

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON
HOUSE BILL NO. 2766, H.D. 2

April 4, 2012

RELATING TO PUBLIC WORKS

House Bill No. 2766, H.D. 2, establishes a Wage and Hour for Public Works Projects Special Fund into which, with the exception of the Department of Transportation's Airports Division, 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 an unspecified amount of general funds in FY 13 to the Department of Labor and Industrial Relations to enforce the wage and hour laws.

The Department of Budget and Finance recognizes the value of these positions to the Department of Labor and Industrial Relations for enforcing the wage and hour laws on public works projects. We are also supportive of the concept of self-funding of operations by means other than the general fund on a user-supported basis. However, as a matter of general policy, we must advise that the creation of special funds need to 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. 2, 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**

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April 2, 2012

To: The Honorable David Y. Ige, Chair, Michelle N. Kidani, Vice Chair, and
Members of the Senate Committee on Ways and Means

Date: Wednesday, April 4, 2012

Time: 9:10 a.m.

Place: Conference Room 211, State Capitol

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

Re: H.B. No. 2766, H.D. 2 Relating to Public Works

I. OVERVIEW OF PROPOSED LEGISLATION

H.B. 2766, H.D. 2 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, 2030.

The measure also has an appropriation provision for fiscal year 2012-2013 that 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

The DLIR would like to point out that the reference to Chapter 387 that is on page 3, line 19, should be changed to Chapter 104.

Recent budget constraints have curtailed the wage law enforcement and educational activities of the department.

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.

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.