

The Twenty-Fourth Legislature
Regular Session of 2008

HOUSE OF REPRESENTATIVES
Rep. Alex M. Sonson, Chair
Rep. Bob Nakasone, Vice Chair

LATE TESTIMONY

State Capitol, Conference Room 309
Tuesday, January 29, 2008; 8:30 a.m.

**STATEMENT OF THE ILWU LOCAL 142 ON H.B. 3368
RELATING TO LABOR**

The ILWU Local 142 supports H.B. 3368, which requires that contracts subject to certain wage requirements contain provisions allowing employees to organize.

The right to form or join a union is a long-established legal right under both the National Labor Relations and the Hawaii Labor Relations Act. Workers exercise that right in various ways. Some go through an election with a simple majority determining whether a workplace is unionized or not. Others go through a "card check recognition" process whereby signed union authorization cards are verified by a neutral third party and, if majority support is demonstrated, the employer voluntarily recognizes the union.

While the process may seem straightforward, it is far from it. Many employers view union representation as an impediment to their control of the workplace. They oppose union representation in ways that are legal and not so legal. They use their position to "persuade" workers to vote against the union. They stall negotiations and use the delays to further instill doubt and sometimes fear in the workers.

These tactics that some employers resort to are not in the spirit of the law as enacted by progressive legislators who saw that a unionized workplace need not be adversarial nor breed animosity but could provide the balance needed to maintain order and civility. Productivity would increase and the business would prosper, benefiting both employer and employee alike.

Many employers understand the intent of the law and the value of a harmonious workplace. Many others, however, are fearful of an organized workforce and fight to keep unions out. Nevertheless, the law provides workers with the right to be unionized and, until the law is changed, employers must follow the law.

H.B. 3368 is an attempt to require certain employers who do business with the State to ensure that they will remain neutral as their employees decide whether they will be unionized or not. Furthermore, the measure provides for employers with State contracts of more than \$25,000 to recognize the union if it can demonstrate majority support.

Congress recently considered a bill providing similar enforcement of the law for all workers covered by the National Labor Relations Act. That bill called for enactment of the Employee Free Choice Act, which would remove the barriers to labor organizing by simplifying the method for workers to demonstrate their support for the union through card-check recognition. The bill has yet to be passed by Congress, but Hawaii legislators can pave the way by enacting H.B. 3368.

However, one aspect of the Employee Free Choice Act is conspicuously absent in H.B. 3368, namely the provision to facilitate the initial collective bargaining agreement. Being certified as the exclusive bargaining agent of a workforce is but one hurdle. The more difficult hurdle is to negotiate the first contract. Without a contract, there are no rules to govern employer and employee conduct and no protection for the workers. H.B. 3368 would be significantly strengthened if language was inserted to set timetables for negotiating a first contract.

If the Employee Free Choice Act were enacted a year ago, a first contract would already be in place at Pacific Beach Hotel. Instead, Pacific Beach Hotel and its sister hotel, Pagoda Hotel & Restaurant, both owned by HTH Corporation, are now the target of a boycott by a community coalition called Justice at the Beach. For two years, the ILWU engaged in bargaining with Pacific Beach Hotel management. A major issue stood in the way of a settlement. Under the Employee Free Choice Act, that unresolved issue could have been addressed by mediation and binding arbitration. Instead, animosity developed and the boycott, which hurts both employer and employee, is testing the will of both parties.

While enacting H.B. 3368 will not resolve the labor dispute at Pacific Beach Hotel, it will provide workers of employers with State contracts a better opportunity to exercise their legal right to union representation.

The ILWU urges passage of H.B. 3368 with the addition of language to facilitate negotiation of a first contract, including mediation and binding arbitration. Thank you for the opportunity to share our views and concerns on this measure.

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