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# HOUSE CONCURRENT RESOLUTION

REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO CONDUCT A STUDY  
OF BEST PRACTICES REGARDING THE PERFORMANCE OF "INCIDENTAL  
AND SUPPLEMENTAL" CONTRACTING WORK.

1           WHEREAS, it is of paramount importance to protect the  
2 public safety and welfare in any sort of construction work; and  
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4           WHEREAS, chapter 444, Hawaii Revised Statutes, is a  
5 consumer protection statute that is intended to protect the  
6 public when dealing with persons engaged in the construction  
7 industry; protect the public from incompetence, negligence, and  
8 dishonesty in those who provide construction work; and safeguard  
9 the public against unskilled workmanship; and  
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11           WHEREAS, the Contractors License Board is the state agency  
12 that is responsible for administering chapter 444, Hawaii  
13 Revised Statutes, and the regulating body for contractors who  
14 are licensed in the State and, among other things, grants  
15 licenses to contractors; adopts rules to implement chapter 444,  
16 Hawaii Revised Statutes; suspends or revokes licenses; issues  
17 informal nonbinding interpretation or declaratory rulings; and  
18 conducts contested case proceedings pursuant to chapter 91,  
19 Hawaii Revised Statutes; and  
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21           WHEREAS, in construction work, a structural engineer  
22 reviews all plans (known as S plans) that pertain to the  
23 structural integrity of the building, and the structural  
24 engineer must approve the plans by stamping and validating these  
25 plans; and  
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27           WHEREAS, the C-6, C-31, C-32, C-35, C-38, C-41, C-48,  
28 and C-56 specialty subcontractor's licenses and other similar  
29 licenses fall under the purview of a structural engineer and



1 must meet all requirements set forth in national and  
2 international standards; and

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4 WHEREAS, the structural engineer must ensure that  
5 subcontractors and workers have sufficient knowledge and  
6 experience to work on a construction project; and

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8 WHEREAS, the case *District Council 50, of the International*  
9 *Union of Painters and Allied Trades v. Lopez*, 298 P.3d 1045  
10 (Haw. 2013), dealt with the issue of whether Allied Pacific, a  
11 general contractor performing renovation work at Lanakila  
12 elementary school, could undertake glass work as "incidental and  
13 supplemental" to its automatically held C-5 specialty  
14 subcontractor license and without a C-22 specialty contractor  
15 license. The Hawaii Supreme Court held that the Contractors  
16 License Board erred in its interpretation of what is deemed  
17 "incidental and supplemental" in the case; and

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19 WHEREAS, as a result of the court's decision, a Contractors  
20 License Board final order was issued with the Contractors'  
21 License Board determining that:

- 22  
23 (1) To qualify as "incidental and supplemental" work, the  
24 work must be subordinate to, directly related to, and  
25 necessary for the completion of the work of greater  
26 importance that is within the scope of the licensee's  
27 license, i.e., the primary work the specialty  
28 contractor is licensed to perform; and  
29  
30 (2) The work must represent less than fifty percent of the  
31 project as measured in relation to the project's total  
32 cost or extent; and

33  
34 WHEREAS, although under chapter 444, Hawaii Revised  
35 Statutes, the Contractors License Board has the authority to  
36 administer, review, and grant contractors and subcontractors  
37 licenses, it may be more useful to have an independent agency to  
38 evaluate and review best practices regarding "supplemental and  
39 incidental" contracting work; now, therefore,

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41 BE IT RESOLVED by the House of Representatives of the  
42 Thirty-first Legislature of the State of Hawaii, Regular Session



1 of 2021, the Senate concurring, that the Legislative Reference  
2 Bureau is requested to conduct a study of best practices  
3 regarding "incidental and supplemental" contracting work; and  
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5 BE IT FURTHER RESOLVED that in conducting the study, the  
6 Legislative Reference Bureau is requested to:

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8 (1) Examine how other state jurisdictions define and  
9 handle "incidental and supplemental" contracting work;  
10 and  
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12 (2) Include factors, other than cost, that other state  
13 contractor licensing boards or similar entities apply  
14 when making their determination of "incidental and  
15 supplemental" with respect to contracting work; and  
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17 BE IT FURTHER RESOLVED that in conducting the study, the  
18 Legislative Reference Bureau is requested to obtain input from  
19 relevant national trade organizations; and  
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21 BE IT FURTHER RESOLVED that the Legislative Reference  
22 Bureau is requested to submit a report of its findings and  
23 recommendations, including any proposed legislation, to the  
24 Legislature no later than twenty days prior to the convening of  
25 the Regular Session of 2022; and  
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27 BE IT FURTHER RESOLVED that certified copies of this  
28 Concurrent Resolution be transmitted to the Governor, Director  
29 of Commerce and Consumer Affairs, Director of the Legislative  
30 Reference Bureau, and Chairperson of the Contractors License  
31 Board.

