

**HB2766, HD2**



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

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March 12, 2012

To: The Honorable Clayton Hee, Chair, Maile Shimabukuro, Vice Chair, and  
Members of the Senate Committee on Judiciary and Labor

Date: Monday, March 12, 2012

Time: 10:00 a.m.

Place: Conference Room 016, 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, 2012.

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**

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.

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

March 12, 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.

While the Department of Budget and Finance does not take any position on 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. 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.



**HAWAII BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO**

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Operating Engineers Local 3

**RONAN KOZUMA**

Hawaii Teamsters & Allied

Workers Local 996

**VAUGHN CHONG**

Roofers, Waterproofers & Allied

Workers United Union of Roofer

Local 221

March 12, 2012

Honorable Senator Clayton Hee, Chair  
Honorable Senator Maile Shimabukuro, Vice Chair  
Members of the Committee on Judiciary and Labor  
Hawaii State Capital  
415 South Beretania Street  
Honolulu, HI 96813

RE: **IN SUPPORT** OF **HB2766 HD2**  
RELATING TO PUBLIC WORKS  
Hearing: Monday, March 12, 2012, 10:00 a.m. Conference Room 016

Dear Chair, Vice Chair and Committee Members;

For the Record my name is Kika G. Bukoski, testifying on behalf of the Hawaii Building & Construction Trades Council, AFL-CIO. The Council is comprised of various construction trade unions and an estimated membership of approximately 20,000 statewide.

The Council SUPPORTS HB2766 HD2, which establishes the Wage and Hour for Public Works Projects Special Fund and establishes and funds additional labor law enforcement specialist positions to assist the enforcement of Hawaii's wage and hour law on public construction projects.

It has long been a concern of the Council and its members that the enforcement of laws and rules related to wages and hours reported on state projects have been difficult to say the least. This difficulty is a direct result of a lack of resources needed for such enforcement. A dedicated fund will ensure that the applicable state agencies have adequate resources to ensure that such laws are being enforced and economic opportunities are maximized.

For these reasons we strongly support the approval of HB2766 HD2 and thank you for the opportunity to provide testimony.

Malama Pono,

Kika G. Bukoski  
Hawaii Building and Construction Trades Council