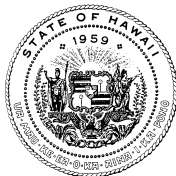


**TESTIMONY**

**HB952 HD1**



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

830 PUNCHBOWL STREET, ROOM 321  
HONOLULU, HAWAII 96813  
[www.hawaii.gov/labor](http://www.hawaii.gov/labor)  
Phone: (808) 586-8842 / Fax: (808) 586-9099  
Email: [dlir.director@hawaii.gov](mailto:dlir.director@hawaii.gov)

March 23, 2009

To: The Honorable Dwight Y. Takamine, Chair  
and Members of the Senate Committee on Labor

Date: Tuesday, March 24, 2009

Time: 2:45 p.m.

Place: Conference Room 224  
State Capitol

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

**Testimony in Strong Opposition of H.B. 952 HD 1 – Relating to Labor**

**I. OVERVIEW OF PROPOSED LEGISLATION**

Housae Bill 952 seeks to do away with the federally-run democratic secret ballot election process, which employees currently follow when deciding to organize as a union. The Bill provides that if the Hawaii Labor Relations Board finds that a majority of the employees have signed a 'valid authorization' designating an individual or labor organization as their bargaining representative, then the board shall certify the individual or organization as the representative **without directing an election**.

This legislation also attempts to force employers, to enter into collective bargaining meetings within ten days after receiving a written request for collective bargaining from the non-elected representative.

The Bill provides procedure for conciliation under section 377-3 if an agreement is not entered into after ninety days. If after thirty days beginning on the date the request for conciliation is made, the parties have not entered into agreement, the Hawaii Labor Relations Board shall refer the dispute to an arbitration panel established by the board.

**II. RELEVANT LAWS**

Nothing in state or federal law prevents an employer from *voluntarily* entering into an agreement with a labor organization that wants to organize under "crosschecking" or "card check".

Federal laws have a long tradition of recognizing the rights of workers to join labor unions. Since the passage of the Wagner Act in 1935, federal law has protected employees' exercise of their free choice to decide whether to join a union. This statute, which is also known as the National Labor Relations Act ("NLRA"), prohibits discrimination due to union membership. The Act, in Section 8(a)(3), provides that:

It shall be an unfair labor practice for an employer --:  
by discrimination in regard to hire or tenure of employment  
or any term or condition of employment to encourage or  
discourage membership in any labor organization.  
29 U.S.C. §158(a)(3).

The NLRA, otherwise known as the Wagner Act, was passed by Congress in 1935. The NLRA is the grandfather of employee rights legislation in the United States. Although passed primarily to create a peaceful system for unionization and collective bargaining, the NLRA was also the first federal employment discrimination statute - making it illegal for employers to discipline or discharge employees because they engage in union activity and other protected concerted activities.

Exclusive jurisdiction for enforcement of the NLRA was vested in a unique administrative agency – the National Labor Relations Board ("NLRB"). The NLRB was given broad authority to interpret and enforce the rights and obligations created by the NLRA, and to develop through case-by-case adjudication, a body of law to govern labor-management relations.

The NLRA went through significant changes in 1947 when the Taft-Hartley Act added a set of provisions designed to regulate and disempower unions. The statutory scheme that exists today, the Labor Management Relations Act ("LMRA"), combines the original pro-labor provisions of the Wagner Act with the limitations on union activity established by Congress in 1947.

Section 7 of the NLRA describes the essential employee rights underlying the act:

Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all of such activities....

**Further, according to information provided by the American Federation of Labor and Congress of Industrial Organizations ("AFL-CIO"), "Most working people have the legal right under Section 7 of the National Labor Relations Act (NLRA) to join or support a union and to engage in collective bargaining," (see [www.aflcio.org](http://www.aflcio.org)). This includes the right to:**

1. Attend meetings to discuss joining a union.
2. Read, distribute and discuss union literature (as long as this takes place in non-work areas during non-work times, such as break or lunch hours).
3. Wear union buttons, T-shirts, stickers, hats or other items on the job at most worksites.
4. **Sign a card asking your employer to recognize and bargain with the union.**
5. Sign petitions or file grievances related to wages, hours, working conditions and other job issues.
6. Ask other employees to support the union, to sign union cards or petitions or to file grievances.

**Section 8 of the NLRA says employers cannot legally punish or discriminate against any worker because of union activity.** The employer cannot threaten to or actually fire, lay off, discipline, transfer or reassign workers because of their union support. The employer cannot favor employees who don't support the union over those who do in promotions, job assignments, wages and other working conditions. The employer cannot lay off employees or take away benefits or privileges employees already have in order to discourage union activity."

### III. HOUSE BILL

The Department supports the right of workers to organize, but strongly opposes this bill for the following reasons:

1. On April 14, 2008 Governor Lingle vetoed H.B. 2974 which is substantively the same Bill as H.B. 952, for the following reasons:
  - a. The "card check" procedure envisioned by this bill is a poor substitute for the secret ballot and is ripe for abuse.
  - b. The use of the secret ballot election process provides the employee anonymity and the opportunity to carefully consider and weigh individual choices after having the time to be fully informed by both the labor organization and the employer of various advantages and disadvantages of being collectively represented.
  - c. Nothing in this bill specifies how or when signatures can be obtained and there is no provision for neutral supervision. As a result there is no way to determine whether a worker's signature was given freely and without

intimidation, pressure, or coercion from fellow employees, labor representatives, or the employer.

- d. Maintaining the secret ballot is the fair, appropriate, and democratic way to protect workers' privacy and to ensure workers have the ability to vote their conscience without fear of repercussion or retaliation.
  - e. There is no compelling justification for replacing an unbiased, democratic process with one that has the potential to erode a worker's existing rights and protections under law.
  - f. This bill is also objectionable because it places arbitrary restrictions and deadlines on the negotiating parties without regard to the complexity of the agreement or the importance of free and non-coercive bargaining. Forcing parties to agree is antithetical to the system of labor relations that has served our country well for nearly 75 years.
2. This legislation is less-democratic as it forces the employer to effectively remain and to ensure that the NLRB election process is bypassed in an attempt by a labor organization to persuade their employees to join a union. Additionally, it does away with the secret balloting process that is inherent in our democratic society in allowing people to vote their conscience and imposes a simple "sign up" sheet. (See Attachment)

**We should continue the current process which is patterned after how we vote for public officials.** Alternatively, the Department questions the need for such legislation and has concerns about the abolishment of secret balloting, which is specifically designed to protect employees from undue coercion.

3. This is an issue of fairness. Employees should be allowed to voice their support for or against a union in the privacy of the voting booth without undue pressure or intimidation from both management and the union.

Alternatively, an employer should be allowed a choice in determining whether they want to have an equal voice with the labor union in advocating for or against organizing their establishment. In forcing the employer to enter into this agreement, that choice is taken away from them. Again, under state and federal law, an employer can already "voluntarily" enter into these agreements.

The Department believes it is bad public policy to force employers and employees to enter into these agreements as a condition of receiving state work or money. Further, the state strips the employee of their right to exercise their vote in private, without coercion or intimidation; and the employer of their right to insist on an election process that is both fair and ensures that employees are voting their conscience and not being peer pressured to sign a card.

Under this bill, the state is using the "power of purse" to force employers to agree to this organizing tactic in order to get work.

4. According to information provided by the AFL-CIO, a worker's right to organize is already protected.
5. The NLRA has been developed over the last 69 years to ensure a proper balance between the rights of those employees that want to organize and those that do not, as well as providing a fair process that protects the rights of employers.
6. Although we defer to the Department of Agriculture, the Department of Labor and Industrial Relations would like to point out that the increased burden on Island Farmers would be detrimental to our State's efforts to improve our sustainability and self sufficiency.



**TESTIMONY OF THE STATE ATTORNEY GENERAL  
TWENTY-FIFTH LEGISLATURE, 2009**

---

**ON THE FOLLOWING MEASURE:**

H.B. NO. 952, H.D. 1, RELATING TO LABOR.

**BEFORE THE:**

SENATE COMMITTEE ON LABOR

**DATE:** Tuesday, March 24, 2009 **TIME:** 2:45 PM

**LOCATION:** State Capitol, Room 224

**TESTIFIER(S):** Mark J. Bennett, Attorney General  
or J. Gerard Lam, Deputy Attorney General

---

Chair Takamine and Members of the Committee:

The Department of the Attorney General has concerns that section 1 of this bill may conflict with current law.

On page 2, lines 20-22, and page 3, lines 1-3, the bill states that if the parties cannot reach a collective bargaining agreement, either party may request conciliation under section 377-3, Hawaii Revised Statutes. On page 3, lines 4-14, the bill also states that "[i]f, after the expiration of the twenty-day period beginning on the date on which the request for conciliation is made . . . or such additional period as the parties may agree upon, the conciliator is not able to bring the parties to agreement . . . the board shall refer the dispute to an arbitration panel[.]"

Because the bill allows the parties to agree to conciliation beyond twenty days, it is not consistent with section 377-3, which only empowers a conciliator to resolve disputes for ten to twenty days:

The conciliator shall use the conciliator's best efforts to terminate the dispute by conciliation within ten days immediately succeeding the reference of the dispute to the conciliator or within such additional time, not to exceed ten days, as is agreed upon by all parties to the dispute. If within the ten days, or the additional time, if any, the conciliator fails to terminate the dispute by conciliation,

the conciliator shall immediately certify such fact to the board and the conciliator's appointment shall then end.

Once the ten-to-twenty day period runs under section 377-3, a conciliator's appointment would end even if the parties agreed to extend conciliation beyond twenty days.



**Linda Lingle**  
*Governor*

**Theodore E. Liu**  
*Director, DBEDT*

**Members**

**Lynne Woods**  
*Chairperson*  
*Maui*

Sharon L. Pang  
*Vice Chairperson*  
*Oahu*

Michael Yee  
*2<sup>nd</sup> Vice Chairperson*  
*Oahu*

Peter Yukimura  
*Kauai*

Dorvin Leis  
*Maui*

Bruce E. Bucky  
*Oahu*

Charles Au  
*Oahu*

Donald Dymond  
*Oahu*

Richard Schnitzler  
*Hawaii*

David S. De Luz, Jr.  
*Hawaii*

**To:** Chair Takamine, Vice Chair Taniguchi, and Members of Committee on Labor

**Re:** **HB 952, HD1 – “Relating to Labor”**

**Date:** March 24, 2009 – Conference Room 224 – 2:45 p.m.

As the Chairperson and on behalf of the Small Business Regulatory Review Board (Review Board), I offer testimony in **opposition** of HB 952, HD1, “Relating to Labor.”

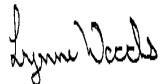
The stated purpose of the bill certifies entities as exclusive representatives absent an election where no other representatives are certified as the exclusive bargaining representatives. The bill also requires immediate collective bargaining between parties once entities are certified as exclusive representatives.

The Review Board believes that the current system for union organizing is fair and equitable. In taking the State of Hawaii’s current economic conditions into account, this bill will likely put more jobs and businesses at risk, as opposed to creating new opportunities or improving current working conditions for Hawaii’s workers despite this bill’s best intentions of doing so.

The Review Board also believes that in these very difficult times, it would seem prudent for all in federal and state government to work together and partner with Hawaii’s struggling small business community rather than making any decisions that may potentially drive them towards destruction and demise.

On behalf of the members of the Small Business Regulatory Review Board, I thank you for the opportunity to present this testimony and for your attention to the issues of Hawaii's business community.

Yours truly,

A handwritten signature in cursive script that reads "Lynne Woods".

