

**SUNSET EVALUATION UPDATE**  
**ELEVATOR MECHANICS**  
**Chapter 448H, Hawaii Revised Statutes**

**A Report to the Governor and the Legislature of the State of Hawaii**

**Submitted by the**  
**Legislative Auditor of the State of Hawaii**

**Report No. 85—6**  
**January 1985**

## FOREWORD

Under the "Sunset Law," licensing boards and commissions and regulated programs are terminated at specified times unless they are reestablished by the Legislature. Hawaii's Sunset Law, or the Hawaii Regulatory Licensing Reform Act of 1977, scheduled for termination 38 occupational licensing programs over a six-year period. These programs are repealed unless they are specifically reestablished by the Legislature. In 1979, the Legislature assigned the Office of the Legislative Auditor responsibility for evaluating each program prior to its repeal.

This report updates our sunset evaluation of the regulation of elevator mechanics under Chapter 448H, Hawaii Revised Statutes, which was conducted in 1981. It presents our findings as to whether the program complies with the Sunset Law and whether there is a reasonable need to regulate the occupation to protect public health, safety, or welfare. It includes our recommendation on whether the program should be continued, modified, or repealed.

We acknowledge the cooperation and assistance extended to our staff by the Elevator Mechanics Licensing Board, the Department of Commerce and Consumer Affairs, and other officials contacted during the course of our examination.

Clinton T. Tanimura  
Legislative Auditor  
State of Hawaii

January 1985

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## **Sunset Evaluation Update**

### **ELEVATOR MECHANICS**

This report evaluates the regulation of elevator mechanics under Chapter 448H, Hawaii Revised Statutes, to determine whether the public interest is best served by reenactment, modification, or repeal of Chapter 448H. An evaluation of the regulation of elevator mechanics was conducted previously by this office in January 1983. Our findings and recommendations were reported in the *Sunset Evaluation Report, Elevator Mechanics, Chapter 448H, Hawaii Revised Statutes*. This update summarizes the information contained in the 1983 report. It then reports on developments since 1983 and presents our current findings and recommendations.

#### **Background on the Regulation of Elevator Mechanics**

Elevator mechanics were first regulated in Hawaii under rules issued by the Department of Labor and Industrial Relations (DLIR). Under Chapter 22 of the DLIR's General Safety Code, no one could construct, reconstruct, alter or adjust any elevator or related equipment after June 1968 without a valid certificate of registration from DLIR.

In 1971, under Act 190, the Legislature shifted regulatory responsibilities to a Board of Elevator Mechanics. The Legislature decided that the increasing complexity of elevators and their more general use made it necessary to have stringent requirements for licensing those who work on such equipment.

The board was given the authority to adopt rules and to develop and apply appropriate techniques, including examinations and investigations, to insure that only qualified persons become licensed elevator mechanics.

In 1979, the Legislature held public hearings to determine whether the law regulating elevator mechanics should be repealed, effective December 31, 1979, in compliance with the Sunset Law. In an impact statement submitted by the board,



the board agreed that the statute establishing the board should be repealed. It said that a less restrictive alternative to licensing could be accomplished by allowing DLIR to again regulate elevator mechanics. Subsequently, the board submitted an amended impact statement recommending that the statute be amended and extended for another six years.

Although the Legislature recognized that the board had been relatively inactive, it decided that continued existence of the board was in the interest of the public. To allow greater opportunity for consumer input, the Legislature amended the law in two ways: (1) it expanded the number of board members from five to seven members; and (2) it required the board to receive, investigate, and take appropriate action with respect to complaints about the job performance of elevator mechanics.

The Legislature extended the repeal date for Chapter 448H for three years, to December 1983, so that another review could be made of the board at that time.

### **Findings and Recommendations in the 1983 Sunset Evaluation Report**

Our evaluation of the regulation of elevator mechanics in 1983 concluded as follows:

"1. State regulation is needed to protect the public from potential injury by elevators and other related equipment, but state licensing by the Elevator Mechanics Licensing Board does nothing to establish or advance the competency of those who work on elevators. Rather, this is established through the observance of industry-wide standards of training and examination.

"2. The safety of elevators is not covered by Chapter 448H, HRS, but is provided through other regulatory provisions, such as state and county standards for elevators and related equipment, and inspections and enforcement by the Department of Labor and Industrial Relations (DLIR).

