



To: The House Committee on Labor & Public Employment Hearing
LABtestimony@Capitol.hawaii.gov

From: Audrey Hidano

Date: February 4, 2008

Subject: HB 2927 Relating to Public Works
Hearing: Tuesday, February 5, 2008 at 8:30 a.m., Room 309

Honorable Alex Sonson, Chair and Committee Members
State Capitol Room 309
Honolulu, Hawaii 96813

LATE TESTIMONY

Dear Chair Sonson and Members of the Committee

I am Audrey Hidano, Hidano Construction, Inc. testifying in SUPPORT of HB 2927, Relating to Public Works, which addresses the issue of prevailing wages and is modeled after a bill drafted by the Dept. of Labor & Industrial Relations after months of discussions between DLIR, the members of the Building Trades Council (BTC), the General Contractors Association (GCA) and the Building Industry Association (BIA). HB 2927 will address and assist DLIR with their delayed investigations when contractors falsify records or interfere in turning over said records to DLIR.

Thank you for the opportunity to testify in SUPPORT of this proposed measure.

Audrey Hidano

Testimony from Alfred C. Lardizabal
Government and Community Relations Director
Laborers' Union Local 368

In support of

HB2927 RELATING TO PUBLIC WORKS

To the Committee on Labor and Public Employment
Tuesday, February 5, 2008, 8:30 a.m.
Conference Room 309
State Capitol

Honorable Representative Alex Sonson, Chair; Representative Bob Nakasone, Vice Chair and Members of the Committee on Labor and Public Employment:

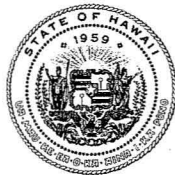
HB2927 is known as our "three strikes" bill. If a contractor intentionally violates the prevailing wage law of the state then, the offending contractor should be "out of the game" and let honest contractors perform the work and pay workers the wages they are entitled to under law.

We call it "our" three strikes bill because for about a year, we, the various parties from the Department of Labor and Industrial Relations, the Building Trades Council including the Laborers' Union Local 368 and other trade unions, the General Contractors' Association and the Building Industry Association, negotiated in good faith, the language contained in HB2927. It was a joint effort. It is not a perfect bill for any one side but it is language that we agreed to and would like to include in the law this session.

We extend our congratulations to all the parties and individuals that participated at long meetings over the past year to discuss a problem that has plagued the industry for years. This bill alone will not solve the problem entirely because contractor compliance and enforcement by the DLIR is the key to making HRS-104 work for everyone.

We look forward to continuing joint discussions on problems that affect the construction industry with the aim of keeping the industry strong, our workers employed and our economy healthy.

We ask the Committee's favorable support of this bill. Thank you for the opportunity to submit this testimony.



**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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February 4, 2008

To: The Honorable Alex Sonson, Chair
and Members of the House Committee on Labor and Public Employment

Date: February 5, 2008
Time: 8:30 a.m.
Place: Conference Room 309, State Capitol

From: Darwin L.D. Ching, Director
Department of Labor and Industrial Relations

**Testimony in Support
of
H.B. 2927 - Relating to Public Works**

I. OVERVIEW OF PROPOSED LEGISLATION

House Bill 2927 requires the Director of the Department of Labor and Industrial Relations (“Department”) to suspend contractors from bidding on public works who are penalized for interference or delay of an investigation as defined by section 104-22(b), Hawaii Revised Statutes (“HRS”). Section 104-22, HRS, penalizes contractors for filing of falsified certified payrolls or not producing records requested by the Department as part of their enforcement investigation under the Wages and Hours of Employees on Public Works, Chapter 104, HRS.

II. CURRENT LAW

The current penalty under section 104-22(b), HRS is a \$1,000 fine.

Currently, contractors have violations imposed according to the investigation. This means if the Department investigates the complaint of a laborer who worked on three different projects for the same contractor and the Department found multiple offenses, it would issue the first notice of violation. The current method of investigation imposes penalties for each offense, but only one notice of violation.

III. HOUSE BILL

H.B. 2927 is a measure that was arrived at collaboratively with members of the administration, labor and management at the table. The Department supports this bill for the following reasons:

1. This measure addresses egregious violators of the Wages and Hours of Employees on Public Works Law (Chapter 104, HRS). Contractors who purposefully take action to deceive the State by filing falsified records should be suspended from public works supported by taxpayer dollars. Attaching suspension to the penalty provisions of section 104-22(b), HRS, will create a clear line for those who purposefully violate Chapter 104.
2. The preservation of the current, progressive, three-tiered penalty structure is important to those contractors who may accidentally or carelessly file incorrect certified payrolls or have other violations of this complicated and difficult law. This three-tiered structure is operating as it was intended -- to promote voluntary compliance. Statistics from 284 random inspections from January 2005 indicate a 2% instance of monetary violations with only 6 Notice of Violations cited. During the same time period, 56 complaint inspections generated 22 Notice of Violations or a 39% instance of monetary violations.
3. Of the 28 Notice of Violations issued from January 2005 to July 1, 2007, 7 or 25% were cited for a 104-22(b), HRS violation and would have been subject to suspension under this proposal. These were instances where contractors filed certified payrolls indicating one set of facts but their payroll records indicated a different set of facts.
4. Because the desire for mandatory penalties is clear, it is important not to make so broad a sweep so that law-abiding contractors and legitimate errors are not included with those attempting to defraud the system of bidding for public works. The type of penalty cited under section 104-22(b), HRS, that this measure proposes suspension, will not come into play with contractors who cooperate and comply with the law, even if there is an error, mistake or violation found.
5. Adding suspension to a pre-existing penalty structure also ensures that contractors who are suspended are allowed access to due process already in place in Chapter 104, HRS. Chapter 104, HRS, already provides for a Chapter 91, HRS, appeal process and ultimate judicial review at the Circuit Court level if needed, when any Notice of Violation is issued.

The Pacific Resource
PARTNERSHIP



LATE TESTIMONY

Testimony of C. Mike Kido
External Affairs
The Pacific Resource Partnership

Committee on Labor & Public Employment
Representative Alex Sonson, Chair
Representative Bob Nakasone, Vice Chair

HB 2927
Tuesday, February 5, 2008
8:30am
Conference Room 309

Chair Sonson and members of the Committee on Labor & Public Employment:

My name is C. Mike Kido, External Affairs of the Pacific Resource Partnership (PRP), a labor management organization representing the Hawaii Carpenters Union and more than 220 signatory contractors.

The Pacific Resource Partnership strongly support the passage of HB2927 - Relating to Public Works as a pro-active legislative measure to provide protection for Hawaii's working men and women, as well as provide the Department of Labor and Industrial Relations (DLIR) clearer powers to actively pursue contractors that are knowingly trying to evade the law by withholding wage and hour information that is being requested.

As you may recall in the 2007 legislative session, a heated debate surrounded HB853. This legislation before you is an earnest attempt to foster better communication and a working relationship between State government and the private sector construction industry representatives.

PRP respectfully ask for your favorable consideration in passing the bill as to further foster the cooperative endeavor that was undertaken during the 2007 interim months.

Thank you very much for your attention in helping Hawaii's construction industry by addressing a nagging problem in Hawaii.

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