

MAR 09 2018

S.R. NO. 72

SENATE 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
31 erred in its interpretation of what is deemed "incidental and
32 supplemental" in this case; and



S.R. NO. 12

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



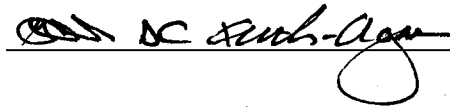
1 (7) Any proposed legislation; and
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3 BE IT FURTHER RESOLVED that as the Auditor conducts the
4 review, the Auditor is requested to meet with stakeholders
5 regarding this issue, including construction unions,
6 construction companies, structural engineers, steel fabricators
7 and erectors, and trades councils; and
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9 BE IT FURTHER RESOLVED that no later than 20 days prior to
10 the convening of the Regular Session of 2019, the Auditor is
11 requested to submit to the Legislature a report of the Auditor's
12 findings and recommendations, including any proposed
13 legislation; and
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15 BE IT FURTHER RESOLVED that certified copies of this
16 Resolution be transmitted to the Auditor, Governor, and Director
17 of Commerce and Consumer Affairs.
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OFFERED BY:

 DC Ruth-Allen