"3. Because its licensing activities are limited and perfunctory and elevator safety is outside its purview, the Elevator Mechanics Licensing Board has little work to do and, therefore, little reason to meet."<sup>1</sup>

1. State of Hawaii, Legislative Auditor, *Sunset Evaluation Report, Elevator Mechanics, Chapter 448H, Hawaii Revised Statutes*, Report No. 83-1, January 1983, p. 17.

**The need for regulation.** We found that elevators can be dangerous. They have caused serious injuries as well as fatalities. Chapter 448H was enacted to ensure elevator safety by allowing only competent, trained workers to work on elevators and related equipment. However, we found that the two major controls against the employment of untrained workers are unrelated to the activities of the Elevator Mechanics Licensing Board. *First*, the only persons working on elevators in Hawaii are trained, union personnel who have taken the nationally standardized training program established by the International Union of Elevator Constructors and the National Elevator Industry, an association of elevator manufacturers. *Second*, all elevator work in Hawaii is done by licensed elevator contractors. The rules of the DLIR require that any construction, re-construction, alteration, and mechanical and electrical work be performed only by qualified employees of companies holding the appropriate license from the Contractors License Board of the Department of Commerce and Consumer Affairs (DCCA).

**Code enforcement.** Direct responsibility for ensuring the safety of elevators rests with the counties and the State, primarily DLIR. The uniform building codes of the counties require elevators and related equipment to meet national safety standards established by the American National Standards Institute and the American Society of Mechanical Engineers.

The Boiler and Elevator Safety Law (Chapter 397, HRS) gives DLIR considerable authority to enforce elevator safety standards through its inspection and permit process. DLIR will not issue permits to operate unless the elevator is found to be safe by a state elevator inspector. Because of its responsibility for elevator safety, complaints about elevators generally go to DLIR's Elevator Inspection Bureau instead of the board.

**Activities of the board.** The activities of the board are largely unrelated to establishing or ensuring the competency of those who work on elevators. The licensing test that is given to applicants is a locally developed test that has not been revised or updated since it was first developed in 1972. No new apprentices or helpers have been registered at DCCA for several years and the license itself is unrelated to actual job responsibilities or wages paid.

The board has been so inactive that it has had difficulty meeting the statutory requirement that it meet at least once a year. The board met once in 1977 and once



in 1978. It did not meet in either 1979 or 1980. The board met once in 1981 even though it lacked a quorum. Two other meetings that were called in 1981 were cancelled for lack of a quorum. The board finally met in September 1982. At that meeting, board members unanimously agreed to recommend sunsetting the Board of Elevator Mechanics.

**Recommendation and responses.** On the basis of our evaluation, we recommended that Chapter 448H be allowed to expire as scheduled. The chairman of the Elevator Mechanics Licensing Board responded to our report saying that the sunset provisions should apply only to the board and that licensing of elevator mechanics should be continued by the Department of Commerce and Consumer Affairs. DCCA responded that it agreed with our analysis and evaluation.

### **Subsequent Developments**

Hearings were held during the 1983 legislative session to determine whether Chapter 448H should be reenacted or repealed. The board, the International Union of Elevator Constructors, and DLIR favored reenactment of the board to continue the licensing function.

The Elevator Mechanics Licensing Board testified that it agreed that the board be sunsetted, but it recommended that examination and licensing requirements remain with DCCA. It said that licensing is necessary to prevent elevator companies from hiring untrained and inexperienced workers. If licensing was not possible without the board, then it recommended that the board be continued.

The International Union of Elevator Constructors testified in a similar vein and recommended three amendments to the statute in order to revitalize the board: (1) change the makeup of the board from three mechanics and three lay members to four mechanics and two lay members; (2) reduce the quorum from five members to four members; and (3) require the board to meet no later than 30 days prior to each examination to review and evaluate applicants.