Lynne Woods, Chairperson  
Small Business Regulatory Review Board

LINDA LINGLE  
Governor



State of Hawaii  
DEPARTMENT OF AGRICULTURE  
1428 South King Street  
Honolulu, Hawaii 96814-2512

SANDRA LEE KUNIMOTO  
Chairperson, Board of Agriculture

DUANE K. OKAMOTO  
Deputy to the Chairperson

TESTIMONY OF SANDRA LEE KUNIMOTO  
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE SENATE COMMITTEE ON LABOR  
TUESDAY, MARCH 24, 2009  
2:45 P.M.  
ROOM 224

HOUSE BILL NO. 952, HD1  
RELATING TO LABOR

Chairperson Takamine and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 952, HD1, which seeks to certify entities as exclusive representatives absent an election where no other representatives are certified as the exclusive bargaining representatives and requires immediate collective bargaining between parties once entities are certified as exclusive representatives. **The Hawaii Department of Agriculture (HDOA) is in strong opposition to this bill.**

The existing law honors a worker's right to a private ballot, thereby increasing the likelihood that the worker's decision was made free from influence, abuse and intimidation. If the results from the private ballot indicate interest in an election, then both the union and the employer have the opportunity to make their case to the workers. Under this bill, if more than 50% of workers sign a petition, which by its nature exposes the worker's position and therefore places the worker in a vulnerable situation, the Hawaii Labor Relations Board would have to certify the union, and a private ballot election would be prohibited, even if the workers want one.

Agricultural workers are particularly vulnerable to misleading verbal or written explanations of a process that they may have little or no familiarity with. A language

study undertaken by the National Agriculture Statistics Service indicates that the most prevalent language among agricultural workers is Ilocano; 89% comprehend English verbal instructions and 59% comprehend English written instructions. Among these same workers, comprehension of written instructions in their first language, Ilocano, is 79.7%. Among all agricultural workers, only 87.9% can understand written instructions in their first language and only 71.3% can understand written instructions in English.

There are 7,521 farms in Hawaii, 84.6% of these farms are family farms. 1,783 Hawaii farms hire labor with most of these farms on the Big Island (63.3%), followed by Honolulu county (14.1%), Maui county (13.7%) and Kauai county (8.9%). Only 46.3% of all Hawaii farms have net gains with 87.9% of those with net gains reporting gains of \$49,999 or less. 53.7% of the farms in Hawaii report net losses. Over 74% of Hawaii's farmers have to work two or more jobs to stay in agriculture. This is not the time to be adding additional costs onto Hawaii's agricultural producers.

Hawaii's farms would be subject to additional costs stemming from this bill. Hawaii's farm workers are already the highest paid in the country. Among hired farm workers on all farms in Hawaii, the average wage paid in the period of January 11-17, 2009 in Hawaii was \$12.69/hr. compared to \$11.16 in California and \$10.93 nationally (excluding Alaska). Among field and livestock workers on all farms in Hawaii, the average wage paid in the same period was \$10.93, \$10.10 in California, and \$10.08 nationally (excluding Alaska). Hawaii is already at a competitive disadvantage due to the cost and availability of land and water, transportation costs, and effects of invasive species.

This bill as written sets back Hawaii's efforts to become more self-sufficient in food production and in the long-run will result in the lessening of opportunities for agricultural workers. We strongly urge that you do what is best for Hawaii agriculture by ensuring that this bill is not allowed into law.

The Twenty-Fifth Legislature  
Regular Session of 2009

THE SENATE  
Committee on Labor  
Senator Dwight Y. Takamine, Chair  
Senator Brian T. Taniguchi, Vice Chair

State Capitol, Conference Room 224  
Tuesday, March 24, 2009; 2:45 p.m.

**STATEMENT OF THE ILWU LOCAL 142 ON H.B. 952, HD1  
RELATING TO LABOR**

The ILWU Local 142 strongly supports the basic intent of H.B. 952, but would like to offer **amendments** to strengthen that intent. H.B. 952, HD1 would certify entities as exclusive representatives without an election where no other representatives are certified as the exclusive bargaining representatives and requires immediate collective bargaining between parties upon certification. HD1 further restricts the right to such certification only to workers of employers with 100 or more employees.

This restriction is the source of our objections to HD1. Our research shows that only five agricultural employers in Hawaii would qualify with 100 or more employees--and two of these companies are already organized by the ILWU. Yet many other employers with fewer employees are earning tens of millions of dollars in revenue, and their workers are just as desirous of union representation.

At issue is the employee's right to join a union, as guaranteed by federal and state law and affirmed by the State Constitution. The basic intent of this bill is to facilitate the process for workers to join a union. The right to join a union is the worker's alone, and the employer should not interfere with it.

Opponents of the bill make a big issue of the "secret ballot" and "democracy." But a secret ballot does not guarantee democracy as numerous unfair labor practice charges filed and won by unions throughout the country and in Hawaii will attest. Employers have an inherent advantage in the contest. They control the livelihood of the workers and have ultimate power over the worker's job. The union has no such power to intimidate or coerce. There is no level playing field in the current system.

All this bill will do is ensure that the workers have the right to choose. If they want a union, they will sign a card saying they want union representation. If they don't, they will not sign.

Opponents can say that unions will coerce workers into signing cards. However, in 60 years, only 42 cases *throughout the country* have been ruled against unions for any type of coercive behavior. That is compared with hundreds of cases where employers, even under Republican-appointed boards, have been found guilty of labor law violations.

Opponents may say that workers, especially agricultural workers who the State Department of Agriculture has said do not have English as their first language, will not understand the difference between signing a card and voting in an election. Aside from the fact that most unions employ organizers who speak the language of the employees, the workers themselves know about their own working conditions, their pay, the benefits they may or may not receive, and know if they want a better workplace or not. That is the main question for them.

One of the reasons that the system must be corrected is the weak enforcement of the current law, both state and federal. Unions have to fight uphill battles to win justice for workers who have been fired or otherwise intimidated for union activity. The law is permissive in allowing employers to delay negotiation of first contracts, which ultimately weakens the union's ability to maintain majority support. The provisions under H.B. 952 for mediation and ultimately binding arbitration of a first contract will help to remedy the huge problems unions face in negotiating a first contract.

**We propose that a new section be inserted into H.B. 952 to provide stiff penalties for violations of the law to serve as a deterrent.** As Professor Gordon Lafer of the University of Oregon testified in the House Labor Committee last week, the current law is like saying that the only penalty for a person who goes into someone's house and steals a television set is to require the thief to put the T.V. back. No fine, no jail time, no criminal record. If you're caught, just put it back. Similarly, under current labor law, if an employer violates the law, at most the employer may be required to do is pay back wages--but with amounts received for unemployment insurance or other employment deducted. Since most workers fired by an employer for union activity will need to find another source of income immediately, the cost for an employer to violate the law is relatively minimal. Any employer who does not want to be unionized will gladly pay that nominal price.

**We also propose that the restriction on application of the union certification and initial collective bargaining agreement sections in the bill be deleted.** These sections should apply to any employee not under the jurisdiction of the National Labor Relations Act. In actuality, the provisions will primarily target agricultural laborers, who are specifically excluded from the jurisdiction of the NLRA.

We do not object to the other amendments made by the House Finance Committee on the bill. Requiring the Hawaii Labor Relations Board to adopt rules, make the final determination on any controversy, and decide if any dispute in collective bargaining should be referred to an arbitration panel are appropriate, and we trust that the Board will be impartial in its deliberations.

In conclusion, we believe that unionizing a workplace can actually be good for both the company and the worker by providing stability and structure through a collective bargaining agreement. In addition, unions can be an ally to companies by promoting business--just as the ILWU itself has done in many instances. In addition, fair wages through collective bargaining will help to lift the standard of living overall and allow unionized workers to contribute to the economy.

The ILWU urges that your Committee pass H.B. 952 with the two amendments we have proposed. Thank you for the opportunity to testify.



## Before the Senate Committee on Labor

DATE: March 24, 2009  
TIME: 2:45 p.m.  
PLACE: Conference Room 224  
State Capitol  
415 South Beretania Street

### Re: HB 952 HD1 Relating to Labor Testimony of Melissa Pavlicek for NFIB Hawaii

Thank you for the opportunity to testify. On behalf of the thousands of business owners who make up the membership of the National Federation of Independent Businesses in Hawaii, we ask that you reject HB 952 HD1. **NFIB opposes this measure in its current form.**

The National Federation of Independent Business is the largest advocacy organization representing small and independent businesses in Washington, D.C., and all 50 state capitals. In Hawaii, NFIB represents more than 1,000 members. NFIB's purpose is to impact public policy at the state and federal level and be a key business resource for small and independent business in America. NFIB also provides timely information designed to help small businesses succeed.

More and more, employers are being forced to recognize labor unions without first holding a private-ballot employee election -- the election process that is guaranteed in law and administered by the National Labor Relations Board. To prevent intimidation or harassment, the law establishes that neither a union nor an employer may coerce, harass or restrain employees in exercising their right to choose whether or not to support the union. Each employee's choice is made in the privacy of a voting booth, with neither the employer nor the union knowing how any individual voted. We believe that a secret ballot process is fair to both employers and employees and essential. We ask that you do not advance this measure.

Testimony in SUPPORT OF  
HB 952, HD1 Relating to Labor

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

To the Senate Committee on Labor  
Tuesday, March 24, 2009, 2:45 p.m., Room 224

Honorable Dwight Takamine, Chair; Honorable Brian Taniguchi, Vice Chair  
and Members of the Committee:

HB 952, HD1 provides for the certification of exclusive bargaining representative without an election where there is no other certified representative. This process would affect employers who have 100 or more employees and comes under the purview of the Hawaii Labor Relations Board.

Request for collective bargaining

No later than 10 days after the request for collective bargaining is made the parties must meet. No later than 90 days after bargaining has commenced and if no agreement is reached, either party may notify the board of the dispute and request conciliation under HRS. 377-2.

Conciliation

The HLRB will notify the governor who appoints a neutral conciliator who has twenty days to have the parties reach an agreement. Failing an agreement the conciliator's authority terminates and the process is moved into mandatory arbitration with the selection of the panel under HRS-89-11 (e)(2)(A). The arbitration panel's decision is effective for 2 years.

NLRB election system broken

Mr. Chairman and members of the committee, the opponents of the majority sign up process have focused on the right of the workers to have a secret election free from coercion from both employer and union. This is their mantra. We can agree with the theory but cannot agree with reality of the current system of supposedly secret elections free from coercion.

The current system is broken because the employer has the cards stacked in its favor. The employer controls the employees time, personal information,



training, meeting agenda, meeting topics, worker association, rewards, discipline, speech on the job, behavior on the job, leave of absence, information distribution, and visitations. The employee is an “at-will” worker and the employer does not let the worker forget that fact.

#### Majority sign-up procedure since 1935

The majority sign-up procedure is not new; it has been legal throughout the life of the NLRA. However under current law, the employer can refuse to recognize a union even though 100% of the employees have signed union authorization forms. The employer can also insist on an NLRB election process. This is where the fun begins for the employer who hires expensive union busters to divide and conquer the workers. In any case, delays are commonplace and a worker attrition strategy takes place. At the end, few workers remain or are neutralized that originally supported as union. This is what happened at the Pacific Beach Hotel. It’s a shame.

The card check system as an option has existed since the advent of the NLRA of 1935. Supreme Court Chief Justice Earl Warren presented the majority opinion of the Court in upholding the majority sign-up system.

#### Voluntary recognition policy

Since 1935 the NLRB had a policy of supporting voluntary recognition where over 50% of the employees sign authorization cards for exclusive representation, the employer could recognize the union voluntarily and enter into collective bargaining. If 30% of the employees sign the cards, the NLRB would order an election. But the Bush administration stopped this policy of voluntary recognition.

