



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

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January 30, 2012

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

The Honorable Angus L.K. McKelvey, Chair, Isaac W. Choy, Vice Chair,  
and Members of the House Committee on Economic Revitalization &  
Business

Date: Tuesday, January 31, 2012  
Time: 11:30 a.m.  
Place: Conference Room 309, State Capitol

From: Dwight Y. Takamine, Director  
Department of Labor and Industrial Relations

**Re: H.B. No. 2575 Relating to Boiler and Elevator Safety Law**

**I. OVERVIEW OF PROPOSED LEGISLATION**

HB2575 establishes a boiler and elevator special fund to provide a mechanism for self-sufficiency for the Boiler and Elevator Inspection Branch of the Hawai'i Occupational Safety and Health Division (HIOSH). Key provisions of the measure include the following:

- A statutory increase in permit and inspection fees.
- The addition of up to ten (10) positions.
- Provides authority for the Director to set compensation and other working conditions that may be different from those administered by the Department of Human Resources Development (DHRD).
- \$1,000,000 in seed money from the general fund to be repaid in five years.
- An appropriation in the first year of \$2,900,000 to carry out the purposes of the program.

The department strongly supports this measure and requests several minor amendments.

**II. CURRENT LAW**

The Boiler and Elevator Inspection Branch operates entirely on general funds and permit and inspection fees have not changed since 1998. Currently and despite recent process improvements, 75% of elevators and 50% of boilers are operating without a current permit. There is also a backlog in performing critical load tests on elevators, internal inspection of escalators and inspections of amusement rides.

**III. COMMENTS ON THE HOUSE BILL**

- HB2575 is about public safety, the economy, and jobs. Over the past decade, the boiler and elevator inspection program staffing and budget has suffered from across the board cuts and neglect that has rendered it ineffective and a hindrance to economic revitalization.

<b>Boiler and Elevator Branch Staffing History*</b>											
<b>Year</b>	<b>95</b>	<b>02</b>	<b>03</b>	<b>04</b>	<b>05</b>	<b>06</b>	<b>07</b>	<b>08</b>	<b>09</b>	<b>10</b>	<b>11</b>
Filled	21	13	18	11	15	11	14	10	11	10	10
Authorized	21	24	18	19	18	13	14	21	15	11	12
% Filled	100%	54%	100%	58%	83%	85%	100%	48%	73%	91%	83%

*\* Years for which data was readily available.*

- HB2575 establishes a boiler and elevator special fund to provide a mechanism for self-sufficiency for the Boiler and Elevator Inspection Branch of the Hawai'i Occupational Safety and Health Division (HIOSH). HB2575 takes away the likelihood that the program will suffer from repeated and often automatic across the board cuts because it establishes a boiler and elevator special fund that is funded by fees assessed on the elevator owners who are most immediately impacted by the program. The measure provides a mechanism for self-sufficiency that will enable the program to hire and retain qualified personnel and carry out the inspection and permitting functions related to public safety.
- Elevators, boilers, steam kettles and the like may not meet safety standards and are a potential threat to public safety. Building owners, managers and businesses lose revenue awaiting the state's approval to use heaters and steam kettles for their restaurant, nursing home or institution. Retail stores, doctors and dentist offices must wait for the state's approval

for the recently installed elevator or wheelchair lift to bring customers and patients to their doors. At the same time, developers and the construction industry are unable to commit to new projects without some assurance that the current project will be occupied and generate revenue upon completion. Without this assurance, construction workers remain on the bench.

- The department has been working with the various stakeholders since last session to reach consensus and draft this measure. Although owners, managers, and businesses face fee increases averaging nearly 40%, they recognize that the fees have not risen in over 13 years, and are far preferable to the current untenable situation that is much more costly. It is critical that this measure be passed this year to have a chance of addressing the backlogs, the construction bottleneck and the public safety issues within the next two years.
- The department has assigned one full-time person who is in the process of updating the elevator standards.

The department offers the following comments about the provisions in the measure:

1. Raises fees by statute until the Director amends such fees by rulemaking in accordance with Chapter 91 to enable a reduction in the backlogs as soon as possible.
2. The \$1,000,000 in seed money is critical to begin and continue operations until qualified staff are hired and trained. The additional staff, while reducing the backlogs, will also increase the amount of income and fees coming into the special fund.
3. The \$2,900,000 appropriation is the income based on a fully staffed branch that is maintaining timely inspections and safety tests of the state's inventory of boilers, elevators and kindred equipment, and amusement rides.

