

WRITTEN ONLY

TESTIMONY BY KALBERT K. YOUNG  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT  
ON  
HOUSE BILL NO. 2766

February 7, 2012

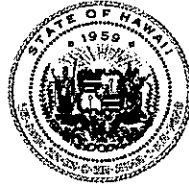
RELATING TO PUBLIC WORKS

House Bill No. 2766 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, 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. Although the bill appropriates \$150,000 in general funds for FY 13, the bill does not make an appropriation to allow Department of Labor and Industrial Relations to expend the special funds deposited in the Wage and Hour for Public Works Projects Special Fund.

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 7, 2012

**HB 2766  
RELATING TO PUBLIC WORKS**

HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

The Department of Transportation stands in opposition to HB 2766, 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 Department 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 increased regulation that this Act would create, could be remedied by adequate training of employees rather than the addition of specialist positions.

The Department thanks you for this opportunity to testify.







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

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

February 7, 2012

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

Date: Tuesday, February 7, 2012  
Time: 9:30 a.m.  
Place: Conference Room 309, State Capitol

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

**Re: H.B. No. 2766 Relating to Public Works**

**I. OVERVIEW OF PROPOSED LEGISLATION**

H.B. 2766, 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 III positions.

The department's 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. If the legislature chooses to pass this measure, the department recommends changing the level III positions to level IV specialists. Chapter 104 complaints are complex and usually assigned to level IV specialists, level III specialists mainly investigate minimum wage and overtime complaints.

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

**yamashita2 ----Aulii**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 01, 2012 2:56 PM  
**To:** LABtestimony  
**Cc:** Lardizabal@local368.org  
**Subject:** Testimony for HB2766 on 2/7/2012 9:30:00 AM

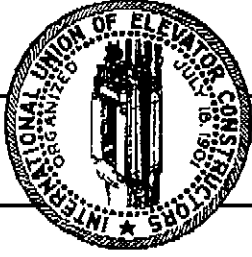
Testimony for LAB 2/7/2012 9:30:00 AM HB2766

Conference room: 309  
Testifier position: Support  
Testifier will be present: Yes  
Submitted by: Al Lardizabal  
Organization: Hawaii Laborers' Union  
E-mail: [Lardizabal@local368.org](mailto:Lardizabal@local368.org)  
Submitted on: 2/1/2012

Comments:







LOCAL UNION NO. 126



OF THE

# **International Union of Elevator Constructors**

AFFILIATED WITH THE AFL-CIO

SUITE 314, 707 ALAKEA STREET • HONOLULU, HI 96813 • TELEPHONE (808) 536-8653 • FAX (808) 537-3779

**Sent via fax: 586- 6331**

**February 7, 2012**

***The Honorable Chair Rhoads, Vice- Chair Yamashita and Members of  
the Committee on Labor and Public Employment***

**Testimony in favor of House Bill# 2766**

**Aloha,**

***Thank you for allowing me to present testimony in behalf of the many  
members of the Elevator Constructor's Union Local 126. We are fully in  
support of the intent of H.B.#2766 that will create labor enforcement  
positions to review and correct any wage & hour problems that may  
arise in the State of Hawaii Public Works Projects arena.***

***Statutory language that protect the interest of the citizens of Hawaii  
is inadequate if no "enforcement" provision is made.***

**Mahalo**

**Thad Tomei, Bus.Rep.**

**Elevator Constructors Union Local 126**





**HAWAII BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO**  
Gentry Pacific Design Center, Suite 215A \* 560 N. Nimitz Highway, #50 \* Honolulu, Hawaii 96817  
(808) 524-2249 - FAX (808) 524-6893

REGINALD CASTANARES

*President*  
Plumbers & Fitters Local 675

DAMIEN T.K. KIM

*Vice President*  
International Brotherhood of  
Electrical Workers Local 1186

THADDEUS TOMEI

*Treasurer*  
Elevator Constructors Local 126

GARY AYCOCK

*Sergeant At Arms*  
Boilermakers, Ironship Builders  
Local 204

DOUGLAS FULP

*Trustee*  
International Assoc. of Heat & Frost  
Insulators & Allied Workers Local 132

PETER GANABAN

*Trustee*  
Laborers' International Union of  
North America Local 368

NOLAN MORIWAKI

Bricklayers & Ceramic Tile Sellers  
Local 1 & Plasterers  
Local 630 Cement Masons

JOSEPH O'DONNELL

Iron Workers Local 625

ART TOLENTINO

Sheet Metal Workers I.A. Local 293

LYNN KINNEY

District Council 50  
Painters & Allied Trades Local 1791  
Carpel, Linoleum, & Soft Tile  
Local 1926  
Drywall, Tapers & Finishers  
Local 1944  
Glaziers, Architectural Metal &  
Glassworkers Local 1889

PANE MEATOOGA

Operating Engineers Local 3

RONAN KOZUMA

Hawaii Teamsters & Allied  
Workers Local 996

VAUGHN CHONG

Roofers, Waterproofers & Allied  
Workers United Union of Roofers  
Local 221

February 6, 2012

Honorable Representative Kharl Rhoads, Chair  
Honorable Representative Kyle Yamashita, Vice Chair  
Members of the Committee on Labor and Public Employment  
Hawaii State Capital  
415 South Beretania Street  
Honolulu, HI 96813

RE: **IN SUPPORT OF HB2766**  
**RELATING TO PUBLIC WORKS**  
Hearing: Tuesday, February 7, 2012, 9:30 p.m. Conference Room 309

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, 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 and thank you for the opportunity to provide testimony.

Malama Pono,

Kika G. Bukoski  
Hawaii Building and Construction Trades Council

