

LINDA LINGLE
GOVERNOR



DARWIN L.D. CHING
DIRECTOR

COLLEEN Y. LaCLAIR
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813
www.hawaii.gov/labor
Phone: (808) 586-8842 / Fax: (808) 586-9099
Email: dlir.director@hawaii.gov

February 9, 2009

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

Date: Tuesday, February 10, 2009

Time: 9:00 a.m.

Place: Conference Room 309
State Capitol

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

Re: H.B. No. 1676 - Relating to Public Works

I. OVERVIEW OF PROPOSED LEGISLATION

H.B. No. 1676 amends the Wages and Hours of Employees on Public Works, Chapter 104, Hawaii Revised Statutes ("HRS") to require project parties who are financing public works with Special Purpose Revenue Bonds (SPRB) to submit the collective bargaining agreement that will determine the prevailing wages due on their project to the director.

This Act is effective upon approval.

II. CURRENT LAW

The section being amended was added to Chapter 104, HRS, in Act 61, Session Laws of 2007. Act 61 defined all projects financed by SPRBs as "public works" and subject to prevailing wages under Chapter 104. This section was included to allow public works financed by SPRBs to set their own prevailing wages via their own agreements reached with the unions. The Department has no control over the prevailing wages in this situation.

000113

III. HOUSE BILL

The Department opposes H.B. 1676 for the following reasons:

1. The current law allows project parties who finance construction through SPRBs to set their own wages through private collective bargaining agreements. A private contract situation allowable as this cannot be enforced by the Department.
2. The Department cannot interfere where a collective bargaining agreement is in place with appropriate grievance procedures for resolution of issues. If workers are unhappy with their representation with the union the appropriate venue is to seek assistance from the National Labor Relations Board.

**Before the House Committee
on
Labor and Public Employment**

Testimony in Support of HB 1676 - Relating to Public Works

**Tuesday, February 10, 2009
9:00 a.m., Conference Room 309**

**By
Steven J. Oppenheimer
Associate General Counsel
Hawaiian Electric Company, Inc.**

Chair Rhoads, Vice-Chair Yamashita, and Members of the Committee:

My name is Steven Oppenheimer. I am an Associate General Counsel at Hawaiian Electric Company, Inc. I am testifying on behalf of Hawaiian Electric and its subsidiaries, Hawaii Electric Light Company and Maui Electric Company, collectively, the Hawaiian Electric Companies.

The Hawaiian Electric Companies support H.B. 1676, which clarifies the applicability of Chapter 104, Hawaii Revised Statutes, Hawaii's prevailing wage law, to companies financing construction projects with special purpose revenue bonds that use their own unionized employees on the projects.

H.B. 1676 is a technical amendment to Chapter 104 that clears up an ambiguity about how such a company certifies compliance with the requirements of Chapter 104.

HB 1676 clarifies that when a company submits its collective bargaining agreement to the Department of Labor and Industrial Relations under HRS Section 104-34, the collective bargaining agreement serves as the basis for compliance with all the applicable requirements of Chapter 104.

The Hawaiian Electric Companies strongly support this clarification.

Thank you for the opportunity to testify.

000115