The director of DLIR testified that the department's rules require work on elevators to be performed by *qualified employees* of licensed elevator contractors. Should Chapter 448H be repealed, the term *qualified employees* would no longer be

adequately defined. The director recommended that licensing be continued and should this require a board, then DLIR recommended the continuation of the board.<sup>2</sup>

The House Committee on Consumer Protection and Commerce noted in its report on the bill to extend Chapter 448H that there was considerable disagreement as to whether sunseting would be in the best interests of the public and the industry. It concluded, "Your Committee finds, that after careful consideration, that there is reason to believe that the Board may yet serve a useful purpose, if only to continue the licensing function. Therefore, your Committee has amended the bill by extending the Board for an additional two years, with the understanding that the extension will serve as a period for further consideration of eventual repeal or continuation of the Board. If at the end of the two year extension the Board has not demonstrated an adequate measure of usefulness, your Committee recommends that it be repealed and that the licensing functions be transferred to the Department of Commerce and Consumer Affairs."<sup>3</sup>

Consequently, the Legislature enacted Act 36, SLH 1983, which reenacted Chapter 448H but amended it in the following ways:

1. The composition of board membership was changed from three licensed elevator mechanics to four and the number of lay members reduced from three members to two;
2. The board is required to meet not later than 30 days prior to licensing examinations in order to evaluate applicants;
3. The quorum for board meetings was reduced from five members to four members;
4. Board members missing two consecutive meetings or 50 percent of the meetings in a year are to be removed; and
5. The board is to review and upgrade examinations and standards.

2. Testimony on Senate Bill No. 42 submitted by Joshua C. Agsalud, Director, Department of Labor and Industrial Relations, to the Honorable Steve Cobb, Chairman, and Members of the Senate Committee on Consumer Protection and Commerce, February 23, 1983.

3. House Standing Committee Report No. 795 on Senate Bill No. 42, S.D. 1, H.D. 1, Regular Session of 1983.



These changes were made in order to increase the board's activity in the industry and to provide a basis for evaluating its efficacy during the two year extension.

### **Current Findings and Recommendations**

Our latest evaluation of the licensing of elevator mechanics affirms our earlier findings:

1. The licensing of elevator mechanics is not necessary for public safety, and
2. The Elevator Mechanics Licensing Board, even with increased meetings and activity, is also unnecessary.

**No need for licensing.** No new threats to public safety related to the work of elevator mechanics have developed since our last evaluation. Conditions in the elevator industry have not changed in any significant way to alter our view that there are sufficient safeguards for public safety in elevators without the licensing of elevator mechanics.

The operations of the Elevator Mechanics Licensing Board remain largely unrelated to establishing or ensuring the competency of elevator mechanics. Elevator safety continues to be ensured through other forms of controls.

There are still industry and union training programs for elevator mechanics to ensure that persons working on elevators are properly trained. The State still requires the licensing and bonding of elevator contractors, and the legal responsibility and liability for their work products serve as incentives to elevator companies to use properly trained mechanics. Finally, DLIR continues to have primary responsibility for the safety of elevators. It is still responsible for inspecting all elevators. It continues to enforce national elevator safety standards and to handle complaints about elevators and elevator work. For these reasons, we continue to find that state licensing of elevator mechanics is not necessary.

At legislative hearings on sunseting Chapter 448H in 1983, DLIR supported continuation of licensing. It said that its rules require that work on elevators be performed by *qualified employees* of licensed contractors and that without board licensing, it would lack an adequate definition for the terms *qualified employees*.

To resolve this problem, DLIR could simply amend its rules by incorporating its own definition of what it considers to be a qualified employee.

**Board operations.** The Legislature sought to increase the usefulness of the board by making several amendments to Chapter 448H in 1983. It changed board composition and the number needed for a quorum, it required the board to meet not later than 30 days prior to its licensing examination to review applications for the examination, and it required the board to review and upgrade its examination and standards.

In response to these legislative directives, the board has become more active. Between August 1983 and August 1984, it held five meetings. At these meetings new members were introduced, the board developed new questions for its examination, it reviewed applications for examination, and the board discussed allegations of unlicensed activity. However, there was little of substance for the board to deal with at these meetings. One meeting lacked a quorum and at two meetings, there were no applications to review.

The board did comply by meeting regularly before each scheduled examination date, but the meetings were closer to the examination date than the 30 days set by statute.