#### Democracy means majority rule

Mr. Chairman, opponents of the card check system cite democracy as the American way of life. I agree whole-heartedly. But Democracy means majority rule. And if the majority of the employees want a union for collective bargaining, that’s their right under the U.S. Constitution and the Hawaii State Constitution. No union busting chicanery should prevent this right.

Thank you for the opportunity to submit this testimony.



75-5737 Kuakini Hwy. Suite 208  
Kailua-Kona, HI 96740  
Phone: 329-1758 Fax: 329-8564  
www.Kona-Kohala.com info@kona-kohala.com

March 23, 2009

TO: COMMITTEE ON LABOR  
March 24, 2:45 pm, Conference Room 224  
Senator Dwight Y. Takamine, Chair; Senator Brian T. Taniguchi,  
Vice-Chair and Committee Members

FROM: Kona-Kohala Chamber of Commerce (via email in lieu of in-person  
testimony)

SUBJECT: **Opposition of HB 952 Relating to Labor**

My name is Vivian Landrum, Executive Director of the Kona-Kohala Chamber of Commerce (KKCC). KKCC represents over **620** business members and is the leading business advocacy organization on the west side of Hawai'i Island. The KKCC also actively works to enhance the environment, unique lifestyle and quality of life in West Hawai'i for both residents and visitor alike.

On behalf of our membership, I respectfully ask that you hold HB 952. [Regardless of political affiliation, we believe](#) this Bill is opposed by the majority of people in West Hawaii. At a time when we need to strengthen and support our business community, we fell this measure will hurt business, particularly small business.

Basically, this measure removes every employee's right to a secret ballot in determining whether to have union representation. We believe this bill denies workers their fundamental right to a secret ballot to determine their employment future. Under this bill, paid union organizers could unfairly pressure workers to publicly sign a card stating they support the union.

In addition, this bill includes a "binding arbitration" provision that allows state government appointed arbitrators to dictate wages and benefits under a union contract, and then deprives the workers the chance to vote on that contract. This expansion of government power could be very harmful to businesses, especially during these tough economic times.

Questions arise as to the extent of this bill's effect on our already fragile agricultural industry. Unionization will increase the cost of locally produced products. This legislation will impose fast-track unionization on all Hawaii agricultural operations and very small businesses and non-profits not subject to the National Labor Relations Act, as well as submit their business assets and operational procedures to the dictates of a government appointed arbitrator.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

Sincerely,

A handwritten signature in cursive script that reads 'Vivian Landrum'.

Vivian Landrum  
Executive Director

The Twenty-Fifth Legislature, State of Hawaii  
Hawaii State Senate  
Committee on Labor

Testimony by  
Hawaii State AFL-CIO  
March 24, 2009

H.B. 952 HD1 – RELATING TO LABOR

The Hawaii State AFL-CIO strongly supports the purpose and intent of H.B. 952 HD1 and the proposed amendments to Chapter 377 (The Hawaii Employment Relations Act). As drafted, the bill would allow employees to unionize through majority sign-up. Presently, an employer does not have to recognize majority sign-up and can insist on a secret ballot election, resulting in numerous delays, threats, coercion and any other tactics to ensure union organizing drives fail. In fact, nationwide, over 86,000 workers have been fired over the past eight years for trying to unionize.

According to Kate Bronfenbrenner from Cornell University, “employers fire workers in a quarter of all campaigns, threaten workers with plant closings or outsourcing in half and employ mandatory one-on-one meetings where workers are threatened with job loss in two-thirds.” Undeniably, employees are fearful of losing their jobs and therefore, vote no when the election finally occurs. This type of coercion needs to stop, and the employee free choice act can help prevent these hideous tactics from occurring.

Further, opponents claim the employee free choice act would take away the sanctity of the secret ballot and as a result oppose the bill. However, opponents should try and compare a union election to a political election. In a political election, candidates have equal access to the voters, whereas in a union election, the employers have access to the employees while the union does not. This is obviously not fair and a complete advantage to the employer. Additionally, the employee free choice act does not abolish the secret ballot election. Rather, H.B. 952 HD1 empowers workers by giving them the ability to choose an established procedure in which workers sign cards to indicate their support for a union, or staging an IILRB election.

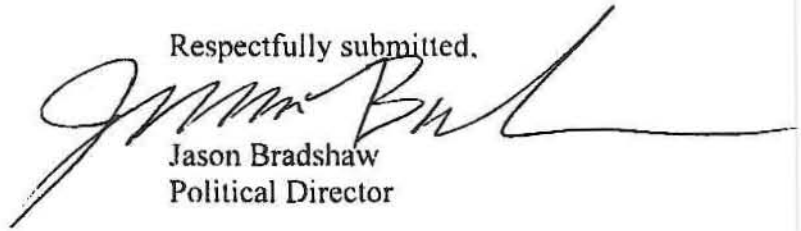
In addition, the other suggested additions to Chapter 377, HRS will prevent efforts by employers to stall negotiations indefinitely. The parties are required to make every reasonable effort to conclude and sign a collective bargaining agreement. If the parties are not successful after ninety days of negotiations, either party can request conciliation through the Hawaii Labor Relations Board. This will help put a stop to the numerous delays that employers use.

It is time to give middle class workers and their family a fair shake. Over the last eight years, workers have struggled to maintain parity with a rising cost of living; meanwhile, CEO's and other executives

continue to receive multi-million dollar bonuses and large six to seven digit salaries. Even today, as many of these businesses have been bailed out by the Federal government, the working class continues to receive pay cuts. That is not the way to fix our ailing economy. It is time to pass the employec free choice act and level the playing field once and for all. It is our working class that will help revitalize our economy and get us out of this economic crisis we are currently in. Passage of the employec free choice act is step in the right direction.

Thank you for the opportunity to testify in support of H.B. 952 HD1

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jason Bradshaw", with a long horizontal flourish extending to the right.

Jason Bradshaw  
Political Director

**Testimony in STRONG OPPOSITION to HB952 H.D.1**

RELATING TO LABOR  
Presented to the Senate Committee on Labor

at the public hearing to be held 2:45 p.m. Tuesday, March 24, 2009  
in Conference Room 224  
Hawaii State Capitol

Testimony submitted by the David H. Rolf for  
The Hawaii Automobile Dealers Association  
Hawaii's franchised new car dealers

Chair Takamine and members of the committee:

Because a measure like HB 952 H.D.1 would RESULT IN INCREASED UNEMPLOYMENT FOR HAWAII, we respectfully oppose the measure.

Economist Anne Lyne-Farrar of the economic-consulting firm LECG predicts "that a 3% point gain in union membership would lead to a 1% point increase in the nation's unemployment rate," as quoted in the Wall Street Journal in its Monday, March 2, 2009 edition.

Applying these numbers to the Hawaii unemployment figures, Hawaii too would likely see a 1% climb in unemployment with a 3% increase in union membership.

When Hawaii reaches the 7% level – a vortex, of sorts, develops, pulling retail sales down and in with its gripping power. Soon...it's 8.5%. Then...10%. Hawaii could see as many as 60,000 people out of work if the state were to reach double-digit unemployment....with almost 12,000 of those newly jobless likely attributed to actions fostered by this bill.

Hawaii cannot afford such.

Last March (2008), when Hawaii unemployment was at 4% HADA predicted that in March (2009) that newspaper stories would be carrying news of 7% unemployment. On Friday, March 20, 2009, the Honolulu Advertiser reported a UHERO projection for 7% unemployment. Just as we had predicted.

Today, we tell you with certainty, that if bills like the Card Check and the Successor Employer measures are passed in Hawaii that unemployment will hit 10% in 2010. **DOUBLE-DIGIT UNEMPLOYMENT.**

That's 10% of the workforce unemployed in '10! Almost EVERY retail business in Hawaii would lose money with unemployment at 10%.

The number of jobless in Hawaii would climb to a devastating 60,000 in 2010.

RUINING THE VIABILITY OF THE EMPLOYERS IN THE MARKETPLACE IS THE SUREST WAY TO INCREASE JOBLESSNESS.

Thus, this bill and others like it, achieve the opposite of its intent.

INSTEAD OF SAVING JOBS.....THIS BILL LOSES JOBS.

Further, there are GRAVE concerns about this bill's proposed dilution of the right to a secret ballot. The secret ballot is a sacred right in matters where force and coercion can be exerted on workers.

We respectfully request you hold HB 952 HD1. Dire consequences to Hawaii's economy would be the result of increased unemployment numbers.

Respectfully submitted,  
The Hawaii Automobile Dealers Association

David H. Rolf  
1100 Alakea St. Suite 2601, Honolulu, Hawaii 96813 Tel: 808 593-0031 Cel: 808 223-6015

Supplemental testimony:

## **Dare to dream ...about when this will all be over.**

A Honolulu publisher being told that dealers think this will not be a U-shaped recovery but an L-shaped one, said "Oh yeah, what font?"

With everyone's attention on the recession lately, some now are starting to look for the recovery. The National Bureau of Economic Research (NBER) has now declared this recession official; it started December 2007.

Auto dealers know recessions don't last forever. In fact, the dozen recessions in America since the Great Depression have lasted on average 10.4 months. But the nation is already into this one deeper—15 months—as of March, and counting.

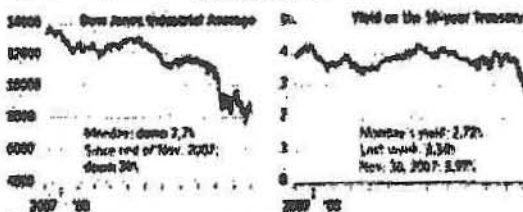
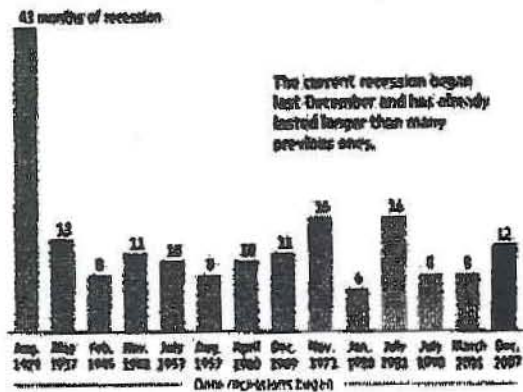
The two national recessions that Hawaii auto dealers most recall are 1973 and 1981—both 16 months in duration. Dealers like Joe Nicolai recall that the 1973 recession was precipitated by troubles in Iran and the subsequent Arab oil

embargo. Soon, there followed a 400% increase in American gas prices and gas rationing.

The 1981-82 recession was exacerbated by the collapse of the then loosely-regulated savings and loan industry. Dealers like Damien Farias recall the 21% interest rates. His dealership on Maui was only 6 years old at the time.

This time, all longtime dealers agree: this recession is worse than both of those.

**Bad Times | This recession has lasted a year—so far**



Source: National Bureau of Economic Research (recessions); WSJ Market Data Group (Dow industrial; Ryan ABR (Treasury yields))

Note: This current recession has lasted 12 months as of Dec. '08/ now in 15<sup>th</sup> month.

Indeed, this recession has become a perfect storm, colliding international financial institution melt-downs with sky-high gas prices. Hawaii caught the "car sales cold" first in the nation, when vehicle sale plummeted as gas prices hit \$4 a gallon on Maui in March of last year. But the real Hawaii headaches and fever didn't hit until five months later—when the downturn in new car sales was significant.

This year the cold has taken a turn for the worse and may be even considered a full-blown flu.

So, when will the fever break? When will the bottom be reached?

One would note that if recovery begins this July (about 19 months duration) then, this recession will be the longest on record since the '30's. If it doesn't bottom until late 2009 or early 2010, then this recession will be a double

whammy (about 24-27 months in duration)—and would be more than twice the duration of the average recession— becoming almost like back-to-back recessions and making this one the longest since the Great Depression which lasted 43 months from 1929-33.

