

Honolulu, Hawaii
March 18, 2016

RE: S.B. No. 3092
S.D. 2
H.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Economic Development & Business, to which
was referred S.B. No. 3092, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO PROCUREMENT,"

begs leave to report as follows:

The purpose of this measure is to improve the procurement
process for public works construction projects. Specifically,
this measure:

- (1) Authorizes procurement officers to consider a previously
licensed and listed subcontractor's license as valid if
the license at bid time was suspended or forfeited due
to certain actions not involving judgment or discretion
and the license is restored prior to the contract being
awarded; and
- (2) Provides that a bidding contractor shall provide the
name of each joint contractor or subcontractor and the
nature or scope of that entity's work no later than two
hours after the closing of bidding.

Close Construction, Inc., LYZ, Inc., Hawaiian Dredging
Construction Company, Inc., Healy Tibbitts Builders, Inc.,
Building Industry Association of Hawaii, Ralph S. Inouye Co. Ltd.,
and Genba Hawaii, Inc. testified in support of this measure. The
Department of Transportation and General Contractors Association
of Hawaii testified in support of the intent of this measure. The

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State Procurement Office, International Brotherhood of Electrical Workers Local Union 1186, Subcontractors Association of Hawaii, Ironworkers Stabilization Fund, and Plumbing and Mechanical Contractors of Hawaii testified in opposition to this measure. The Department of Commerce and Consumer Affairs and Contractors License Board provided comments on this measure.

Your Committee finds that the delivery and award of public works construction projects can be hindered by bid challenges resulting in a lapse in funding and other procurement issues. While a bidder may challenge a low-bidder's proposal due to a number of issues, including flaws or technical discrepancies in a low-bidder's proposal, recent bid challenges have been related to subcontractor licensing issues. With the large number of licenses available to subcontractors, general contractors have found it difficult to verify and validate whether a subcontractor has the proper license to perform the type of work the subcontractor has been contracted to perform. Your Committee finds that allowing a procurement officer, under certain limited conditions, to consider a subcontractor's license as valid for purposes of inclusion in a general contractor's bid will greatly minimize bid challenges based on licensing while still ensuring that all subcontractors meet necessary requirements to perform the work.

Your Committee has amended this measure by:

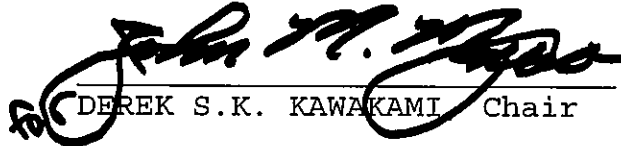
- (1) Deleting the requirement that a bidding contractor provide the name of each joint contractor or subcontractor and the nature or scope of that entity's work no later than two hours after the closing of bidding;
- (2) Clarifying that a procurement officer may consider a listed subcontractor's license as valid if the subcontractor was previously licensed to perform the scope of the work indicated, and if at the time of the award or within 60 days of bid opening, whichever is sooner, the listed subcontractor is appropriately licensed;
- (3) Deleting the definition of "ministerial act" as that term is not used in this measure;
- (4) Changing its effective date to February 19, 2022, to encourage further discussion; and



- (5) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3092, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3092, S.D. 2, H.D. 1, and be referred to your Committee on Consumer Protection & Commerce.

Respectfully submitted on
behalf of the members of the
Committee on Economic
Development & Business,


DEREK S.K. KAWAKAMI Chair



USCR1097-16

Bill/Resolution No.: SB3092, SD2	Committee Referral: EDB, CPC, FIN	Date: 3/17/2016		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
EDB Members	Ayes	Ayes (WR)	Nays	Excused
1. KAWAKAMI, Derek S.K. (C)	✓			
2. KONG, Sam Satoru (VC)				✓
3. BROWER, Tom	✓			
4. CACHOLA, Romy M.	✓			
5. CHOY, Isaac W.	✓			
6. DeCOITE, Lynn	✓			
7. ITO, Ken	✓			
8. OHNO, Takashi	✓			
9. ONISHI, Richard H.K.	✓			
10. TOKIOKA, James Kunane	✓			
11. TSUJI, Clift	✓			
12. WOODSON, Justin H.	✓			
13. MATSUMOTO, Lauren Kealohilani	✓			
14. WARD, Gene	✓			
TOTAL (14)	13			1
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature: _____				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				