

LINDA LINGLE  
GOVERNOR



DARWIN L.D. CHING  
DIRECTOR

COLLEEN Y. LaCLAIR  
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**STATE OF HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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April 6, 2009

To: The Honorable Brian T. Taniguchi, Chair  
and members of the Senate Committee on Judiciary and Government Operations

Date: Monday, April 6, 2009  
Time: 10:00 a.m.  
Place: Conference Room 016  
State Capitol

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

**Re: H.B. No. 1479, H.D. 2 S.D. 1 - Relating to Labor**

**I. OVERVIEW OF PROPOSED LEGISLATION**

H.B. No. 1479, H.D. 2 SD 1 amends the Wages and Hours of Employees on Public Works, Chapter 104, Hawaii Revised Statutes ("HRS") to require an itemized list of fringe benefits be included on the certified payroll submitted to the contracting agency.

This Act is effective July 1, 2020.

**II. CURRENT LAW**

Specific fringe benefit information is already reported and recorded, but kept confidential as proprietary information.

**III. HOUSE BILL**

The Department does not support H.B. 1479, H.D. 2 S.D. 1 :

1. The Department has always treated the reporting of fringe benefits confidential as proprietary information of the business. This measure changes that policy. All

certified payrolls will require a listing of fringe benefits paid to each laborer or mechanic. The Department regularly reviews this information from contractors and subcontractors on public works during investigations.

2. This measure is not needed as indicated by an extensive random review involving contractors and subcontractors on public works jobs in fiscal year 2007. One hundred and seven random investigations of contractors and subcontractors on public works resulted in only four 1st Notices of Violations (NOV) issued with a total of \$8,236 in wages, overtime and penalties found due. In comparison to the nine Notices of Violations (six 1<sup>st</sup> NOV, three 2<sup>nd</sup> NOV) were issued as a result of the 26 complaints investigated yielding a total \$211,208 in wages, overtime and penalties. This translates to less than 4% of those randomly reviewed had violations, as opposed to 35% of complaint investigations. Even in the complaint environment we find mostly compliance. Figures in fiscal 2008 support this data.
3. Adding this additional requirement of listing specific fringe benefits to each laborer and mechanic on the public certified payroll will be a undue burden to most contractors and subcontractors on public works, especially small business. Adding yet another requirement to this already complicated law that already treats common overtime and wage payment issues differently than the rest of the Hawaii's employees does not support the economy during this particular economic downturn. With the mandatory penalty structure in Chapter 104, Wages and Hours of Employees on Public Works, this requirement is sure to cause an increase in penalties to both union and non-union contractors.



# International Brotherhood of Electrical Workers

LOCAL UNION NO. 1186 • Affiliated with AFL-CIO

1935 HAU STREET, ROOM 401 • HONOLULU, HI 96819-5003  
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## TESTIMONY SUPPORTING HB1479 HD2 SD1 RELATING TO LABOR

TO: SENATE JUDICIARY AND GOVERNMENT OPERATIONS COMMITTEE  
(VIA FAX 586-6659) **REVISED**

For Hearing on Monday, April 6, 2009, at 10:00 a.m., in Conference Room 016

RE: **SUPPORT FOR HB1479 HD2 SD1**

Honorable Chair Taniguchi, Vice Chair Takamine, and Senate Committee Members,

My name is **Damien Kim**, and I am the Business Manager – Financial Secretary of the **International Brotherhood of Electrical Workers Local Union 1186** representing over 3,500 members working in electrical construction, telecommunications, and Oceanic Cable. Our members include civil service employees at Pearl Harbor Shipyard, Kaneohe Marine Base and Hickam. IBEW Local 1186 also represents over 120 signatory electrical contractors that perform most of the electrical work in Hawaii.

This bill addresses a fatal flaw with the reporting of certified payrolls by contractors. Certified payrolls are the only tool to ensure workers are not cheated by unscrupulous employers, and protect honest contractors from unfair competition by cheaters. Current certified payroll reports submitted to the state Department of Labor are ineffective because although they have recommended reporting forms, dishonest contractors flout the law because they are not required by the Department to report wages and benefits on government jobs in a clear and standardized format for adequate verification.