Between August 1983 and August 1984, there were only four applications for licensure before the board. Although none of the applicants met the board's requirement for prior registration with the board, the board gave permission for all applicants to take the examination. This is in violation of the board's own rule which requires all elevator apprentices to register with the board and to have two years of work experience after being registered with the board before being eligible to take the examination.<sup>4</sup>

The board also complied with the requirement to review and upgrade its examination. Board members with elevator mechanic backgrounds developed, discussed, and screened test questions. Those questions deemed the most

4. State of Hawaii, Title 16, Department of Regulatory Agencies, Chapter 81, Rules Relating to Elevator Mechanics, Chapter 448H, Hawaii Revised Statutes, Section 16-81-6.



appropriate were submitted to the DCCA examination branch staff for compilation into examinations. A new examination was first used in May 1984. It was taken by two applicants who both passed.

Despite the board's efforts, the usefulness of the new tests is questionable as they cannot be considered valid or reliable tests. Valid and reliable tests require the use of proper test development procedures (e.g., systematic analysis and verification of critical tasks of the job, drafting of test items related to these tasks, pre-testing of questions and answers to ensure that they are unambiguous and correct) and evidence that the tests either predict competent and safe performance on a job or correlate with significant skills or knowledge of a job. These conditions were not met as DCCA did not advise the board on proper test development procedures or provide sufficient test development expertise and guidance.

The efforts of the board in seeking to increase its usefulness are sincere, and the board has demonstrated good intentions. However, these efforts have little impact on ensuring elevator safety or the competency of those who work on elevators. Consequently, they do not justify continuation of the board or the licensing of elevator mechanics.

### ***Recommendation***

*We recommend that Chapter 448H, HRS, be allowed to expire as scheduled on December 31, 1985.*

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**APPENDIX**

**RESPONSES OF AFFECTED AGENCIES**

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## COMMENTS ON AGENCY RESPONSES

A preliminary draft of this Sunset Evaluation Update was transmitted on December 12, 1984, to the Elevator Mechanics Licensing Board and the Department of Commerce and Consumer Affairs for their review and comments. A copy of the transmittal letter to the board is included as Attachment 1 of this Appendix. A similar letter was sent to the department. The responses from the board and the department are included as Attachments 2 and 3. We also received a response from the former chairman of the board, Mr. Howard L. Farwell. His handwritten letter has been reproduced in typed form and is included as Attachment 4.

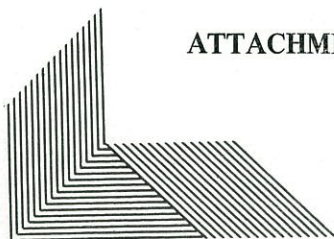
The board responds that it should continue to license elevator mechanics. It says that with the appointment of five members to the board it has been able to meet five times with a quorum. It has also upgraded the licensing examination. The board feels that the licensing of elevator mechanics is essential to public safety.

The Department of Commerce and Consumer Affairs is in general agreement with the observation and evaluation made in the report.

The former chairman of the board says that although elevators are inspected by the Department of Labor and Industrial Relations, unsafe repairs or adjustments could be made by an unqualified mechanic between inspections. Licensed contractors may also employ persons without the proper training. He feels strongly that elevator mechanics should continue to be licensed.

ATTACHMENT 1

THE OFFICE OF THE AUDITOR  
STATE OF HAWAII  
465 S. KING STREET, RM. 500  
HONOLULU, HAWAII 96813



CLINTON T. TANIMURA  
AUDITOR

December 12, 1984

*COPY*

Mr. Howard L. Farwell, Chairperson  
Elevator Mechanics Licensing Board  
Department of Commerce and Consumer Affairs  
State of Hawaii  
Honolulu, Hawaii 96813

Dear Mr. Farwell:

Enclosed are eight preliminary copies, numbered 4 through 11, of our *Sunset Evaluation Update, Elevator Mechanics, Chapter 448H, Hawaii Revised Statutes*. These copies are for review by you, other members of the board, and your executive secretary. This preliminary report has also been transmitted to Russel Nagata, Director, Department of Commerce and Consumer Affairs.

The report contains our recommendations relating to the regulation of elevator mechanics. If you have any comments on our recommendations, we would appreciate receiving them by January 11, 1985. Any comments we receive will be included as part of the final report which will be submitted to the Legislature.

Since the report is not in final form and changes may possibly be made to it, we request that you limit access to the report to those officials whom you wish to call upon for assistance in your response. Please do not reproduce the report. Should you require additional copies, please contact our office. Public release of the report will be made solely by our office and only after the report is published in its final form.

We appreciate the assistance and cooperation extended to us.

