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# HOUSE CONCURRENT RESOLUTION

REQUESTING THE AUDITOR TO CONDUCT A REVIEW REGARDING THE  
PERFORMANCE OF "INCIDENTAL AND SUPPLEMENTAL" CONTRACTING  
WORK.

1           WHEREAS, it is of paramount importance to protect public  
2 safety and welfare in any sort of construction work; and  
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4           WHEREAS, in construction work, a structural engineer  
5 reviews all plans (known as S plans) that deal with the  
6 structural integrity of the building, and the structural  
7 engineer must approve the plans by stamping and validating these  
8 plans; and  
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10           WHEREAS, the C-6, C-31, C-32, C-35, C-38, C-41, C-48, and  
11 C-56 specialty subcontractor's license and other similar  
12 licenses fall under the purview of a structural engineer and  
13 must meet all requirements set forth in national and  
14 international standards; and  
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16           WHEREAS, the structural engineer must ensure that  
17 subcontractors and workers have sufficient knowledge and  
18 experience to work on a construction project; and  
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20           WHEREAS, the case *District Council 50, of the International*  
21 *Union of Painters and Allied Trades, et al., v. Lopez*, 298 P.3d  
22 1045 (2013), dealt with the issue of whether Allied Pacific, a  
23 general contractor performing renovation work at Lanakila  
24 Elementary school, could undertake glass work as "incidental and  
25 supplemental" to its automatically held C-5 specialty  
26 subcontractor license and without a C-22 specialty contractor  
27 license; and  
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29           WHEREAS, the Hawaii Supreme Court held that the Contractors  
30 License Board of the Department of Commerce and Consumer Affairs



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1 erred in its interpretation of what is deemed "incidental and  
2 supplemental" in this case; and  
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4 WHEREAS, the Contractors License Board had erroneously  
5 decided that any work that constitutes less than a majority of  
6 the work can be deemed "incidental and supplemental" work; and  
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8 WHEREAS, the Contractors License Board has attempted to  
9 pass an administrative rule to this effect; and  
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11 WHEREAS, although under chapter 444, Hawaii Revised  
12 Statutes, the Contractors License Board has the authority to  
13 administer, review, and grant contractors and subcontractors  
14 licenses, it may be more useful to have an independent agency,  
15 like the Auditor's Office, evaluate the need for new  
16 construction licensing requirements; now, therefore,  
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18 BE IT RESOLVED by the House of Representatives of the  
19 Twenty-ninth Legislature of the State of Hawaii, Regular Session  
20 of 2018, the Senate concurring, that the Auditor is requested to  
21 conduct a review about allowing no "incidental and supplemental"  
22 work under the S plans of a structural engineer's purview,  
23 including specialty licenses and C-6, C-31, C-32, C-35, C-38, C-  
24 41, C-48, and C-56 licenses; and  
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26 BE IT FURTHER RESOLVED that the Auditor is requested to  
27 include in the review:  
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- 29 (1) An estimate of the number of licenses granted by the  
30 Contractors License Board;  
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- 32 (2) The possible implications if less than a majority of  
33 the work performed is deemed "incidental and  
34 supplemental";  
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- 36 (3) An examination of whether there are any public-safety  
37 issues involved in the performance of "incidental and  
38 supplemental" work;  
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- 40 (4) A review of best practices in construction projects;



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- 1 (5) An examination of whether regulating individuals
- 2 rather than companies would better protect public
- 3 safety and welfare;
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- 5 (6) A review of all construction-project disasters in
- 6 Hawaii related to this issue; and
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- 8 (7) Any proposed legislation; and
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10 BE IT FURTHER RESOLVED that as the Auditor conducts the  
 11 review, the Auditor is requested to meet with stakeholders  
 12 regarding this issue, including construction unions,  
 13 construction companies, structural engineers, steel fabricators  
 14 and erectors, and trades councils; and

15  
 16 BE IT FURTHER RESOLVED that no later than 20 days prior to  
 17 the convening of the Regular Session of 2019, the Auditor is  
 18 requested to submit to the Legislature a report of the Auditor's  
 19 findings and recommendations, including any proposed  
 20 legislation; and

21  
 22 BE IT FURTHER RESOLVED that certified copies of this  
 23 Concurrent Resolution be transmitted to the Auditor, Governor,  
 24 and Director of Commerce and Consumer Affairs.

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OFFERED BY:   
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 MAR - 7 2018

