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IN REPLY REFER TO:

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

March 15, 2011

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

SENATE BILL NO. 1221 S.D. 2

COMMITTEES ON LABOR AND PUBLIC EMPLOYMENT
AND
ECONOMIC REVITALIZATION AND BUSINESS

The Department of Transportation ("DOT") opposes this bill as it is currently amended. The governmental contracting agencies will be burdened with the responsibilities for compliance monitoring of subcontractors and for pursuing sanctions against non-compliant subcontractors.

The DOT believes that the general contractor should be the responsible party for compliance monitoring since the contract will only be between the governmental contracting agencies and the general contractor.

Additionally, the responsibilities of this bill will require additional resources to enforce, for which the DOT currently does not have.

TO THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
AND
THE HOUSE COMMITTEE ON ECONOMIC REVITALIZATION AND BUSINESS

TIME/DATE: 10:00 A.M., TUESDAY, MARCH 15, 2011

TESTIMONY IN SUPPORT OF SENATE BILL NO. 1221, S.D. 2
"RELATING TO PROCUREMENT"

TO THE HONORABLE KARL RHOADS, CHAIR
AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

AND

TO THE HONORABLE ANGUS L.K. McKELVEY, CHAIR
AND MEMBERS OF THE HOUSE COMMITTEE ON ECONOMIC REVITALIZATION AND BUSINESS:

The International Union of Painters and Allied Trades, District Council 50, appreciates the opportunity to testify in strong support of Senate Bill No. 1221, SD2. My name is Nathaniel Kinney, International Union of Painters and Allied Trades, District Council 50 (IUPAT, DC50), an organization comprised of four (4) local unions – the Painters, Local Union 1791; the Glaziers Architectural and Glass Metal Workers, Local Union 1889; the Carpet Linoleum and Soft Tile, Local Union 1926; and the Drywall Tapers Finishers, Local Union 1944, representing approximately 2000 members throughout the State of Hawaii.

IUPAT, DC50, strongly supports Senate Bill No. 1221, SD1. This legislation stipulates that at least eighty percent of the workforce on public works projects must employ Hawaii residents. The amendments set forth in SB1221, SD2, clarify that general contractors and subcontractors are required to file a certification of compliance upon final completion of the contract. The amendment also allows a contractor to withdraw a bid prior to the award of a contract if they cannot comply with the Hawaii resident workforce requirement. It further clarifies that a general contractor shall not be sanctioned for noncompliance by the subcontractor. IUPAT, DC50, believes that the proposed amendments in SB1221, SD2, will strengthen the filing requirements and continue to support Hawaii's working families. Thank

you for the opportunity to testify in support of this measure and I humbly request that the committees support the passage of Senate Bill No. 1221, SD2.



Hawaii Chapter

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March 15, 2011

Testimony to: House Committee on Labor & Public Employment
Rep. Karl Rhoads, Chair
House Committee on Economic Revitalization and
Business
Rep. Angus L.K. McKelvey, Chair

RE: SB 1221 S.D. 2, Relating to Procurement

Chair Rhoads, Chair McKelvey and members of the committees, thank you for the opportunity to submit testimony on this bill. My name is Malcolm Barcarse, Jr. Chair of the Legislative Committee of Associated Builders and Contractors, Hawaii Chapter an organization representing 124 merit shop contractors in the State of Hawaii. We are OPPOSED to SB 1221 as currently written insofar as it provides an opportunity for bidders to withdraw their bids if they believe that they will not be in compliance with Act 68.

Currently bidders are allowed to withdraw bids after bid opening only after making a mistake that

"... is attributable to an obvious error that shall affect price, quantity, quality, delivery, or contractual conditions, provided:

- A) The bidder requests withdrawal by submitting documentation that demonstrates a mistake was made; and
- B) The procurement officer prepares a written approval or denial in response to this request."

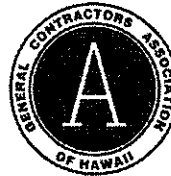
HAR §3-122-31(c)(2)

Allowing this additional exception may endanger the credibility of the bidding process as it will allow a contractor to withdraw their bid on a mere belief that they will not be complaint with Act 68 without any scrutiny from the contracting agency. Since this bill also changes the law to no longer require monthly certification of compliance there is no way for the contracting agency to determine whether a bidder really has a good faith basis to withdraw their bid. For these reasons we urge that the committee remove this provision from the bill.

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GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

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March 15, 2011

TO: THE HONORABLE REPRESENTATIVE KARL RHOADS, CHAIR AND MEMBERS
OF THE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

THE HONORABLE REPRESENTATIVE ANGUS L.K. McKELVEY, CHAIR AND
MEMBERS OF THE COMMITTEE ON ECONOMIC REVITALIZATION &
BUSINESS

SUBJECT: S.B.1221, SD2 RELATING TO PROCUREMENT.

