

LATE TESTIMONY

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GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

February 9, 2011

TO: THE HONORABLE SENATOR WILL ESPERO, CHAIR AND MEMBERS OF
THE COMMITTEE ON PUBLIC SAFETY, GOVERNMENT OPERATIONS,
AND MILITARY AFFAIRS

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

NOTICE OF HEARING

DATE: Saturday, February 12, 2011
TIME: **10:00 a.m.**
PLACE: Conference Room 229

Dear Chair Espero and Members of the Committee:

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 and recommends its passage with the amendments proposed to the bill in attachment "A".

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 certificates 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,

Another proposed amendment will remove 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 is not responsible to non compliance by the subcontractor and will not be sanctioned for violations by a subcontractor.

The GCA believes that the proposed amendment to S.B. 1221 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, with the proposed amendments.

Thank you for the opportunity to comment on S.B. 1221.

“Attachment A”

THE SENATE
TWENTY-SIXTH LEGISLATURE, 2011
STATE OF HAWAII

S.B. NO. 1221

A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

SECTION 1. Section 103B-3, Hawaii Revised Statutes, is amended by amending subsections (a), (c) and (d) to read as follows:

“(a) A contractor accepting an award of any contract shall ensure that Hawaii residents compose not less than eighty per cent of the workforce employed to perform the contract on a particular construction project, as determined under subsection (b). A bid may be withdrawn prior to an award without penalty if the bidder finds it is unable to comply with the requirements of this subsection.

(c) [~~Every general contractor and every subcontractor shall comply with this chapter for the entire duration of the contract.~~] Certification of compliance with this chapter shall be made under oath by an officer of the general contractor and applicable sub[s]contractors to the procurement officer [~~on a monthly basis.~~] with the notice of completion of the contract.

(d) A general contractor or subcontractor who fails to comply with this chapter shall be subject to any of the following sanctions:

~~[-1-] [Temporary suspension of work on the project until the contractor or subcontractor complies with this chapter.]~~

(1) ~~[-2-]~~ Withholding of final payment on the contract or subcontract, as applicable, until the contractor or subcontractor complies with this chapter;

~~[-3-] [Permanent disqualification of the contractor or subcontractor from any further work on the project.]~~

(2) ~~[-4-]~~ Recovery by the State or county, as applicable, of any moneys expended on the contract or subcontract, as applicable; or

(3) ~~[-5-]~~ Proceedings for debarment or suspension of the contractor or subcontractor under section 103D-702~~[-]~~; provided that a general contractor shall not be sanctioned for noncompliance with this section by a subcontractor of that general contractor on the same contract."

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

INTRODUCED BY: _____

Report Title:

Construction Procurement Contracts

Description:

Requires the general and subcontractor for construction procurement under the Hawaii public procurement code to file certification of compliance with the notice of final completion of the contract. Provides that the general contractor shall not be sanctioned for noncompliance by a subcontractor.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.