Certainly public policy, both national and local, will have a lot to do with recovery sooner rather than later.

On the plus side, the American Recovery and Reinvestment Act of 2009 and other federal programs will provide a cash influx for state safety net funding, state road-building funds, an excise tax deduction for consumers' federal returns (for state and local tax paid on a new car purchase), strapped homeowners relief on monthly payments, and more.

Thankfully, things are different today than during the Great Depression— when half the banks in America collapsed. Also, back then, the absence of a program like the FDIC caused the disappearance of wealth. Today, the fed has moved to insure funds in federally insured institutions up to \$250,000, easing the worries of most consumers.

Still, consumer confidence remains low and the old economic formula of Economy (E) equals Money (M) times Velocity (V) seems frozen up. The fed has provided plenty of money supply but the rate of spending has dried up because the credit lending has not loosened up for businesses or consumers.

The Recovery Act is the plus side of the recovery equation, but there is a downside playing out in several potential local public policy-making decisions during this legislative session which could disconnect the recovery for businesses.

Perhaps even more disconcerting for businesses in general is the proposal in play this session to allow unions to form in some companies without a secret ballot, just through the union organizers obtaining employee signatures on cards—the so-called card check bills (SB1621/HB952). And the proposals to retain inefficiencies in business workforces found in SB 688 and SB1622.

HADA testified that a study of the Canadian experience with card check in the '70's showed that a 3% point increase in union membership would result in a 1% increase in joblessness. If union membership in Hawaii jumped from its current 24%, the second highest in the country, up to 30%, the level currently in Canada, Hawaii unemployment would jump by 13,000 —skyrocketing to 8.5%.

This would severely delay the recovery in Hawaii.



**For better or worse the answer to the recovery (and when?) is largely dependent on public policy. Successor Employer bills (called the Guaranteed Bankruptcy Bills) and Card Check bills will cause joblessness...not prevent it.**

**Those who dare to dream about when this will all be over— dare to work to bring business and elected officials together — sooner, rather than later.**



**HAWAII BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO**  
 GENTRY PACIFIC DESIGN CENTER, STE. 215A • 560 N. NIMITZ HIGHWAY, #50 • HONOLULU, HAWAII 96817  
 (808) 524-2249 • FAX (808) 524-6893

**NOLAN MORIWAKI**

*President*  
 Bricklayers & Ceramic Tile Setters  
 Local 1 & Plasterers/Cement  
 Masons Local 630

**JOSEPH O'DONNELL**

*Vice President*  
 Iron Workers Local 625

**DAMIEN T. K. KIM**

*Financial Secretary*  
 International Brotherhood of  
 Electrical Workers Local 1188

**ARTHUR TOLENTINO**

*Treasurer*  
 Sheet Metal Workers I.A. Local 283

**MALCOLM K. AHLG**

*Sergeant-At-Arms*  
 Carpet, Linoleum, & Soft Tile  
 Local 1298

**REGINALD CASTANARES**

*Trustee*  
 Plumbers & Fitters Local 675

**THADDEUS TOMEI**

*Elevator Constructors Local 128*

**JOSEPH BAZEMORE**

*Drywall, Tapers, & Finishers*  
 Local 1944

**RICHARD TAGGERE**

*Glaziers, Architectural Metal &*  
*Glassworkers Local Union 1689*

**VAUGHN CHONG**

*Roofers, Waterprooferers & Allied*  
*Workers United Union of Roofers*  
 Local 221

**MARY AYCOCK**

*Collormakers, Ironship Builders*  
 Local 527

**LYNN KINNEY**

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

**ALANI MAHOE**

*Operating Engineers Local 3*

**EDONARD SEBRESOS**

*International Assoc. of*  
*Heat & Frost Insulators*  
 Allied Workers Local 132

March 23, 2009

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

RE: **IN SUPPORT OF HB 952, HD1**  
 Relating to Labor  
 Hearing: Tuesday, March 24, 2009, 2:45 p.m., Room 224

Dear Chair Takamine, Vice Chair Taniguchi and the Senate Committee on Labor:

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 26,000 statewide.

**The Council SUPPORTS the passage of HB 952, HD1** which certifies entities as exclusive representatives without an election where no other representatives are certified as the exclusive bargaining representatives. Requires immediate collective bargaining between parties once entities are certified as exclusive representatives.

Thank you for the opportunity to submit this testimony in support of HB 952, HD1.

Sincerely,

William "Buzz" Hong  
 Executive Director

WBH/dg

March 24, 2009

HEARING BEFORE THE  
SENATE COMMITTEE ON LABOR

TESTIMONY ON  
HB 952, HD 1

Chair Takamine and committee members:

My name is Fred Perlak and I am the Vice-President of Research and Business Operations for Monsanto in Hawaii. I ask that you consider my testimony in strong opposition to HB 952.

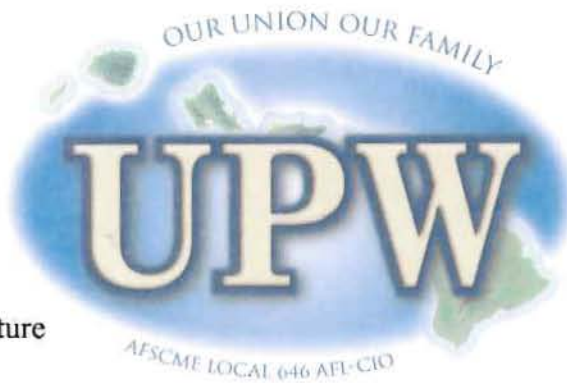
My company is part of the corn seed industry here in Hawaii. This industry has grown significantly in Hawaii in recent years, over 40% from 2007 to 2009. We are now the leading agricultural component in the state with over \$146 million in direct spending in Hawaii. It is the faint flicker of light in a darkening and increasingly difficult economy both here in Hawaii and on the mainland.

A big part of our success has been our highly motivated workforce. Everyday, I see how hard everyone works. All of us have demonstrated commitment to our company with dedication, efficiency and a willingness to consistently produce high quality seed. We are proud of our workforce and what we have accomplished. In return, our company provides us with an excellent wage and benefits package, a very safe workplace environment where safety is not compromised and our company's appreciation and respect for employees.

All of the legislation proposed this session to simplify the unionization process has one common theme, the elimination of the secret ballot during the consideration of unionization. I strongly believe our workers have the right to secret ballot, to choose in confidence whether to accept unionization or not. It is their right, a right they have had for decades, a right that has been and should be protected. In a state that prides itself on the protection of the rights of all, I find it wrong and inconsistent that legislation could be adopted that so casually removes the rights of these workers.

Many familiar with the unions do not understand our opposition. Everyone at Monsanto works hard for their pay and our workers should safely and privately, decide whether or not they want to give 2% of their salary for union representation.

When considering this legislation, please consider the rights of our co-workers to choose the issue of unionization safely, privately and secretly. Please do not take that right away. Thank you.



The Senate  
The Twenty-Fifth Legislature  
Regular Session of 2009

Committee on Labor

Sen. Dwight Takamine, Chair  
Sen. Brian Taniguchi, Vice Chair

DATE: Tuesday, March 24, 2009  
TIME: 2:45 p.m.  
PLACE: Conference Room 224

**TESTIMONY OF THE UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO  
ON HB 952, HD1, RELATING TO LABOR**

My name is Dayton M. Nakanelua, state director of the United Public Workers, AFSCME, Local 646, AFL-CIO (UPW). The UPW currently represents approximately 8,700 blue collar, non-supervisory employees and 2,800 institutional, health, and correctional workers in the State of Hawaii and the various counties. We also represent approximately 3,000 retired members currently receiving benefits under chapter 87A.

**UPW strongly supports HB 952, HD1** which allows for certification of union representation through card check authorization and provides for first time contract binding arbitration.

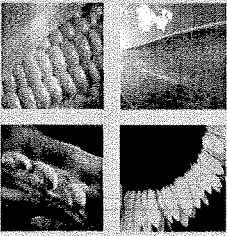
There is something fundamentally wrong with our labor economy. Despite worker productivity rising more than 75% over the past 35 years, inflation-adjusted wages of these workers are still lower than in 1973 (*Economic Report of the President: 2008 Spreadsheet Tables*). There is no mystery to this inequity: wage stagnation is directly correlated to the long-term decline in union

**HEADQUARTERS** - 1426 North School Street ♦ Honolulu, Hawaii 96817-1914 ♦ Phone: (808) 847-2631  
**HAWAII** - 362 East Lanikaula Street ♦ Hilo, Hawaii 96720-4336 ♦ Phone: (808) 961-3424  
**KAUAI** - 4211 Rice Street ♦ Lihue, Hawaii 96766-1325 ♦ Phone: (808) 245-2412  
**MAUI** - 841 Kolu Street ♦ Wailuku, Hawaii 96793-1436 ♦ Phone: (808) 244-0815  
1-866-454-4166 (Toll Free, Molokai/Lanai only)

membership. When America's middle class was at its peak, the percentage of union workers was also at its highest. Today membership has dropped to eight percent of the private sector workforce as our economy continues its recessionary decline.

The National Labor Relations Act (NLRA) was enacted to protect the rights of workers to form unions and to bargain for better wages and benefits. Over time, the law has been seriously perverted. The NLRB now serves as a tool for corporations to frustrate workers' freedom to choose and deny their right to collective bargaining. The data is well documented: 25% illegally fire workers for union activity during organizing campaigns; 75% hire union-busters to fight organizing drives; 78% force workers to attend one-on-one meetings; and 92% force employees to attend closed-door meetings against the union (*Kate Bronfenbrenner, Uneasy Terrain*).

This bill levels the playing field by ending the corporate intimidation, retaliation, and delaying tactics which prevent workers from their fundamental and democratic rights. This bill along with the national Employee Free Choice Act are part of a strategy for American economic revival to restore and grow the middle class. For all these reasons, we urge the passage of HB 952, HD1.



**HCIA 2008-2009  
Board of Directors**

**President**

Adolph Helm

**Vice President**

Fred Perlak

**Treasurer**

John Anderson

**Secretary**

Allka Napier

**Directors At Large**

Mike Austin

Ray Foster

David Gilliland

Cindy Goldstein

Laurie Goodwin

Kirby Kester

Paul Koehler

Leslie Poland

Martha Smith

Mark Stoutemyer

Jill Suga

**Past President**

Sarah Styran

**Executive Director**

Alicia Maluafiti

# Hawaii Crop Improvement Association

*Growing the Future of Worldwide Agriculture in Hawaii*

Testimony By: Alicia Maluafiti

HB 952hd1, Relating to Labor

Sen LBR Committee

Tuesday, March 24, 2009

Room 224, 2:45 pm

**Position: Strong Opposition**

Chair Takamine and Members of the Sen LBR Committee:

My name is Alicia Maluafiti, Executive Director of the Hawaii Crop Improvement Association. The Hawaii Crop Improvement Association (HCIA) is a nonprofit trade association representing the agricultural seed industry in Hawaii. Now the state's largest agricultural commodity, the seed industry contributes to the economic health and diversity of the islands by providing high quality jobs in rural communities, keeping important agricultural lands in agricultural use, and serving as responsible stewards of Hawaii's natural resources.

HCIA strongly supports our workers' rights to secret ballot, to the inalienable privilege and right to vote in private for union certification. The current process provides this worker right, and we wholeheartedly endorse it. HCIA member companies provide competitive benefit packages, good wages and job environments where safety of the worker is the first priority. A few years ago, a union certification process was attempted on one of our member companies. In the end, after the secret ballot process, nearly 81% of the employees did not want to be union certified.

