



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

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February 1, 2012

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

Date: Friday, February 3, 2012

Time: 9:00 a.m.

Place: Conference Room 309, State Capitol

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

**Re: H.B. 2577 Relating to Wages**

**I. OVERVIEW OF PROPOSED LEGISLATION**

- HB2577 amends section 388-1 and 388-3, Hawaii Revised Statutes (HRS), to clarify that promised vacation or other leaves as paid time off is included in the definition of "wage" and "wages".
- The department would be able to enforce promised vacation or personal time off if there is a written agreement between the employer and employee, or if the employer has a written policy, or if the practice is substantiated by corroborating evidence.
- If the employer has a written agreement, policy or practice that does not require payment of vacation or personal time off upon separation—then the department would not enforce payment of promised time off.

The department strongly supports this administration measure.

**II. CURRENT LAW**

Section 388-1, HRS, does not contain language that makes it clear that earned vacation or paid time off is wages.

**III. COMMENTS ON THE HOUSE BILL**

1. The ambiguity as to whether the Wage Standards Division has authority to enforce a promised wage by employers that includes vacation or personal time off earned as "wages" has blocked the Wage Standards Division's ability to assist Hawaii's workers in the enforcement of unpaid wages.
2. The amendment would allow enforcement of the promised vacation and "paid time off" as previously enforced prior to the Hawaii Supreme Court decision in Casumpang v. ILWU. The amendment makes clear that 108 Haw. 411 (2005) vacation or personal time off earned is included in "wages."
3. If the legislature chooses to pass this measure, the department will be able to assist employees in collecting promised vacation or personal time off from employers.

**yamashita2 ----Aulii**

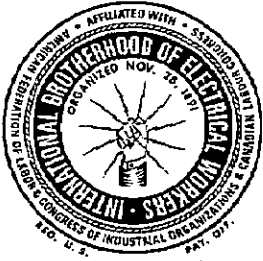
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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 01, 2012 2:11 PM  
**To:** LABtestimony  
**Cc:** Lardizabal@local368.org  
**Subject:** Testimony for HB2577 on 2/3/2012 9:00:00 AM

Testimony for LAB 2/3/2012 9:00:00 AM HB2577

Conference room: 309  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Al Lardizabal  
Organization: Hawaii Laborers' Union  
E-mail: [Lardizabal@local368.org](mailto:Lardizabal@local368.org)  
Submitted on: 2/1/2012

Comments:



Scot F. Long  
Business Mgr. / Financial Sec.

## ***International Brotherhood of Electrical Workers***

Telephone Local Union 1357  
2305 S. Bereitania Street #206 • Honolulu, Hawaii 96826  
Telephone (808) 941-7761 • Fax (808) 944-4239



Ted M. Furukado  
President

HB 2577

RELATING TO WAGES

SCOT F. LONG

BUSINESS MANAGER / FINANCIAL SECRETARY

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS

LOCAL UNION 1357

FEBRUARY 2, 2012

Chair Rhoads and Members of the House Committee on Labor & Public  
Employment:

I am Scot Long, testifying on behalf of IBEW Local Union 1357 on HB  
2577. IBEW Local Union 1357 and our 750 members strongly support this  
bill.

If the Legislature chooses to pass this measure, the department will be able  
to assist employees in collecting promised vacation or personal time off  
from employers. The department used to collect unpaid vacation or  
personal time off in the past and many of the complaints coming into the  
Wage Standards Division involve such cases.

If this measure passes, DLIR would be able to enforce promised vacation or personal time off if there is a written agreement, or if the employer has a written policy, or if it is the practice of the employer. If the employer has a written agreement, policy or practice that does not require payment upon separation, then the DLIR would not enforce. HB 2577 would help clarify what is promised vacation and "paid time off" and how it relates to wages and we urge your support.

Thank you for the opportunity to testify.

The Pacific Resource  
**PARTNERSHIP**



Testimony of C. Mike Kido  
External Affairs  
The Pacific Resource Partnership

House Committee on Labor and Public Employment  
Representative Karl Rhoads, Chair  
Representative Kyle Yamashita, Vice Chair

HB 2577 – Relating to Wages  
Friday, February 3, 2012  
2:50 pm  
Conference Room 309

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

My name is C. Mike Kido, External Affairs of the Pacific Resource Partnership (PRP), a labor-management consortium representing over 240 signatory contractors and the Hawaii Regional Council of Carpenters (formerly the Hawaii Carpenters Union).

PRP believes that labor is the backbone of our economy, and that every hardworking citizen should be compensated fairly and fully, in accordance with the terms of their employer (or former employer) has offered.

Therefore, PRP supports legislation like HB 2577 that seeks to ensure that our working citizens are not only fairly and justly compensated, but fully compensated for their contributions to their employer(s) and this State's economy.

Thank you for the opportunity to share our views with you and we respectfully ask for your support on HB 2577.