This important Bill is also supported by the **Electrical Contractors Association of Hawaii** and the **General Contractors Association of Hawaii**. Thank you for providing me with this opportunity to testify in strong support for HB1479 HD2 SD1, which will fix the fatal flaw in our prevailing wage laws, and protect Hawaii's workers and honest contractors in these difficult time.

Mahalo and aloha,

**Damien Kim**  
Business Manager – Financial Secretary  
International Brotherhood of  
Electrical Workers, Local Union 1186

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# GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

April 3, 2009

TO: THE HONORABLE SENATOR BRIAN T. TANIGUCHI, CHAIR AND  
MEMBERS OF COMMITTEE ON JUDICIARY AND GOVERNMENT  
OPERATIONS

SUBJECT: H.B. 1479, HD2, SD1, RELATING TO LABOR

NOTICE OF HEARING

DATE: Monday, April 6, 2009  
TIME: 10:00 a.m.  
PLACE: Conference Room 016

Dear Chair Taniguchi and Committee Members:

The General Contractors Association of Hawaii (GCA), an organization comprised of over five hundred and sixty (560) general contractors, subcontractors, and construction related firms, **supports** the passage of H.B. 1479, HD2, SD1, Relating to Labor.

The bill as amended will require the general contractor and subcontractor to submit an itemized list of fringe benefits that are paid to each employee. Currently, the fringe benefits are reported as a total dollar amount, which makes it difficult for the DLIR to determine if the total fringe benefit reported is actually fringe benefits.

Passage of this bill will enable the DLIR to quickly determine if the correct fringe benefits are being paid as part of the prevailing wage.

The GCA **supports** the passage of H.B.1479 HD2, HD1 and recommends it passage.

Thank you for the opportunity to provide our views on this issue.



## HAWAII BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO

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**NOLAN MORIWAKI**  
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Vice President  
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**DAMIEN T. K. KIM**  
Financial Secretary  
International Brotherhood of  
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**ARTHUR TOLENTINO**  
Treasurer  
Sheet Metal Workers I.A. Local 283

**MALCOLM K. AHLG**  
Sergeant-At-Arms  
Carpel, Linoletum, & Soil Tile  
Local 1296

**REGINALD CASTANARES**  
Trustee  
Plumbers & Fitters Local 675

**THADDEUS TOMEI**  
Elevator Constructors Local 120

**JOSEPH BAZEMORE**  
Drywall, Tapers, & Finishers  
Local 1944

**RICHARD TAGGERE**  
Glaziers, Architectural Metal &  
Glassworkers Local Union 1889

**LAUGHN CHONG**  
Roofers, Waterproofers & Allied  
Workers United Union of Roofers  
Local 221

**MARY AYCOCK**  
Climbers, Ironship Builders  
Local 627

**YNN KINNEY**  
District Council 50  
Painters & Allied Trades  
Local 1791

**ALANI MAHOE**  
Permitting Engineers Local 3

**EDONARD SEBRESOS**  
International Assoc. of  
Paint & Frost Insulators  
Allied Workers Local 132

April 6, 2009

Honorable Senator Brian T. Taniguchi, Chair  
Honorable Senator Dwight Y. Takamine, Vice Chair  
Members of the Senate Committee on Judiciary and Government  
Operations  
Hawaii State Capital  
415 South Beretania Street  
Honolulu, HI 96813

RE: **IN SUPPORT OF HB 1479, HD2, SD1**  
Relating to Labor.

Decision Making: Monday, April 6, 2009, 10:00 a.m., Room 016

Dear Chair Taniguchi, Vice Chair Takamine and the Senate Committee  
on Judiciary and Government Operations:

For the record my name is Buzz Hong the Executive Director for the  
Hawaii Building & Construction Trades Council, AFL-CIO. Our  
Council is comprised of 16-construction unions and a membership  
of 25,000 statewide.

