage of HB 2899 that establishes a
construction site inspection task force to be led by the Department
of Commerce and Consumer Affairs to investigate and inspect
construction sites for unlicensed contractors, illegal workers, and
workplace safety violations.

RICHARD TACGERE

Glaziers, Architectural Metal &

Glassworkers Local Union 1889

RONAN KOZUMA

Hawaii Teamsters & Allied

Workers Local 996

Thank you for the opportunity to submit this testimony in support
of HB 2899.

GARY AYCOCK

Boilermakers, Ironship Builders

Local 627

Sincerely,

LYNN KINNEY

District Council 50

Painters & Allied Trades

Local 1791

W. Hong

KALANI MAHOE

Operating Engineers Local 3

William "Buzz" Hong
Executive Director

PETER GANABAN

Laborers' International Union of North

America Local 368

WBH/dg

DOUGLAS FULP

International Association of

Heat & Frost Insulators

& Allied Workers Local 132

Skilled Craftsmanship Makes the Difference.

Testimony In Support of
HB2899 Relating to Construction Sites

By Al Lardizabal, Director
Government Relations
Hawaii Laborers' Union

February 7, 2010, 2:00 p.m.

To the
Committee on Consumer Protection and Commerce
Room 325, State Capitol

Representative Robert N. Herkes, Chairman and Members of the
Committee:

The Hawaii Laborers' Union strongly supports HB2899, which would establish a construction site task force to inspect and investigate sites for unlicensed contractors, illegal workers, and workplace safety violations.

We believe that the policy to initially help educate and inform contractors that violate laws and rules are a good one but it has its limits. Repeated violations by contractors should not lead to continuing "educational" sessions because it reduces compliance and worse, it leads to flaunting of the laws.

Increased inspections are needed and appropriate penalties must be applied to stop violations. Minor fees and penalties just become part of the "cost of doing business".

Thank you for the opportunity to submit this supporting testimony.

BIA-HAWAII

BUILDING INDUSTRY ASSOCIATION

February 8, 2010

Representative Robert Herkes, Chair
Committee on Consumer Protection and Commerce
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: HB 2899 RELATING TO CONSTRUCTION SITES

Chair Herkes and Members of the Committee on Consumer Protection and Commerce:

I am Karen Nakamura, Chief Executive Officer of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-Hawaii strongly supports HB 2899 Relating to Construction Sites

The purpose of the bill is to establish a construction site inspection task force to be led by the department of commerce and consumer affairs to investigate and inspect construction sites for unlicensed contractors, illegal workers, and workplace safety violations. A multi-disciplinary team such as the one that would be established by the enactment of this bill could be very effective in checking on violations related to unlicensed activity, health and safety laws, and immigration laws on a construction site. The creation of the task force and the frequency of their inspections could be a significant deterrent to unlicensed and illegal activity.

We ask for your favorable consideration and passage of this bill.

Thank you for the opportunity to testify on this bill.

Karen I. Nakamura

Chief Executive Officer

BIA-Hawaii