February 2, 2012

The Honorable Karl Rhoades, Chair  
The Honorable Kyle Yamashita, Vice-Chair  
Members of the House Labor Committee  
415 South Beretania Street, Room 309  
Honolulu, Hawaii 96813

**Relating to: HB 2577 RELATING TO WAGES**

Dear Representative Rhoads and Members of the Committee:

We urge you to **SUPPORT HB 2577 Relating to Wages.**

Our company, Vocational Management Consultants, inc. is in support of HB 2577 which addresses the definition of "wages" to include vacation or personal time off pay earned. We support this change in the definition to include the vacation or personal time off as earned by an employee.

As a company that works with injured workers, we have seen cases where a person is released from their position but not paid their vacation or personal time off as was due to them. This bill will help to clarify this issue.

We would recommend that this bill be passed. Thank you for the opportunity to address this committee in regard to HB 2577.

Sincerely,

Laurie H. Hamano, President, Rehabilitation Specialist  
Kirsten Harada, Rehabilitation Specialist  
Jessica Bohne, Rehabilitation Specialist  
Patti Inoue, Rehabilitation Specialist  
Beverly Tokumine, Rehabilitation Specialist  
Adam Yonamine, Vocational Technician  
Lily Miyahira, Office Manager  
Leona Tadaki-Kam, Clerk

715 S. King Street, #410  
Honolulu, Hawaii 96813  
808-538-8733

LATE



**Testimony to the House Committees on Labor & Public Employment  
Friday, February 3, 2012**

**9:00 a.m.**

**State Capitol - Conference Room 309**

**RE: HOUSE BILL NO. 2577 RELATING TO WAGES**

Chair Rhoads, Vice Chair Yamashita, 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"). The Chamber seeks amendments to clarify the intent of HB 2577 relating to Wages.

The Chamber is the largest business organization in Hawaii, representing more than 1,000 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.

HB 2577 clarifies the definition of "wages" in the Payment of Wages and Other Compensation Law, chapter 388, Hawaii Revised Statutes, to include any promised paid time off.

The Chamber supports Section 2 which codifies case law, however we do have concerns with Section 1. The measure needs to clarify how it interacts with other parts within Chapter 388 that references "wages."

The first section amends the definition of "wages" to include "vacation or personal time off pay" earned in accordance with the terms of any written agreement, employer written policy, or practice. This proposal amends current law, which clearly excludes vacation/paid time off from wages as held in Casumpang v. ILWU Local 142, 108 Haw. 411 (2005).

We believe there may some technical issues. For instance, HRS 388-2 requires employers to "pay all wages due . . . at least twice during each calendar month . . ." When does vacation/paid time off as "wages" become "due?" Do they become "due" when the employee earns it or when s/he takes the vacation/paid time off? The bill would have to clarify that vacation/paid time off as wages only become "due" after approval from the employer to take the vacation/paid time off and the employee actually



takes the time off. If the bill doesn't clarify this, employer agreements/policies will have to address when vacation/paid time off payments are "due."

Section 388-2 also requires employers to pay "earned wages . . . within seven days after the end of each pay period." There may be confusion over when an employee "earns" the vacation/paid time off. Some employers say employees earn 1 day of vacation per month. A technical reading of HB 2577 would mean the employer must pay the vacation when it is "earned" – meaning at the end of the month. Or, what about employers that give employees all vacation/paid time off days at the beginning of their anniversary year...does that mean that they've "earned" the vacation/paid time off so that the employer must now pay it within 7 days of that?

Also, how would it interact with Section 388-8, which basically prohibits waiver of Payment of Wages rights by agreement. Some employers allow employees to donate vacation/paid time off time to those who are sick. Redefining "wages" to include vacation/paid time off might impede this practice since technically, the employer is only supposed to pay the *employee* "wages" (not the sick co-worker, even if the employee agreed to it).

Finally, how does this bill apply to an employer's use it or lose it policies? The bill could require employers to pay employees the vacation/paid time off because once it is in their vacation/paid time off bank, employees have "earned" it. In other words, employees would never "lose" vacation. Requiring annual vacation/paid time off payoffs runs counterproductive to the policy behind use it or lose it policies, which is to encourage employees to take much needed time off.

We respectfully ask that the committee takes these concerns into consideration. Thank you for the opportunity to express our views.



Testimony of Glenn Ida  
Representing,  
The Plumbers and Fitters Union, Local 675  
1109 Bethel St., Lower Level  
Honolulu, Hi. 96813

**In Strong Support of HB2577**

Before the House:  
Committee on Labor  
Friday, Feb. 3, 2012  
9 AM, Conference Room 309

Aloha Chair Rhoads and Vice-Chair Yamashita and Committee Members.

My name is Glenn Ida; I represent the 1300 plus active members and about 600 retirees of the Plumbers and Fitters Union, Local 675.

Local 675, **Strongly Supports HB2577**, which clarifies the definition of "wages" in the Payment of Wages and Other Compensation Law, Chapter 388, Hawaii Revised Statutes, to include any promised time off.

The amendments provided in HB2577, will include promised vacation and other leaves as paid time off in the definition of wages. The DLIR Wage Standards Division will have the authority to assist Hawaii's workers in the enforcement of unpaid wages violations.

Local 675, **Strongly Supports HB2577**.

Thank you for this opportunity to testify.

Glenn Ida  
808-295-1280