Union members themselves don't seem to want card check, according to two recent polls. A 2004 Zogby poll conducted for the Mackinac Center for Public Policy found that 71 percent of union members believe that the current private-ballot process is fair, versus only 13 percent who disagree. Nor do union members want to lose their right to a private vote. Fully 78 percent of union members favor keeping the current system over replacing it with one that provides less privacy. (See Joseph Lehman, "Union Members' Attitudes Towards Their Unions' Performance," Mackinac Center for Public Policy, [www.mackinac.org/archives/2004/s2004-05.pdf](http://www.mackinac.org/archives/2004/s2004-05.pdf).)

Government should also protect the right of workers and employers to bargain freely. Binding arbitration via an arbitration panel would impose employment contracts on newly organized companies. Workers would not have the option of voting down the contract, and companies would have no recourse if an arbitrator imposed uncompetitive terms that would drive it into bankruptcy. Hawaii state policy should not impose these kinds of wage controls, particularly in this economy.

SB 1621sd2, like the federal Employee Free Choice Act does not do what its sponsors contend that it would do. In reality, it strips workers of their rights and their privacy while exposing them to abuse and intimidation and taking away their ability to bargain with their employers.

We urge you to hold this bill in committee. Thank you for the opportunity to testify.

91-1012 Kahi'uka Street

'Ewa Beach, HI 96706

Tel: (808) 224-3648

director@hciaonline.com

[www.hciaonline.com](http://www.hciaonline.com)

# The Washington Post

## Executives Detail Labor Bill Compromise

By Alec MacGillis  
Washington Post Staff Writer  
Sunday, March 22, 2009; A02

As business and labor gird for battle over legislation that would make it easier for workers to organize, the debate could be transformed by a "third way" proposed by three companies that like to project a progressive image: Costco, Starbucks and Whole Foods.

Like other businesses, the three companies are opposed to two of the Employee Free Choice Act's components -- a provision that would allow workers to form a union if a majority sign pro-union cards, without having to hold a secret-ballot election, and one that would impose binding arbitration when employers and unions fail to reach a contract after 120 days.

But the companies' chief executive officers say they also recognize that just opposing the legislation, commonly called "card check," is not enough because of the widespread perception in Democrat-dominated Washington that there is not a level playing field between labor and business. So the CEOs have come up with ideas they hope will form the basis of new legislation.

Their proposal would maintain management's right to demand a secret-ballot election and would leave out binding arbitration. The proposal would keep the third main element of card check -- toughening the penalties for companies that retaliate against workers before union elections or refuse to engage in collective bargaining. But it would also toughen penalties for union violations, and it would make it easier for businesses to call elections to try to decertify a union.

To address labor's concern that businesses intimidate workers before elections, it would set a fixed period in which an election must be held, limiting the delays that give employers time to exert pressure. The proposal does not specify what the time period should be.

The proposal would also provide unions equal access to workers before elections -- for instance, by allowing organizers to address workers on a lunch break in the company cafeteria just as management can.

"We wanted to see what we can do to come up with a compromise position that is going to address the concerns of labor and also protect the sanctity of the collective bargaining process and secret ballot," said Costco Wholesale chief executive James D. Sinegal.

Starbucks chief executive Howard Schultz cast the proposal in more defensive terms. "The way the wind is blowing, we're heading toward a bill that is not the right approach," he said. "My responsibility is to not be a bystander but to offer a voice of reason, offer a more positive alternative that levels the playing field."

The effort is being led in Washington by Lanny Davis, a former special counsel to President Bill Clinton. Davis said he had approached about 20 Senate offices and gotten an overwhelmingly encouraging response. The Employee Free Choice Act has majority support in both chambers, but there are signs it may have trouble getting a filibuster-proof 60 votes in the Senate, where several centrist Democrats who previously supported it are expressing reservations.

Sen. Mark Pryor (D-Ark.), a centrist who is ambivalent about card check, praised the companies' proposal. "I

Advertisement \* Your Ad Here

EARN DOUBLE  
POINTS  
WHEN YOU TRAVEL



EARN A \$100  
GIFT CARD

APPLY NOW ▶

appreciate a good-faith effort that could result in a reasonable compromise on what has become a highly polarizing matter," he said.

Davis said he thought that the proposal would intrigue President Obama, who as a senator was a co-sponsor of the card-check bill in 2007 but signaled in an interview before his inauguration that he was also open to other proposals to help organized labor. "This is consistent with President Obama's overall approach of avoiding polarized positions and looking for third-way ideas," Davis said.

The business lobby has been warning against any moves to tweak card check just enough to give centrists cover to support it. And word that a compromise is circulating from three "progressive" companies prompted business groups to warn yesterday against premature compromise.

But it is possible that the proposal will generate even greater opposition among unions and their supporters in Congress. Some business groups say they are open to limited changes in organizing rules, separate from card check -- a position not so far from what the three companies propose.

Labor unions, though, are adamant that workers be able to choose to organize via card check so they can avoid employer intimidation before elections. They say binding arbitration is needed because so many companies refuse to bargain -- nearly half of new unions never even get a contract.

The three CEOs are at odds with those planks. Whole Foods Market chief executive John Mackey said that binding arbitration is "not the way we normally do things in the United States" and that allowing workers to organize without a secret ballot "violates a bedrock principle of American democracy."

And the CEOs also do not share the labor movement's underlying belief that the decline of organized labor has contributed to income inequality and the economy's current imbalance. "That so few companies are unionized is not for a lack of trying but because [unions] are losing elections -- workers aren't choosing to have labor representation," Mackey said. "I don't feel things are worse off for labor today."

Of the three companies, only Costco has a substantial minority of employees that are unionized -- about a fifth of its hourly employees belong to the Teamsters, with whom it has good relations. Starbucks and Whole Foods have resisted most unionizing efforts.

Giving organizers the ability to use card check, Schultz said, would lead to a slew of separate bargaining units at a company like his, leading to "havoc and significant cost and disruption." Mackey had an even grimmer view. "Armed with those weapons, you will see unionization sweep across the United States and set workplaces at war with each other," he said. "I do not think it would be a good thing."

#### Post a Comment

[View all comments](#) that have been posted about this article.

You must be logged in to leave a comment. [Login](#) | [Register](#)

Submit

Comments that include profanity or personal attacks or other inappropriate comments or material will be removed from the site. Additionally, entries that are unsigned or contain "signatures" by someone other than the actual author will be removed. Finally, we will take steps to block users who violate any of our posting standards, terms of use or privacy policies or any other policies governing this site. Please review the [full rules](#) governing commentaries and discussions. You are fully responsible for the content that you post.





2343 Rose Street, Honolulu, HI 96819  
PH: (808)848-2074; Fax: (808) 848-1921  
e-mail [hfbf@hfbf.org](mailto:hfbf@hfbf.org)

## **Testimony**

Senate Committee on Labor

### **Re: HB 952 HD1 RELATING TO LABOR.**

Chair Takamine and Members of the Committee:

Hawaii Farm Bureau Federation on behalf of its farm families and organizations is in **opposition** to HB952 HD1, streamlining the union certification process.

We recognize the role the Unions have played in Hawaii and that they have supported agriculture. At the same time, the world is changing. Agriculture is changing – the industry is in transition with diversity being the common element across the State. It is very different from the monocrop systems that the Union has been accustomed to. Even the seed companies that may approach the size of what used to be our smaller sugarcane companies must be highly flexible at this time. Technologies are changing rapidly and the people working in the area must be able to have maximum adaptability to do different tasks at different times in different ways ..not be caught in routine as has been characteristic of traditional unions. What agriculture and everyone needs is workforce development. It is assistance in training a workforce that can meet business needs. This must be followed by the ability to continually train workers who have skills to meet the ever changing work environment and regulatory needs. We have approached the Union about this need and are willing to be the test cases in the process.....however, the condition is that the traditional union is not part of the agreement. We believe the leadership of the Unions can play a major role in changing the way labor relations occur in Hawaii. The economy dictates that change is inevitable. Everyone must be part of the change. We also recognize that what we are suggesting is difficult. But all of us in the business world are making difficult decisions. None of us is expecting to continue as we did yesterday.

Agriculture is at a very serious crossroad. Our future is in question. We respectfully request the Committee to understand our industry's needs and oppose this measure while encouraging an evolution in Labor in Hawaii. We appreciate this opportunity to provide our opinion on this important matter.



Hawaii Chapter

Senate Committee on Labor  
Tuesday, March 24th  
Conference Room 224

## **Opposition to House Bill 952 HD1--Relating to Labor**

Chair Takamine and Members of the Committee:

I am Karl Borgstrom, President of Associated Builders and Contractors Hawaii, a company-based organization of construction contractors, service providers, and suppliers dedicated to the free enterprise approach to construction contracting and the rights of construction employees to freely choose whether or not and by whom to be represented in a labor negotiation. **Associated Builders and Contractors Hawaii STRONGLY OPPOSES House Bill 952 HD1.**

HB 952 HD1 seeks to “streamline” the labor union certification process to facilitate labor union organizing for virtually all workers in Hawaii not currently covered under the provisions of the National Labor Relations Act; this would include those employed by for-profit and non-profit small businesses that fall in size below the NLRA threshold, and other workers not within the purview of the NLRB. (In our own organization, approximately 30-40% of the members of ABC Hawaii would likely be impacted by HB 952) In effect, this bill selects out these workers and denies them the right, granted to employees of larger enterprises and other NLRA-covered activities, to vote by secret ballot in choosing whether or not to be represented by a collective bargaining agent. In so doing, our law makers appear determined to preclude the application of one of our most fundamental of democratic principles. In its place would be a petition or “card check” system that would allow a simple majority of signers in an employee group to “certify” a bargaining representative when there are no other competing individuals or labor organizations seeking to represent employees without the validating step of a secret ballot election.

The rationale sounds simple enough--why bother to hold an election when there is no competition? This ignores the fact that the petitioning process may, and will likely, occur without the employer being aware of it; employees may never hear the employer’s position or be allowed to consider whether or not they want to be represented by a union at all. This is a choice a worker will only be able to express by refusing to sign the petition. **There is no place to vote “No” in a petition or “card check” process, but the possibilities for manipulation and abuse of employee rights are manifestly**

**obvious.** Lacking confidentiality, employees may for any number of reasons feel compelled to sign a petition personally circulated by an agent of either management or a labor organization, to protect their jobs or relationships with their peers.

**There is nothing in the language, “the board shall investigate the petition . . .(and) if the board finds that a majority of the employees . . . have signed valid authorizations” that offers any protection to those employees against abuse and manipulation of the petitioning process or guarantees that the “majority of the employees . . . (who) have signed valid authorizations” have done so freely and without coercion.** It appears that validation of the petition process will simply be determined by counting cards to assess whether or not the number of signers is more than 50% of the employees in an eligible employee unit.

For more than seventy years the NLRB rules and procedures for determining employee labor affiliation and collective bargaining representation have resulted in a fair and winning solution for labor, management and employees covered under the Act. **This legislature’s apparent intention to abandon the time-honored and fundamental democratic principle of the secret ballot in promoting labor organizing among employees not currently covered is unwarranted and a disservice to the rights of employees who would be impacted, throughout the State of Hawaii.**

In addition, the proposal in HB 952 HD1 to use an arbitration panel to render a binding settlement in a dispute in a collective bargaining process would act as a disincentive to the full and fair commitment of the parties to achieve agreement through that process, thereby defeating its intent.

**ABC Hawaii urges you to vote NO on HB 952 HD1!**



SENATE COMMITTEE ON LABOR  
Senator Dwight Takamine, Chair

Conference Room 224  
March 24, 2009 at 2:45 p.m.