The department requests the following amendments:

1. Section 4 (a) permits the Director to establish 10 additional positions, subject to Chapters 76 and 89, to ensure sufficient staffing to reduce the backlog quickly and maintain timely inspections over the long term. The department requests an amendment to Section 4, part (a) to clarify that the ten positions are permanent ones.

2. Removal of Section 4, part (b) from the bill. After further consultation with DHRD, the department believes that under existing personnel rules and procedures the Director will have the authority and flexibility to hire and retain qualified staff.
3. Taking amusement ride inspection fees (pg. 9, line 8) out of Schedule B and creating a new Section C for amusement ride inspection fees.

NEIL ABERCROMBIE  
GOVERNOR



BARBARA A. KRIEG  
INTERIM DIRECTOR

DEPUTY DIRECTOR

**STATE OF HAWAII**  
**DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT**  
235 S. BERETANIA STREET  
HONOLULU, HAWAII 96813-2437

January 29, 2012

TESTIMONY TO THE  
HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT  
HOUSE COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS

For Hearing on Tuesday, January 31, 2012  
11:30 a.m., Conference Room 309

BY

BARBARA A. KRIEG  
INTERIM DIRECTOR

**House Bill No. 2575**  
**Relating to the Boiler and Elevator Safety Law**

TO CHAIRPERSON RHOADS, CHAIRPERSON McKELVEY, AND MEMBERS OF THE  
COMMITTEES:

H.B. No. 2575 establishes the boiler and elevator special fund, authorizes the establishment of up to ten additional positions, and appropriates funds for start up costs and the hiring of staff by the Department of Labor and Industrial Relations (DLIR). The Department of Human Resources Development (DHRD) supports these provisions of the bill.

However, as currently drafted, section 4 of the bill authorizes the DLIR director to set compensation and other working conditions for these employees that may be different from those administered by DHRD. Upon discussion with DLIR, it was agreed that existing personnel rules and procedures provide the needed flexibility to hire and retain qualified staff. Therefore, DHRD requests removal of section 4 from the bill.

Thank you for the opportunity to provide testimony on this measure.

ECCD



Randy Perreira  
President

# HAWAII STATE AFL-CIO

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The Twenty-Sixth Legislature, State of Hawaii  
Hawaii State House of Representatives  
Committee on Labor & Public Employment  
&  
Committee on Economic Revitalization & Business

Testimony by  
Hawaii State AFL-CIO  
January 31, 2012

H.B. 2575 – RELATING TO THE  
BOILER AND ELEVATOR  
SAFETY LAW

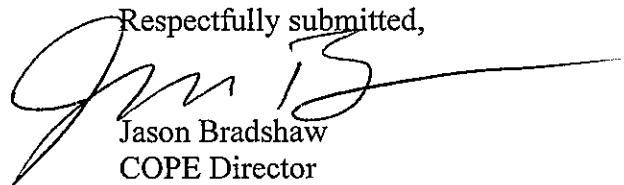
The Hawaii State AFL-CIO supports H.B. 2575 which establishes the Boiler and Elevator Special Fund for the purpose of collecting and depositing the fees charged for permits, inspections, and certificates of boilers, pressure systems elevators and kindred equipment, and amusement rides to provide sufficient operating funds for the Boiler and Elevator Inspection Branch.

We consider this measure to be important for the safety and wellbeing of the general public. Thousands of Hawaii residents and tourists use elevators daily and their safety should be one of the state's top priorities. An elevator not properly functioning can cause serious harm and even death. In addition, a boiler not inspected or maintained properly can be extremely dangerous causing property damage and even the loss of life.

We hope you recognize the importance of H.B. 2575 and respectfully request its passage.

Thank you for the opportunity to testify.

Respectfully submitted,



Jason Bradshaw  
COPE Director



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The Twenty-Sixth Legislature, State of Hawaii  
House of Representatives  
Committee on Labor and Public Employment  
and  
Committee on Economic Revitalization and Business

Testimony by  
Hawaii Government Employees Association  
January 31, 2012

H.B. 1725 – Relating to Elevator Safety

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly opposes the purpose and intent of H.B. 1725, which authorizes the third party elevator inspectors to perform safety inspections of elevators. We oppose this bill for several important reasons.

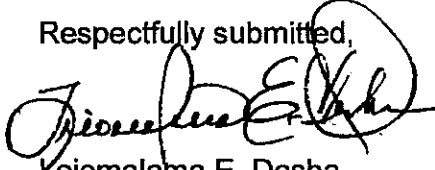
First, it is unnecessary because of H.B. 2575, which creates a special fund and provides a viable mechanism for the program to become self-sustaining and hire a sufficient number of qualified elevator inspectors. The bill increases a wide range of fees that have not been raised since the late 1990's. H.B. 2575 also gives the Director of the Department of Labor and Industrial Relations (DLIR) the authority to establish 10 additional positions, which may include a branch manager, six full-time elevator inspectors, one boiler inspector and two office assistants.

