

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON FINANCE
ON
HOUSE BILL NO. 2766, H.D. 1

February 28, 2012

RELATING TO PUBLIC WORKS

House Bill No. 2766, H.D. 1, establishes a Wage and Hour for Public Works Projects Special Fund into which shall be deposited three one-hundredths of one percent of all appropriations for capital improvement projects construction cost element for the construction and renovation of State buildings which will be used to enforce the wage and hour law on public works projects. The bill further authorizes 3.00 permanent positions and appropriates \$150,000 in general funds in FY 13 to the Department of Labor and Industrial Relations to enforce the wage and hour laws.

While the Department of Budget and Finance does not take any position on the policy of enforcing the wage and hour laws on public works projects, as a matter of general policy, the department does not support the creation of special funds which do not meet the requirements of Section 37-52.3, Hawaii Revised Statutes. Special or revolving funds should: 1) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program; 2) provide an appropriate means of financing for the program or activity; and 3) demonstrate the capacity to be financially self-sustaining. In regards to House Bill No. 2766, H.D. 1, it is difficult to determine whether there is a clear nexus between funds appropriated for the construction and renovation of State buildings

and the enforcement of wage and hour laws on all State public works projects, and whether the special fund will be self-sustaining. In addition, we are concerned that the bill will increase the cost of public works projects.

I encourage the Legislature to scrutinize the fiscal and operational plan for this program to ensure that it does conform to the requirements of Section 37-52.3, Hawaii Revised Statutes.



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

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

February 28, 2012

To: The Honorable Marcus R. Oshiro, Chair, Marilyn B. Lee, Vice Chair,
and Members of the House Committee on Finance

Date: Tuesday, February 28, 2012
Time: 12:00 p.m.
Place: Conference Room 308, State Capitol

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

Re: H.B. No. 2766, H.D. 1 Relating to Public Works

I. OVERVIEW OF PROPOSED LEGISLATION

H.B. 2766, H.D. 1 creates the prevailing wage enforcement special fund to be administered by DLIR and requires 3 one hundredths of one per cent of all capital improvements subject to the Wages and Hours of Employees on Public Works Law, chapter 104, Hawaii Revised Statutes (HRS) to be deposited into the fund to be used for the enforcement of the prevailing wage law. The amendment applies to all construction contracts with governmental contracting agencies after the effective date of July 1, 2012.

The measure also appropriates \$150,000 for fiscal year 2012-2013 and establishes the equivalent of three full-time, permanent labor law enforcement specialist IV positions.

The department supports this measure as long as its passage does not displace the funding priorities of the administration. The department defers to B&F and the other procuring agencies on the technical issues regarding use of CIP Funds.

II. CURRENT LAW

There is no funding mechanism for enforcement of the chapter 104, HRS. All labor law specialists are 100% general funds.

III. COMMENTS ON THE HOUSE BILL

1. The Compliance Branch of the Wage Standards Division has five specialists statewide. There are two specialists on Oahu—one specialist is performing all chapter 104 investigations and one specialist is investigating all other wage laws. There is one specialist on each of the neighbor island counties performing all wage law investigations.
2. The Wage Standards Division had over 500 wage-related complaints for the fiscal year ending June 2011. As a result, random educational investigations have been dropped and limitations imposed on all field work as much as possible. Even with these cuts, response time for chapter 104 complaints as well as other wage complaints continues to grow.

In summary, recent budget constraints have curtailed the wage law enforcement and educational activities of the department. Therefore, the department appreciates the intent of this measure to augment and expand the state's enforcement of wage and hour law on public construction contracts.

Again, the department supports this measure as long as its passage does not displace the funding priorities of the administration.

NEIL ABERCROMBIE
GOVERNOR



GLENN M. OKIMOTO
DIRECTOR

Deputy Directors
JADE T. BUTAY
FORD N. FUCHIGAMI
RANDY GRUNE
JADINE URASAKI

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

IN REPLY REFER TO:

February 27, 2012

**HB 2766 HD1
RELATING TO PUBLIC WORKS**

HOUSE COMMITTEE ON FINANCE

The Department of Transportation stands in opposition to HB 2766 HD1, which intends to establish the Wage and Hour for Public Works Projects Special Fund and establish and fund additional labor law enforcement specialist positions.

The increased regulation that this Act would create, could be remedied by adequate training of employees rather than the addition of specialist positions.

The Department also has concerns about the fact that the monies taken by this Act would be calculated using the amount appropriated for construction costs rather than the actual cost of construction. This means the Department would be charged upfront for funds it may or may not use.

This Act would also run the risk of qualifying as revenue diversion for the Airports Division, jeopardizing all of the federal grants that the Division currently receives. In the event that the Airports Division is charged the three one hundredths of one per cent of their construction of state buildings appropriations, and DLIR does not participate in any Airports projects, that could qualify as revenue diversion in the opinion of the FAA.

The Department of Transportation strongly recommends that this Act be amended exempting the Airports Division from this fee in order to ensure the safety of future federal grants.

The Department thanks you for this opportunity to testify.



FINTestimony

From: mailinglist@capitol.hawaii.gov
ent: Saturday, February 25, 2012 7:52 AM
fo: FINTestimony
Cc: Lardizabal@local368.org
Subject: Testimony for HB2766 on 2/28/2012 12:00:00 PM

Testimony for FIN 2/28/2012 12:00:00 PM HB2766

Conference room: 308
Testifier position: Support
Testifier will be present: Yes
Submitted by: Al lardizabal
Organization: Hawaii Laborers' Union
E-mail: Lardizabal@local368.org
Submitted on: 2/25/2012

Comments:

Wage and hour enforcement is critical to Hawaii workers. There must be a reliable enforcement program to protect Hawaii workers. Workers are afraid to complain about wage shortages especially during a high unemployment period. Once wages are not paid, it is extremely difficult to recover them unless enforcement authority is ready and able to act quickly.