**Testimony in opposition to HB 952 HD 1.**

The Healthcare Association of Hawaii advocates for its member organizations that span the entire spectrum of health care, including acute care hospitals, two-thirds of the long term care beds in Hawaii, as well as home care and hospice providers. Thank you for this opportunity to testify in opposition to HB 952 HD 1, which creates an alternate means of certifying a union.

The procedure created by the bill for certifying a union as a collective bargaining representative contradicts the time-honored use of the secret ballot. The secret ballot assures that the choice of each employee is anonymous. It ensures that employees may vote their conscience without intimidation, coercion, or fear of retaliation from either management or the union. The secret ballot is democratic and should be retained.

For the foregoing reasons, the Healthcare Association opposes HB 952 HD 1.

**BIA-HAWAII**  
**BUILDING INDUSTRY ASSOCIATION**

March 24, 2009

Senator Dwight Takamine, Chair  
Committee on Labor  
State Capitol, Room 224  
Honolulu, HI 96813

RE: HB 952, HD1 Relating to Labor

Chair Takamine and Members of the Committee on Labor:

I am Karen Nakamura, Chief Executive Officer of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-Hawaii is strongly opposed to HB 952, HD1, Relating to Labor, otherwise known as the "Card Check" bill. We are opposed to the feature of this bill that eliminates the secret ballot for employees in an election for unionization because we believe that it takes away a fundamental right to make one's choice free from coercion or harassment. Proponents of this bill paint a picture that it is only employers who pressure employees against organizing. We believe that in order to have a "fair" election, the secret ballot must be utilized.

BIA-Hawaii also objects to the binding arbitration feature of this bill whereby an arbitration panel will decide the terms of the parties' first contract if there is no agreement is reached within 90 days of initial bargaining. The employees who voted for unionization would not even have the opportunity to ratify the contract.

We respectfully request that this bill be held.

Thank you for the opportunity to share our views with you.



Chief Executive Officer  
BIA-Hawaii



Chair, Senator Dwight Takamine  
Vice-chair, Senator Brian Taniguchi  
Committee: Labor  
Society for Human Resource Management (SHRM) Hawaii  
Testimony date: Tuesday, March 24, 2009

### **Opposition to HB952 HD1 Relating to Labor.**

SHRM Hawaii is the local chapter of a National professional organization of Human Resource professionals. Our 1,200+ Hawaii membership includes those from small and large companies, local, mainland or internationally owned - tasked with meeting the needs of employees and employers in a balanced manner, and ensuring compliance with laws affecting the workplace. We (HR Professionals) are the people that implement the legislation you pass, on a day-to-day front line level.

**SHRM Hawaii strongly opposes House Bill 952 HD1.** The two step process of union organization is vital for employees. Secret voting protects employees against retaliation from those who disagree with their position on unionization. "Coercion" and "intimidation" are charges made again both union organizers and business owners - secret ballot is the only way to ensure coercive and intimidating tactics are neutralized, and employees' choices are protected.

#### Elimination of the two-step process would:

- Take away the additional time needed for employees to ask questions of multiple sources, consider the options, and make an informed choice.
- Encourage coercion and/or intimidation by those who are for and/or against union representation.

Because elimination of the secret ballot portion of the two-step certification process holds nothing redeeming for employees, **SHRM Hawaii respectfully urges the committee to hold HB 952 HD1 to protect an employee's right to choose union or non-union with the protection of their identity.**

Thank you for the opportunity to testify. SHRM Hawaii offers the assistance of the Legislative Committee in discussing this matter further.

**TESTIMONY IN OPPOSITION TO HB952, HD 1  
SENATE COMMITTEE ON LABOR**

In room 224 on Tuesday, 24 March 2009 at 1445

Chair Takamine and respected members of the Committee,

My name is Lawson Teshima, Secretary-Treasurer of Polynesian Hospitality, a tour bus company. I ask you to remove Section 1, 377 (a), (b) & (c) from this bill.

We were the subject of a union organizing attempt back in 1986 when half of our drivers and mechanics decided to walk off the job because the union was not able to get the desired 50% of the work force to sign up. The walk out lasted for three months but the legal battle took another five years that ended at the US Supreme Court level. During the walk out, the union got union members from the other companies to picket and harass our employees. There were many threats on the lives of our employees and much property damage to employee cars and our tour buses with tourist onboard. There were multiple issues but the main one was the immediate recognition of the union despite the fact that the majority of workers voted against the union. We know first hand what the union is capable of doing in terms of intimidation but we told our employees the voting is secret and you can make your own decision.

The last election here in Hawaii, all of our voters were subjected to all sorts of cajoling and persuasion to vote for yourselves or your challengers. Then on election day they went into a private booth, without coercion, intimidation or fear of retaliation or retribution. They voted and each of you was elected to your posts to sit here today. Obviously, this system works very well.

**Please remove Section 1, 377 (a), (b) & (c) or hold this bill!!**

Respectfully,

Lawson Teshima  
PHT, Inc. dba Polynesian Hospitality  
650 Iwilei Road, Suite 415  
Honolulu, Hawaii 96817  
(808) 524-5040



**International Brotherhood of Electrical Workers**  
**LOCAL UNION NO. 1186 • Affiliated with AFL-CIO**

1935 HAU STREET, ROOM 401 • HONOLULU, HI 96819-5003  
TELEPHONE (808) 847-5341 • FAX (808) 847-2224

**TESTIMONY SUPPORTING HB952 HD1, RELATING TO LABOR**

**TO: SENATE LABOR COMMITTEE (VIA FAX 586-6659)**

For Hearing on Tuesday, March 24, 2009, at 2:45 p.m., in Room 224

**RE: SUPPORT FOR HB952 HD1**

Honorable Chair Takamine, Vice Chair Taniguchi, and Senatc Labor Committee members,

My name is **Peter Akamu**, and I am the President of the International Brotherhood of Electrical Workers Local Union 1186 representing over 3,500 members of the electrical construction, telecommunication, Oceanic Cable; and 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.

HB952 has been drafted to fix the problems and difficulties faced by workers who are regularly pressured by their employers against voting to join a union. This bill will set a level playing field and allow workers to decide fairly on union representation without threats and delays from their employers, who often take advantage of their employees due to their unequal power relationship.

Thank you for providing me with this opportunity to testify in strong support for HB952 HD1.

Mahalo and aloha,

**Peter Akamu**  
President  
International Brotherhood of  
Electrical Workers, Local Union 1186





P.O. Box 700848 Kapolei, HI 96707

Phone: (808) 677-9516 Fax: (808) 677-9412

March 23, 2009

Senator Dwight Takamine, Chair,  
Senator Brian Taniguchi, Vice Chair,  
Senate Committee on Labor  
Hawaii State Capitol, Room 224  
415 South Beretania St.  
Honolulu, HI 96813

Dear Senator Takamine, Senator Taniguchi and Members:

**Subject: Testimony on HB952, HD1**

Aloun Farms has been a part of Hawaii Agriculture community for over 30 years. Currently, Aloun Farms employs about 160 employees. The passing of HB952 would not be beneficial to our employees as it infringes on their basic right to a secret ballot election. It is our belief that this bill would also add a negative challenge to the survival and success of Aloun Farms. Over two decades ago, we began as a small nucleus of a couple dozen employees family farm and have today developed a strong bond and a good working relationship with our employees of 160 plus. HB952 in its very nature will breach that strong bond that we have and created an eventual hostile environment between owners, managers, and employees that will destroy our company.

Hawaii agricultural industry remains in a constant struggle as we contend with increasing costs of land, water, fuel and supplies. However, with the current global recession, the success that the Hawaii agriculture community is experiencing offers hope that there is a sustainable industry here that continue to produce jobs and fresh produce for Hawaii. Unlike the military and tourism sectors of our economy which both are affected by external national and global pressures, farmer producing food for our people on an isolated island is only affected and limited by our own ability to produce and consume. The environment to produce is already a challenge and therefore should be supported with favorable policies, and not be tested and negatively affected by bill such as HB952. **We strongly oppose HB952** and respectfully ask for your support. Mahalo.

Sincerely,

Alec Sou  
President and General Manager  
Aloun Farms, Inc.

Patty Su  
Hunt Building Company, Ltd. - General Contractor  
624-2552

Testimony to the Senate Labor Committee  
March 24, 2009  
2:45 p.m.  
Room 224

Re: HB 952 HD1

Chair Takamine, Vice Chair Taniguchi and Members of the Committee:

I respectfully request that you hold HB 952.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.



Senator Dwight Takamine, Chair  
Senator Brian Taniguchi, Vice Chair  
Committee on Labor

HEARING      Tuesday, March 24, 2009  
                  2:45 pm  
                  Conference Room 224  
                  State Capitol, Honolulu, Hawaii 96813

RE:      **HB952, HD1, Relating to Labor**

Chair Takamine, Vice Chair Taniguchi, and Members of the Committee:

Retail Merchants of Hawaii (RMH) is a not-for-profit trade organization representing 200 members and over 2,000 storefronts, and is committed to support the retail industry and business in general in Hawaii.

**RMH strongly opposes HB952, HD1**, relating to labor, which certifies entities as exclusive representatives absent an election where no other representatives are certified as the exclusive bargaining representatives and requires immediate collective bargaining between parties once entities are certified as exclusive representatives.

There are federal and state laws in place that recognize employees' rights to organize and therefore provide necessary guidelines to facilitate and support that process. An integral provision of these processes is protection for an employee's right to freely choose to decide whether or not join a union. HB952, HD1 eliminates an individual's fundamental right to a secret ballot election and opens the door to the possibility of undue pressure and coercion. It further, once the basic required number of signatures is attained, unequivocally denies the remainder of employees any voice in the process.

Additionally, HB952, HD1 would take wage and benefit negotiations away from employees and employers and place the responsibility under the purview of arbitrators with little or no prior knowledge of the business or the industry to make prudent decisions. Their rulings would then be binding for two years.

Our small businesses work diligently with their employees to address day-to-day concerns and to build camaraderie and career satisfaction. Passage of HB952, HD1 would place a union representative between employers and employees thus destroying the framework by which these businesses have operated successfully for many years.

**We respectfully urge you to hold HB952, HD1.** Thank you for your consideration and for the opportunity to comment on this measure.

Carol Pregill, President

Testimony to the Senate Labor Committee  
March 24, 2009  
2:45 p.m.  
Room 224

Re: HB 952 HD1

Chair Takamine, Vice Chair Taniguchi and Members of the Committee:

I am Maile Romanowski of Jas. W. Glover, LTd., a general contracting and material sales company serving Hawaii since 1935. I respectfully request that you hold HB 952.

The companies affected by this bill are struggling to keep their employees and to stay profitable during this economic crisis. This legislation will increase the likelihood of these businesses not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, forced unionization will increase the cost of locally produced products and services and will weaken Hawaii's valuable but shrinking industries.

This legislation removes every employee's right to a secret ballot in determining whether to have union representation. This is undemocratic and un-American at the very least. It is an insult to all workers throughout this state.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

SENATE COMMITTEE ON LABOR  
Committee Chair Dwight Y. Takamine  
Vice Chair Brian T. Taniguchi

Committee Members,

**RE: Testimony in opposition to HB 952 HD1**

The secret ballot is the foundation of our democratic system. Basing the decision to use collective bargaining using a card check procedure may allow coercion or fear of retribution to enter into the process. ALL employees deserve the chance to make this important decision in private with a secret ballot.

Employers should be afforded the opportunity to address employees prior to a secret vote and offer their concerns and ideas.

Each business is unique and binding arbitration could put the determination of the details of a union contract in the hands of persons not fully able understand the complexities of each business.

Laws regarding property rights should not be permitted to be compromised for any reason by anyone.