Second, ensuring public health and safety with respect to elevators, escalators, boilers and amusement rides should remain within the public sector and not be contracted out to third parties. This is a fundamental responsibility of the DLIR and the Hawaii Occupational Health and Safety Division (HIOSH) and has been for decades.

Third, under the "nature of the services" test established through the *Konno* decision, services that have been "customarily and historically provided by civil servants" cannot be privatized absent a showing that civil servants cannot provide those services. Clearly, these services have been historically provided by civil servants, and H.B. 2575 will provide the additional inspectors required to eliminate the backlog of elevator inspections.

For all of these reasons, we oppose H.B. 1725 and support H.B. 2575.

Respectfully submitted,



Leiomalama E. Desha  
Deputy Executive Director

The Twenty-Sixth Legislature  
Regular Session of 2012

HOUSE OF REPRESENTATIVES  
Committee on Labor & Public Employment  
Rep. Karl Rhoads, Chair  
Rep. Kyle T. Yamashita, Vice Chair  
Committee on Economic Revitalization & Business  
Rep. Angus L.K. McKelvey, Chair  
Rep. Isaac W. Choy, Vice Chair

LATE

State Capitol, Conference Room 309  
Tuesday, January 31, 2012; 11:30 a.m.

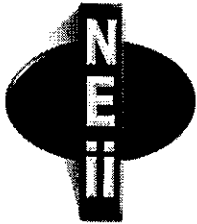
**STATEMENT OF THE ILWU LOCAL 142 ON H.B. 2575  
RELATING TO THE BOILER AND ELEVATOR SAFETY LAW**

The ILWU Local 142 supports H.B. 2575, which establishes the Boiler and Elevator Special Fund for the purpose of collecting and depositing the fees charged for permits, inspections, and certificates of boilers, pressure systems, elevators and kindred equipment, and amusement rides to provide sufficient operating funds for the Boiler and Elevator Inspection Branch.

The Hawaii Occupational Safety and Health Division experienced staffing layoffs during the past several years, resulting in fewer positions for boiler and elevator inspections. This bill will allow fees to be assessed and establish a special fund to support the hiring of more inspectors to provide for regular inspection and ensure the safety of all boilers and elevators in Hawaii.

The ILWU urges passage of H.B. 2575. Thank you for the opportunity to testify.





# National Elevator Industry, Inc.

## ASSOCIATION HEADQUARTERS

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LATE

### Testimony from the National Elevator Industry, Inc. (NEII)

#### in STRONG SUPPORT of HB 2575 Relating to the Boiler and Elevator Safety Law

#### House Committee on Labor & Public Employment and House Committee on Economic Revitalization & Business

Tuesday, January 31, 2012, 11:30 a.m., Room 309

Aloha Chairs Rhoads and Mckelvey, Vice Chairs Yamashita and Choy, and members of the committee:

The National Elevator Industry Inc (“NEII®”) is a national trade organization representing the interests of firms that install, maintain and/or manufacture (including parts or components) elevators, escalators, moving walks and other building transportation systems. NEII member companies have significant operations across Hawaii, and we appreciate the opportunity to provide comments on HB 2575.,

NEII® is very concerned about the several year backlog of inspections in the elevator and boiler branch of the Department of Labor and Industrial Relations (DLIR). We recognize that the State’s fiscal crisis has greatly contributed to the current challenges faced by DLIR with their current limited and overburdened staff. However, the inability to timely and effectively manage the inspections of elevators and other building transportation equipment in Hawaii raises safety issues, creates construction delays and results in significant cost burdens on the commercial business community in the State.

We would hope that responsible building owners in the State would arrange for their elevator equipment to be regularly and routinely maintained with necessary repairs or replacements made but only a current operating permit and approval of critical load tests will ensure the ongoing confidence of the riding public that such equipment is truly safe to use. Fortunately, there hasn’t been an elevator related fatality in the State for quite some time. A proper inspection and test approval program would be of invaluable assistance in continuing that trend.