The Council SUPPORTS the passage of HB 1479, HD2, SD1 that  
requires the Department of Labor and Industrial Relations to  
include in certified payroll records a fringe benefit reporting form,  
on which contractors and subcontractors itemize the cost of fringe  
benefits paid to both union and non-union laborers who perform  
work for the construction, alteration, or repair of public buildings  
and public works.

Thank you for the opportunity to submit this testimony in support  
of HB 1479, HD2, SD1.

Sincerely,

*W. Hong*

William "Buzz" Hong  
Executive Director

April 3, 2009

To: The Honorable Brian Taniguchi, Chair  
And members of the Judicial Committee

Date: April 6, 2009  
Time: 10:00 am  
Place: Conference room 016  
State Capitol

From: Myles Miyasato Big Island Representative  
Operating Engineers Union Stabilization

**Re: H.B. 1479 H.D. 2 S.D. 1**

I would like to speak in support of the purpose and intent of HB 1479 HD 2 SD 1. This bill will keep our public monies accountable and be available for public records as it should be. Presently all that is required is a check mark in a box to state that you are in compliance with the payment of fringe benefit wages. Only the hourly wages are listed as itemized payments to prove compliance.

In previous opposing testimony concern was raised on proprietary infringement and this section was cited **104-34 submission of collective bargaining agreement to the director.** (a) Parties to a collective bargaining agreement covering classes of laborers or mechanics, which are included in the prevailing wage determinations made pursuant to this chapter, shall submit a copy of the agreement to the director within five days after execution of the agreement. (b) Except as otherwise provided herein, the terms of agreement shall be kept confidential by the director. The director may disclose terms of the agreement to any federal or state agency for the purpose of enforcing this chapter. All that this section does is help determine the prevailing wages. I see nothing in this section pertaining to certified payroll reporting. There can be no infringement when we all know the fringe wages are \$22.13 an hour. If the argument is that the type of investment that is made with the fringe wages can be an advantage because of tax breaks and should not be disclosed, then that company should be investigated immediately because by the time you submit the certified payroll to the awarding department the wages should already be paid to the employee therefore it is the employees tax break or advantage not the employers.

According to Administrative Rules **12-22-1 Cost of a Fringe Benefit** means the rate of contribution **irrevocably** made by a contractor to a trustee or to a third person pursuant to a fund, plan, or program in providing benefits.

With all the state and federal stimulus projects that will be starting accountability should be of concern. The stimulus needs to the employees just as much as the employers in order to be successful.

I urge the committee to pass HB 1479 HD2 SD 1 thank you for this opportunity to testify.

HB 1479 HD 2 SD 1

Amendment to section 1 paragraph (a)

And a certified copy of a fringe benefit reporting form supplied by the department or shall contain the same information as the forms provided by the department. The payroll records may consist of printouts of payroll data that are maintained as computer records, if the printouts contain the same information as the forms provided by the department and the printouts are verified in the manner specified.



Testimony In **SUPPORT**  
of HB 1479 HD2, SD1  
Relating to Labor

By Al Lardizabal, Director  
Government Relations  
Laborers International Union of North America, Local 368

To the Committee on Judiciary and Government Operations  
Monday April 6, 2009  
10:00 a.m., Room 016

Senator Brian T. Taniguchi, Chair; Senator Dwight Y. Takamine, Vice Chair  
and Members of the Committee:

This measure requires the certified copy of payroll that is submitted to the governmental contracting agency, include an itemized list of fringe benefit costs paid for each employee by the general contractor or subcontractor to laborers and mechanics on public works projects.

The required items are: 1) health and welfare benefits, 2) pension and annuity benefits, 3) vacation benefits, 4) continuing education and training benefits and, 5) other fringe benefit costs paid by the general contractor or subcontractor.

The Laborers' Union **SUPPORTS** this bill.

Thank you for the opportunity to submit this testimony.