While there may be a need to simplify the process by which employees determine their right to collective bargaining, HB952 HD1 is contrary to basic democratic and constitutional principles and should not be passed.

Sincerely,  
Brian Arkle  
General Manager  
AlSCO Honolulu

Testimony to the Senate Labor Committee  
March 24, 2009  
2:45 p.m.  
Room 224

Re: HB 952 HD1

Chair Takamine, Vice Chair Taniguchi and Members of the Committee:

**I respectfully request that you hold HB 952.**

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

Testimony to the Senate Labor Committee  
March 24, 2009  
2:45 p.m.  
Room 224

Re: HB 952 HD1

Chair Takamine, Vice Chair Taniguchi and Members of the Committee:

My name is Kawika Kane of Kapolei and I respectfully request that you hold HB 952.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

Mahalo,

Kawika Kane

**TESTIMONY IN OPPOSITION TO HB952, HD 1**  
**SENATE COMMITTEE ON LABOR**

In room 224 on Tuesday, 24 March 2009 at 1445

Chair Takamine and respected members of the Committee,

My name is Reg White. I speak today to ask you to remove Section 1, 377 (a), (b) & (c) from this bill. I have been a merchant mariner all of my working life. I have sailed for 28 different companies over the past 59 years. I have belonged to two different maritime unions during that period and among those 28 companies I worked for two companies that truly needed a union because of the way they treated their crew, but did not have one. I did my best to help organize those two companies, but never, at any time, did it ever occur to me to deny those people the right to vote in private, without intimidation or fear of retribution. That's an American right, and over the past 250 years many Americans have died to protect that right to vote in private, without intimidation or fear of retribution. That's what democracy is: Freedom of choice! Please do not allow this right to be diluted by a bill like this!

You know, last election here in Hawaii, all of our voters were subjected to all sorts of cajoling and persuasion to vote for yourselves or your challengers. Then on election day they went into a private booth, without coercion, intimidation or fear of retaliation or retribution. They voted and each of you was elected to your posts to sit here today. Obviously, this system works very well.

**Please remove Section 1, 377 (a), (b) & (c) or hold this bill!!**

Respectfully,

Reg White  
VP, project development  
Star of Honolulu Cruises and Events  
1540 S. King St  
Honolulu, Hawaii 96826-1919  
(808) 222-9794  
[RawcoHI@cs.com](mailto:RawcoHI@cs.com)



**Testimony Before the Senate Committee  
on Labor**

**House Bill 952 HD1  
Relating to Labor**

March 24, 2009 - Conference Room 224

Chair Takamine and members of the Committee:

My name is Rick Klemm and I am testifying today as a private citizen. In disclosure, I am a contracted public affairs consultant for Monsanto Corp.; however, with respect to this testimony, I have not been solicited by Monsanto Corp. to submit this testimony nor have I sought their input regarding its contents.

About 45 years ago, when I had a lot more hair and cut a much more dashing figure, I was hired by a stove factory in Ohio to work in its press room. At the time, efforts were being made to unionize the shop. While I don't have a horrific anti-union or anti-employer intimidation story to relate to you, I can say both sides were active and insistent in pressing their points. In the end, the union effort seemed to fizzle for reasons unknown to me.

However, given that experience, I can only imagine how threatening and intimidating it might be for a worker to be coerced to publicly declare his intentions. Facing the power that employers and unions hold over their employment, workers have precious little power of their own to affect their destiny. Under these circumstances, the workers' right to a secret ballot and the anonymity it affords are priceless. Back at the stove factory, had a vote been taken, I'm sure I would have been most grateful for a secret ballot. It would have allowed me more freedom to make a more reasoned choice -- and most important, a choice less subject to coercion and intimidation.

House Standing Committee Report No. 972, in part, states that this bill's purpose is "to protect an employee's right to organize and allow both public and private sector employees easier access to union representation." With all due respect to the author(s), such representation of this legislation seems disingenuous. In contrast, the real purpose of this legislation seems to be to "allow both public and private sector unions easier access to non-union workers so as to increase their membership..."

The old saw rings true—employers usually get the unions they deserve. **If workers want to unionize**, they can do so now with less fear of coercion, intimidation, or other abuse than is almost certain to occur if this bill were enacted. And...**if they don't want to unionize**, they can do so now with less fear of coercion, intimidation, or other abuse than is almost certain to occur if this bill were enacted.

I urge you to **HOLD** this measure. Thank you for the opportunity to testify on this measure.

Rick Klemm

VALLUZZI-POTEET Building Co., LLC  
1001 Bishop St  
Honolulu, HI 96813

March 23, 2009

Dear Legislator,

**We are in OPPOSITION to HB 952 HD1. Please vote No for this bill.**

Sincerely,  
Rick Valluzzi  
President, RME

Testimony for LBR 3/24/2009 2:45:00 PM HB952

Conference room: 224

Testifier position: oppose

Testifier will be present: No

Submitted by: Marc Rubenstein

Organization: Individual

Address: 5 Sand Island Acc Rd #121 Honolulu, HI

Phone:

E-mail:

Submitted on: 3/23/2009

Comments:

I strongly oppose this un-American legislation. The right to a secret ballot should not be abridged; "Card check" only opens up a huge opportunity for abuse, coercion, and threats from those that want a union against those that don't.

PLEASE KILL THIS BILL NOW.

Testimony to the Senate Labor Committee  
March 24, 2009  
2:45 p.m.  
Room 224

Re: HB 952 HD1

Chair Takamine, Vice Chair Taniguchi and Members of the Committee:

**I respectfully request that you hold HB 952.**

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

Mike Curtis



285 Sand Island Access Road  
Honolulu, Hawai'i 96819  
808 447 4100 TEL  
808 845 2825 FAX

March 23, 2009

Subject: Opposition to HB 952 HD1

SENATE COMMITTEE ON LABOR  
Committee Chair Dwight Y. Takamine  
Vice Chair Brian T. Taniguchi

Committee Members,

**RE: Testimony in opposition to HB 952 HD1**

The secret ballot is the foundation of our democratic system. Basing the decision to use collective bargaining using a card check procedure may allow coercion or fear of retribution to enter into the process. ALL employees deserve the chance to make this important decision in private with a secret ballot.

Employers should be afforded the opportunity to address employees prior to a secret vote and offer their concerns and ideas.

Each business is unique and binding arbitration could put the determination of the details of a union contract in the hands of persons not fully able understand the complexities of each business.

Laws regarding property rights should not be permitted to be compromised for any reason by anyone.

While there may be a need to simplify the process by which employees determine their right to collective bargaining, HB952 HD1 is contrary to basic democratic and constitutional principles and should not be passed.

Sincerely,

John M. Smiley  
Director of Sales  
Y.Hata & Co., Limited



SENATE COMMITTEE ON LABOR  
Committee Chair Dwight Y. Takamine  
Vice Chair Brian T. Taniguchi

Committee Members,

RE: Testimony in opposition to HB 952 HD1

The secret ballot is the foundation of our democratic system. Basing the decision to use collective bargaining using a card check procedure may allow coercion or fear of retribution to enter into the process. ALL employees deserve the chance to make this important decision in private with a secret ballot.

Employers should be afforded the opportunity to address employees prior to a secret vote and offer their concerns and ideas.

Each business is unique and binding arbitration could put the determination of the details of a union contract in the hands of persons not fully able understand the complexities of each business.

Laws regarding property rights should not be permitted to be compromised for any reason by anyone.

While there may be a need to simplify the process by which employees determine their right to collective bargaining, HB952 HD1 is contrary to basic democratic and constitutional principles and should not be passed.

Sincerely,

Greg Meier  
President  
Jamba Juice and P.F. Chang's Hawaii

Testimony to the Senate Labor Committee  
March 24, 2009  
2:45 p.m.  
Room 224

Re: HB 952 HD1

Jon Conching  
Hilton Hawaiian Village  
947-7843

Chair Takamine, Vice Chair Taniguchi and Members of the Committee:

I respectfully request that you hold HB 952.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

In many ways unions have been a very positive influence in the State of Hawaii and for many of the residents. The opportunity to debate the issues between employees, employers and union organizers is a valuable time to hear all sides and put it to a vote.

Mahalo,

Jon Conching

Dear Senators:

I respectfully urge you to vote "NO" on HB 952 (HSCR972), the "Card Check" Bill. I am a union member (UHPA), but I do not want Hawaii's citizens to lose the protection of the secret ballot in the work place. Card check will lead to union intimidation of Hawaii's employees by their less ethical co-workers. Please take whatever action you can to kill on HB 952. It is Un-American.

Respectfully Yours,

Norman S. Stahl  
1176 Puhau Street  
Hilo, HI 96720



Subject Line: Opposition to HB 952 HD1

SENATE COMMITTEE ON LABOR  
Committee Chair Dwight Y. Takamine  
Vice Chair Brian T. Taniguchi

RE: Testimony in opposition to HB 952 HD1

The secret ballot is the foundation of our democratic system. Basing the decision to use collective bargaining using a card check procedure may allow coercion or fear of retribution to enter into the process. ALL employees deserve the chance to make this important decision in private with a secret ballot.

Employers should be afforded the opportunity to address employees prior to a secret vote and offer their concerns and ideas.

Each business is unique and binding arbitration could put the determination of the details of a union contract in the hands of persons not fully able understand the complexities of each business.

Laws regarding property rights should not be permitted to be compromised for any reason by anyone.

While there may be a need to simplify the process by which employees determine their right to collective bargaining, HB 952 HD1 is contrary to basic democratic and constitutional principles and should not be passed.

Sincerely,

--

Thomas H Jones

President & CO-Owner

REI Food Service, LLC

d.b.a. Gyotaku Japanese Restaurants

**Testimony to the Senate Committee on Labor**  
**Tuesday, March 24, 2009**  
**2:45 p.m.**  
**Conference Room 224**

**RE: HOUSE BILL NO. 952, HD1 RELATING TO LABOR**

Chair Takamine, Vice Chair Taniguchi, and members of the committee:

My name is Jim Tollefson and I am the President and CEO of The Chamber of Commerce of Hawaii ("The Chamber"). I am here to state The Chamber's strong opposition to House Bill No. 952, HD1, relating to Labor.

The Chamber is the largest business organization in Hawaii, representing more than 1,100 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

This bill is also known as the "Card Check" bill.

Under current law, the decision of whether or not to form a union is usually left to the workers — through a secret ballot election. That means that workers can choose — in private — whether they want to join a union.

Although the election may not be the perfect system, it at least provides a level of protection and privacy for the employee without the employer or union knowing how he or she voted. Under Card Check, paid union organizers could unfairly pressure workers to publicly sign a card stating that they support the union. Furthermore, what about the 49% of employees who did not have an opportunity to cast their vote?

Just as questionable, the Card Check bill includes a "binding arbitration" provision that would let the state government appointed arbitrators dictate wages and benefits under a union contract, and then deprive workers of the chance to vote on that contract. This expansion of government power is almost like reestablishing wage and price controls in our economy, and could put many employers out of business, and eventually the lost of jobs. We cannot afford this type of legislation, especially as Hawaii weathers this economic storm.

Furthermore, at a time when the state is trying to become more self sufficient for food and produce this legislation is counter productive. Moreover, more of us are shopping at discount stores and cutting coupons due to the rising costs. There has been a 7.5 percent jump in the price of food consumed at home over the past 12 months. Prices for all foods and beverages are up an average of 5.9 percent. (Oct. 3, 2008 Gannett News Service).

The simple fact is that unionization would increase the cost of locally produced food, impair the growth and survival of Hawaii's shrinking agricultural industry and block new efforts to grow food locally.<sup>1</sup>

The pending Legislation will impose fast track unionization on Hawaii's agricultural operations, as well as submit their business assets and operational procedures to the dictates of a government appointed arbitrator. That is not right nor fair, and we ask that in these difficult economic times further costs not be imposed on Hawaii's businesses, particularly those affected by the proposed legislation.