The administrative quagmire that the DLIR finds itself in is exacerbating the economic crisis by stalling the occupancy of buildings that could help drive the State’s economic engine back to prosperity. Delayed occupancy means a delay in the sale and/or lease of buildings. Meanwhile, construction loan payments are still required draining away precious resources from cash-strapped property owners that could be allocated to other income producing projects. Financially distressed properties lead to increasing amounts of deferred maintenance thereby creating safety concerns (including elevators, building, fire and life safety systems) as well as lost jobs for the elevator industry that services existing equipment and that installs original equipment for new

projects that never get off ground due to lack of funding. More loans will go into default and foreclosure as sufficient proceeds are not available to pay outstanding debt service. Every foreclosure and forced sale drives down the value of other area properties and makes construction lenders even more skittish about financing other projects. All of this creates a downward spiral that makes it harder for the Hawaii economy to recover from an already depressed state.

For over a year, *NEII*® has led a collaborative working group that includes key stakeholders in the elevator and building industries. This group has developed a strong working relationship with DLIR and we have seen a positive commitment to resolving the backlog of inspections. HB 2575 would re-establish a revolving fund dedicated to the elevator branch which would allow the DLIR to recruit and hire suitably qualified staff for the necessary inspector positions including, most importantly, the Chief Elevator Inspector who would then be in a position to immediately fill the current leadership vacuum.

*NEII*®'s is the premier association representing the interests of firms that install, maintain and/or manufacture elevators, escalators, moving walks and other building transportation products. The *NEII*® membership includes the top elevator companies in the United States, if not the world, and reports more than eighty percent of the work hours for the industry. Safety for the riding public and industry professionals is one of *NEII*®'s top priorities.

Thank you for the opportunity to provide the elevator industry's comments today.

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**GCA of Hawaii**

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

Uploaded via Capitol Website

**LATE**

January 31, 2012

**TO:** HONORABLE REPRESENTATIVES KARL RHOADS, CHAIR, KYLE YAMASHITA, VICE CHAIR AND MEMBERS OF THE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

HONORABLE REPRESENTATIVES ANGUS MCKELVEY, CHAIR, ISAAC CHOY, VICE CHAIR AND MEMBERS OF THE COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS

**SUBJECT:** **COMMENTS REGARDING H.B. 2575, RELATING TO BOILER AND ELEVATOR SAFETY LAW.** Establishes the Boiler and Elevator Special Fund for the purpose of collecting and depositing the fees charged for permits, inspections, and certificates of boilers, pressure systems elevators and kindred equipment, and amusement rides to provide sufficient operating funds for the Boiler and Elevator Inspection Branch.

NOTICE OF HEARING

**DATE:** Tuesday, January 31, 2012  
**TIME:** 11:30 AM  
**PLACE:** Conference Room 309

Dear Chair Rhoads, Vice Chair Yamashita, Chair McKelvey, Vice Chair Choy and Members of the Committees:

The General Contractors Association (GCA) is an organization comprised of over six hundred (600) general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is celebrating its 80<sup>th</sup> anniversary this year; it remains the largest construction association in the State of Hawaii. GCA is submitting **comments** regarding H.B. 2575, Relating to Boiler and Elevator Safety Law.

H.B. 2575 proposes to establish a special fund to pay for the cost of operating the Boiler and Elevator Inspection Branch. All fees collected for inspections, permits and examinations of boilers and elevators shall be deposited into the fund effective July 1, 2021. The Bill also establishes a schedule of inspection and licensing fees to be charged pending establishment of a fee schedule under Chapter 91.

The GCA recognizes the necessity of funds to pay for the inspections and examination of boilers and elevators since the installation and operation of defective equipment poses a danger to the general public that use elevators and come in contact with boilers and other pressure vessels.

A large number of elevators and pressure systems are operating without a current permit due to lack of sufficient staff to carry out the needed inspections. The health and safety of the general public could be jeopardized due to lack of funding to carry out the required inspections.

The GCA therefore, supports the intent of H.B. 2575, however, we take no position regarding the specific fee schedule proposed in the bill. We believe that the specific fee schedule proposed in the bill needs to be explained and examined before we can determine whether the amounts proposed are justified.

Thank you for this opportunity to present our views on this measure.

George M. Waialeale  
910 Kapahulu Avenue #703  
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LATE

January 31, 2012

Committee on Labor and Public Employment

Committee on Economic Revitalization and Business

HB 2575 Relating to the Boiler and Elevator Safety Law

I am here to testify in support of HB 2575. With the establishment of this special fund to collect and deposit fees for inspections, permits and examinations of boilers, pressure systems, elevators, and kindred equipment will provide funds to hire more inspectors. This will provide a safety measure for installation and maintenance of boilers and elevators.

I ask for your passage of this legislation.

George Waialeale