

Legislative Bills: Construction INDUSTRY TAKES A STAND

BY GIZELLE GAJELONIA



The construction industry is no stranger to the legislative process. Every year, representatives from various construction-related organizations gather at the state Capitol to lobby legislators to pass laws that will greatly benefit the industry. And this year was no different. Let's take a look at the bills considered this session that affect (or may affect) the construction industry, including a previously vetoed measure that checks its way back again this year.

Card Check Bill Checks In Again

HB 952, HD 1 SD 1 (now Act 6)

This bill may sound familiar because we covered it in last year's issue, but it was called HB 2974 then. The General Contractors Association of Hawaii (GCA), the Building Industry Association of Hawaii (BIA) and the Hawaii chapter of the Associated Builders and Contractors (ABC) all lobbied against the bill last year. Gov. Lingle vetoed the measure and it was not reconsidered for an override. However, the bill returned this session with a different number but the same idea.

HB 952 certifies "entities as exclusive representatives without an election, where no other representatives are certified as the exclusive bargaining representatives for employers with an annual gross revenue of \$5 million or more." The bill also requires immediate collective bargaining between parties once entities are certified as exclusive representatives. In addition, the measure imposes a binding arbitration if both parties are unable to reach an agreement after a certain period of time. Employers and

employees who violate these rules or commit other unfair or prohibited employment practices are subject to fines of up to \$10,000 per violation.

ABC, GCA and BIA all opposed this bill because they said it would essentially eliminate employees' rights to hold secret ballot elections to decide whether or not to organize. They also argued that employees could be publicly coerced and pressured to sign union cards.

"Proponents of this bill paint a picture that it is only employers who pressure employees against organizing; however, we contend this 'pressure' is exerted by unions more than by employers. We believe that in order to have a 'fair' election, the secret ballot must be utilized," wrote Karen Nakamura, BIA CEO, in her letter to the state Senate.

Opponents of the bill also argued that the binding arbitration provision is unfair because state-appointed arbitrators can determine

wages and benefits under a union contract without giving employees a chance to vote on the contract.

Once again, Gov. Lingle vetoed the card check bill, calling it "objectionable" because it allows union certification through card check authorizations without a secret ballot election; permits unions and employees but not employers to collect attorneys' fees and costs; and imposes civil penalties on employers and employees but not unions who violate the rules. Unfortunately for the opponents of the bill, the Legislature overrode the governor's veto, which means HB 952 is now law.

Procurement Preferences for Contractors

SB 19, CD 1 (now Act 17)

SB 19 gives a 5 percent procurement preference to contractors with an apprenticeship program registered with the state Department of Labor

(Above left) From left: Warren Ho of Lani Properties Corp.; Garrett Sullivan, GCA president; and Karen Iwamoto, BIA government relations director, urge Rep. Mark Nakashima not to override Gov. Linda Lingle's veto of HB 952. (Below) In July, representatives from various businesses and organizations, including BIA, GCA and ABC, participated in a walkthrough event at the state Capitol to encourage lawmakers not to override Gov. Lingle's veto on HB 952, the card check bill. However, the Legislature overrode her veto.



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