To summarize, the following are key points as to why The Chamber of Commerce of Hawaii is strongly opposed to HB 952, the "Card Check" bill.

- The heart of the current representation framework lies with the secret ballot. The bill would effectively disenfranchise thousands of Hawaii employees overnight, while we are simultaneously fighting for more democracy in the representation process overseas.
- There are rarely any "secrets" in connection with card-signing campaigns. Employees can easily be intimidated to sign a card to avoid confrontation with a union organizer. Employees cannot be expected to make a reasoned choice if they have heard only one side of the issue. The proposed legislation offers no safeguards for collateral investigation into revocation and coercion.
- There is no corresponding provision extending card check to the decertification process. If it is fair for unions to win representation rights in this fashion, it's fair for them to lose those rights the same way.
- There is little if any evidence to suggest that the current framework is broken to begin with. The Canadian model on which this kind of legislation is based has been a failure in its own country. In response, a majority of Canadian provinces have shifted back to a secret ballot model over the past twenty years. Half of the Provinces that retain card check require a supermajority of cards prior to certification.
- This represents the first occasion in peace-time history that our State government would convey authority to a third party to essentially decide what a private sector employer must provide in terms of wages and benefits, free from the checks and balances of unit ratification.

---

<sup>1</sup> Unionization can affect cost of production through increases in compensation, through shifts in technologies, and through deviations from the least-cost combination of inputs. Working Paper 8701 "Unionization And Cost Of Production: Compensation, Productivity, And Factor-Use Effects by Randall W. Eberts and Joe A. Stone, (Working papers of the Federal Reserve Bank of Cleveland January 1987). Union work rules and employment restrictions have the primary effect of distortions from the least-cost combination of inputs, or in other words, labor unions increase firms' costs of equity by decreasing their operating flexibility. "Labor Unions, Operating Flexibility, and the Cost of Equity", Huafeng (Jason) Chen, Marcin Kacperczyk, and Hernán Ortiz-Molina (May 2008).

- Dictated terms of an initial agreement give rise to the likelihood of decreased stability, as employers seek to recoup losses during renewal bargaining, only to be met with increased strike probability.
- There is a dearth of any legislative guidance pertaining to the proposed arbitration process, the method for choosing an appropriate arbitrator, and the manner for challenging any rendered decision.
- The arbitrary deadline for imposing interest arbitration is unreasonable in light of numerous surveys establishing the average length of first-contract negotiations.
- This is a time when local establishments need the flexibility with their business plans to adjust to the current economic climate. This measure will be counter-productive in the effort to stay afloat and save jobs.
- In a national survey taken on the federal “Card Check” bill, three out of four voters (74%) oppose the bill. Union households also strongly oppose the bill, 74% oppose to only 20% support.

It is simply the wrong time for such legislation to be imposed on Hawaii’s fledgling agricultural industry. It is recommended to await legislation on the federal level to evolve so that Hawaii’s system would at least resemble the process used on the national level and benefit from the greater time and effort and developing a workable model that protects the rights of workers and employers alike.

Thus, The Chamber respectfully requests HB 952 be held.

Thank you for the opportunity to testify.

Testimony to the Senate Labor Committee  
March 24, 2009  
2:45 p.m.  
Room 224

Re: HB 952 HD1

Chair Takamine, Vice Chair Taniguchi and Members of the Committee:

**I respectfully request that you hold HB 952.**

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

SENATE COMMITTEE ON LABOR  
Committee Chair Dwight Y. Takamine  
Vice Chair Brian T. Taniguchi

Committee Members,

**RE: Testimony in opposition to HB 952 HD1**

The secret ballot is the foundation of our democratic system. Basing the decision to use collective bargaining using a card check procedure may allow coercion or fear of retribution to enter into the process. ALL employees deserve the chance to make this important decision in private with a secret ballot.

Employers should be afforded the opportunity to address employees prior to a secret vote and offer their concerns and ideas.

Each business is unique and binding arbitration could put the determination of the details of a union contract in the hands of persons not fully able understand the complexities of each business.

Laws regarding property rights should not be permitted to be compromised for any reason by anyone.

While there may be a need to simplify the process by which employees determine their right to collective bargaining, HB952 HD1 is contrary to basic democratic and constitutional principles and should not be passed.

Sincerely,

Dean B. McPhall  
CEO  
Jamba Juice Hawaii  
PF Chang's Hawaii



March 24, 2009

TESTIMONY TO:           Committee on Labor  
                                  2:45 PM Room 224  
                                  Senator Dwight Y. Takamine, Chair

Presented By:           James E. Coon, President of the Ocean Tourism  
                                  Coalition

Subject:                 **HB 952 HD1 Relating to Labor**

**STRONG OPPOSITION TO HB 952, HD1**

Chair Takamini and Respected Members of the Committee:

I am Jim Coon, President of the state-wide Ocean Tourism Coalition (OTC) speaking in **Very Strong Opposition** to the streamlining of Union Certification.

The Ocean Tourism Industry is comprised of hundreds of small family businesses. Most of these have very few employees outside of their families, yet a bill like this would hurt our industry.

Here are some of the reasons we oppose this bill:

- It destroys the workers right to a private ballot as amended by the National Labor Relations Act of 1947
- It has the strong potential to create a very coercive work environment.
- It does not protect the worker from intimidation or give them a right to vote their conscience without retribution from anybody else.
- It is vague about how signatures will be counted
- It has very tight time schedules regardless of circumstances.
- It creates a very difficult business environment for small business to plan and take care if their employees and families.
- It is ripe for abuse by Labor representatives and others

Almost everyone realizes the present economic crisis is very serious. The Golden Goose story comes to mind. However we also realize that this bill--in its current form---would seriously erode the rights of all workers as well as hurt the community at large that the government is designed to protect. We are the goose that needs to be nurtured not butchered.

We humbly request that you hold this bill.  
Thank You,

James Coon, President OTC



Testimony to the Senate Labor Committee  
March 24, 2009  
2:45 p.m.  
Room 224

Re: HB 952 HD1

Chair Takamine, Vice Chair Taniguchi and Members of the Committee:

**I respectfully request that you hold HB 952.**

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

Why are there so many activities, bills, and legislative actions that seem focused on destroying Hawaii's ability to do business. Hawaii is looking at budget short falls already, why would anyone be proposing anything that would further hurt our state.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments!

Kreg Cook  
Hawaii Trade Referral



**Testimony to the Senate Labor Committee  
Tuesday, March 24, 2009 at 2:45pm  
Conference Room 244**

**RE: HOUSE BILL NO. 952 RELATING TO LABOR**

Dear Chair Takamine, Vice Chair Taniguchi,  
and Members of the Committee:

I am writing today on behalf of the Maui Chamber of Commerce's membership in **strong opposition to House Bill No. 952**, relating to Labor. This bill will hurt businesses, particularly small business, at a time when we need to strengthen all our businesses and improve the economy.

The Maui Chamber of Commerce is the business champion and advocate for businesses on Maui, representing over 900 members (88% of which are small businesses with fewer than 25 employees), that collectively employ approximately 21,000 people. Our mission is to advance and promote a healthy economic environment for business, advocating for responsive government and quality education, while preserving Maui's unique community characteristics.

This bill, known as the "Card Check" bill, would change the current law which entitles workers to a secret ballot election when determining whether or not they are interested in union representation. This is the same freedom and right that we are afforded when choosing elected officials and should each be afforded when choosing anyone to represent us. It is one of the basic freedoms that makes this country great. Do not strip workers of this right to privacy and expose them to a process whereby they can be pressured into signing a card stating that they support a union when they do not.

This Card Check bill also includes a "binding arbitration" provision that would let state government appointed arbitrators dictate wages and benefits under a union contract, and then deprive workers of the chance to vote on that contract. This expansion of government power is almost like reestablishing wage and price controls in our economy, and could put many employers out of business. We cannot afford this type of legislation in Hawaii, especially when we are struggling to weather this economic storm.

Furthermore, at a time when the state is trying to become more self sufficient for food and produce, available research indicates this legislation is counter productive. The simple fact is that unionization would increase the cost of locally produced food, impair

the growth and survival of Hawaii's shrinking agricultural industry and block new efforts to grow food locally.

After decades of decline, unions have now turned to the Legislature to help them recover what is the natural progression of progressive management. The pending Legislation will impose fast track unionization on all Hawaii agricultural operations and very small businesses and non-profits not subject to the National Labor Relations Act, as well as submit their business assets and operational procedures to the dictates of a government appointed arbitrator. That is not right, nor fair! We ask that you not impose further costs on Hawaii's businesses, particularly those affected by this proposed legislation.

Last legislative session, this bill was fast tracked by a number of legislators, many of whom later told us they had not fully understood the bill and were surprised by the business community's outcry. Please do not let this happen again.

Back then, when the Governor's veto was being sought and we were asking legislators not to override her veto, we surveyed our members to get their thoughts on this bill. In just a day and a half, we had 116 responses from very busy business leaders who made the time to ring in on this issue. A day later, we had 148 total responses. Of those who responded, 97% said they oppose the Card Check Bill, with 3% saying they did not. However, all (100%) who participated in the survey did ask the Governor to veto the bill and that same 100% asked the legislature not to override her veto of this bill. Thankfully, they did not.

The Maui Chamber of Commerce and our members ask you to recognize the harm this legislation will bring to the business sector and hold HB 952.

Thank you for the opportunity to testify.

Sincerely,

Pamela Tumpap  
President

Re: HB 952 HD1

Chair Takamine, Vice Chair Taniguchi and Members of the Committee:

My name is Ka'eo Gouveia and I respectfully request that you hold HB 952. I am in charge of a small business by the name of Mokulua Contracting LLC that offers grounds, building and janitorial maintenance services to the island. We spend the majority of our time building a strong internal culture that would be stripped and destroyed if this bill were to pass.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of doing business locally and weaken Hawaii's already fragile business reputation. Hawaii continues to plummet down the charts of "best places" to start a business and this bill would just force it further down ensuring our continued dependence on tourism.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation. We have a workforce that consists of a good portion of people that maintain english as a second language. I highly fear that they would become targets of intimidation by union members if this bill were to pass.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments. If needed, I can be reached at (redacted).

Testimony to the Senate Labor Committee  
March 24, 2009  
2:45 p.m.  
Room 224

Re: HB 952 HD1

Chair Takamine, Vice Chair Taniguchi and Members of the Committee:

**I respectfully request that you hold HB 952.**

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

Brad Dennett  
Pacific Current Contractors

I oppose this bill please vote no.

Mahalo,

Cliff Poteet  
Valluzzi Poteet Building Co., LLC

SENATE COMMITTEE ON LABOR  
Committee Chair Dwight Y. Takamine  
Vice Chair Brian T. Taniguchi

Committee Members,

**RE: Testimony in opposition to HB 952 HD1**

The secret ballot is the foundation of our democratic system. Basing the decision to use collective bargaining using a card check procedure may allow coercion or fear of retribution to enter into the process. ALL employees deserve the chance to make this important decision in private with a secret ballot.

Employers should be afforded the opportunity to address employees prior to a secret vote and offer their concerns and ideas.

Each business is unique and binding arbitration could put the determination of the details of a union contract in the hands of persons not fully able understand the complexities of each business.

Laws regarding property rights should not be permitted to be compromised for any reason by anyone.

While there may be a need to simplify the process by which employees determine their right to collective bargaining, HB952 HD1 is contrary to basic democratic and constitutional principles and should not be passed.

Sincerely,

Joanna Leong  
Secretary Treasurer  
Wailana Coffee House