Sincerely,

Clinton T. Tanimura  
Legislative Auditor

Enclosures



ATTACHMENT 2

January 7, 1985

Mr. Clinton T. Tanimura  
Legislative Auditor  
The Office of the Auditor  
State of Hawaii  
485 S. King St., Rm. 500  
Honolulu, HI 96813

RECEIVED  
JAN 11 4 18 PM '85  
OFC. OF THE AUDITOR  
STATE OF HAWAII

Dear Mr. Tanimura:

The Elevator Mechanics Licensing Board feels it should continue to be the body to license Elevator Mechanics.


Since the appointment of five (5) new members on the Board, the Board met for the first time with a quorum on November 16, 1983. At that meeting, the Board started to do what the Legislature expected them to do during the Board's two (2) years' extension.

One year has gone by and the Board has met five (5) times with a quorum. The Board has up-graded the licensing examination this past year. As for the reliability of the exam, according to Mr. Koyama of the DCCA Examination Branch, the exam is reliable. The Board also is working with Mr. Koyama on the validity of the exam.

The Board has worked closely with the DLIR elevator inspection division on unlicensed activity. The Board feels that licensing of elevator mechanics is essential to public safety due to the complexity of new equipment and the seriousness of injury when it occurs.

The members of the Board for the most part are relatively new, and their first year has been a learning experience. However, given the opportunity to continue to voluntarily serve the public at almost no cost to the State, the Board feels it will become very proficient.

Sincerely yours,

  
Lawrence S. Sakamoto, Chairman  
Elevator Mechanics Licensing Board

LSS:jh



ATTACHMENT 3



GEORGE R. ARIYOSHI  
GOVERNOR

STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
1010 RICHARDS STREET  
P. O. BOX 541  
HONOLULU, HAWAII 96809

RUSSEL S. NAGATA  
Director  
COMMISSIONER OF SECURITIES

ROBERT A. ALM  
DEPUTY DIRECTOR

January 9, 1985

Mr. Clinton T. Tanimura  
Legislative Auditor  
Office of the Auditor  
State of Hawaii  
465 South King Street, Room 500  
Honolulu, HI 96813

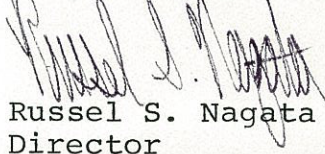
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OFC. OF THE AUDITOR  
STATE OF HAWAII

Dear Mr. Tanimura:

Thank you for the opportunity to comment on your sunset evaluation report on elevator mechanics.

The Department of Commerce and Consumer Affairs is in general agreement with the observation and evaluation you have made of the Elevator Mechanics Licensing Board. We wish to commend your staff for the thoroughness of the report.

Very truly yours,

  
Russel S. Nagata  
Director



January 3, 1985

Mr. Clinton T. Tanimura  
Legislative Auditor  
The Office of the Auditor  
State of Hawaii  
465 S. King St., Room 500  
Honolulu, Hawaii 96813

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OFF. OF THE AUDITOR  
STATE OF HAWAII

Dear Mr. Tanimura:

Your Sunset Evaluation Update has been reviewed and considered.

The report states that DLIR requires that installation and repairs to elevators be accomplished by licensed contractors using qualified employees. The latest DLIR standards add the requirement that elevator mechanics be licensed by the Department of Commerce and Consumer Affairs.

Licensing of elevator mechanics would seem to be as important as licensing auto mechanics to work on your automobile. While elevators are inspected every six months by DLIR elevator inspectors, unsafe repairs or adjustments could be made to an elevator by a mechanic not having the proper qualifications at some time between safety inspections.

It is true that, at the present time, all elevator work is being done by trained union employees, but it would be possible for a licensed contractor to employ persons who do not have the proper training.

The statement was made that elevator safety is ensured by DLIR inspections. However, it should be noted that one of the qualifications for an elevator inspector is that he must have been a licensed elevator mechanic for five years. That would indicate that considerable importance is being placed on the quality of the elevator mechanic's experience.

Regardless of the disposition of the Elevator Mechanics Licensing Board, I feel strongly that elevator mechanics should continue to be licensed by the Department of Commerce and Consumer Affairs. Questions or material for questions could be supplied by the union representative and DLIR.

Sincerely yours,

/s/ Howard L. Farwell