NOTICE OF HEARING

DATE: Tuesday, March 15, 2011
TIME: 10:00 a.m.
PLACE: Conference Room 309

Dear Chairs Rhoads and McKelvey and Members of the Joint Committees:

The General Contractors Association (GCA), an organization comprised of over five hundred and eighty (580) general contractors, subcontractors, and construction related firms, supports the intent of S.B. 1221, SD2 and recommends its passage.

Act 68, SLH 2010, was legislation intended to promote the economic well being of the state of Hawaii and increase the resident employment on state and county construction projects by requiring a minimum of eighty per cent of the workforce on these project be "local residents". Act 68 requires among other things monthly certificate of compliance filed by the general contractor. However, the eighty per cent requirement is to be calculated on the total hours worked on the project. Thus while a contractor may not be in compliance on a given month, he would be when the project is completed. The bill therefore, eliminates the requirement to file monthly reports and only one report will be required at the completion of a project.

One amendment incorporated in SD2 correctly removes the penalty of temporary suspension since, non compliance can only be determined at the completion of the contract.

Finally, the bill makes it clear that the general contractor will not be sanctioned for noncompliance by a subcontractor who, for example, may have submitted inaccurate payroll documentation.

The GCA recommends one additional amendment to clarify that any bidder who discovers that he cannot comply with the 80% requirement shall be permitted to withdraw his bid prior to award without penalty.

The GCA believes that the proposed amendment to S.B. 1221, SD2 will strengthen Section 103B by making the filing requirements internally consistent while complying with the intent of the original legislation.

The GCA recommends the passage of S.B. 1221, SD2.

Thank you for the opportunity to comment on this measure.

LATE



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Founded in 1962

March 15, 2011

TO: THE HONORABLE REPRESENTATIVE KARL RHOADS, CHAIR AND MEMBERS OF
THE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

THE HONORABLE REPRESENTATIVE ANGUS L.K. McKELVEY, CHAIR AND
MEMBERS OF THE COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS

SUBJECT: S.B.1221, SD2 RELATING TO PROCUREMENT.

NOTICE OF HEARING

DATE: Tuesday, March 15, 2011

TIME: 10:00 a.m.

PLACE: Conference Room 309

Dear Chairs Rhoads and McKelvey and Members of the Joint Committees:

My name is Lance Inouye and I am President of Ralph S. Inouye Co., Ltd. (RSI), General Contractor and member of the General Contractors Association of Hawaii (GCA). RSI supports the intent of S.B. 1221, SD2 and recommends its passage.

Act 68, SLH 2010, was legislation intended to promote the economic well being of the state of Hawaii and increase the resident employment on state and county construction projects by requiring a minimum of eighty per cent of the workforce on these project be "local residents". Act 68 requires among other things monthly certificate of compliance filed by the general contractor. However, the eighty per cent requirement is to be calculated on the total hours worked on the project. Thus while a contractor may not be in compliance on a given month, he may be when the project is completed. The bill therefore, eliminates the requirement to file monthly reports and only one report will be required at the completion of a project.

One amendment incorporated in SD2 correctly removes the penalty of temporary suspension since, non compliance can only be determined at the completion of the contract.

Finally, the bill makes it clear that the general contractor will not be sanctioned for noncompliance by a subcontractor who, for example, may have submitted inaccurate payroll documentation.

RSI recommends one additional amendment to clarify that any bidder who discovers that he cannot comply with the 80% requirement shall be permitted to withdraw his bid prior to award without penalty.

RSI believes that the proposed amendment to S.B. 1221, SD2 will strengthen Section 103B by making the filing requirements internally consistent while complying with the intent of the original legislation.

RSI recommends the passage of S.B. 1221, SD2.

Thank you for the opportunity to comment on this measure.

Sincerely,
RALPH S. INOUE CO., LTD.

Lance M. Inouye
President & CEO

Testimony of Glenn Ida

LATE

Representing,
The Plumbers and Fitters, Local 675

In Strong Support of SB1221, SD2

Before the House:
Committee on Labor and Public Employment and
Committee on Economic Revitalization and Business

Tuesday, Mar.15, 2011
10:00 AM, Conference Room 309

Aloha Chair Rhoads, Vice-Chair Yamashita, Chair McKelvey,
Vice-Chair Choy and Members,

My name is Glenn Ida; I represent the 1300 plus active members and
about 600 retirees of the Plumbers and Fitters Union, Local 675.

Local 675, **Supports SB 1221, SD2**, which requires the general contractor and
applicable subcontractor for construction procurement under the Hawaii public
procurement code to file certification of compliance with chapter 103B, HRS, with
the notice of final completion of the contract. Provides that the general contractor
shall not be sanctioned for noncompliance by a subcontractor. Allows general
contractor to withdraw a bid prior to award of a contract if it finds it is unable
to comply with eighty per cent Hawaii workforce requirement.

For these reasons the Plumbers and Fitters Local 675, **Supports SB 1221, SD2.**

Thank you for this opportunity to testify.

Glenn Ida
808-295-1280