



NEIL ABERCROMBIE
GOVERNOR



Dean H. Seki
Comptroller

Maria E. Zielinski
Deputy Comptroller

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING
AND GENERAL SERVICES
P.O. BOX 119
HONOLULU, HAWAII 96810-0119

WRITTEN TESTIMONY
OF
DEAN H. SEKI, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
HOUSE COMMITTEE
ON
FINANCE
ON
February 19, 2014
H.B. 1976, H.D. 1

RELATING TO PUBLIC WORKS

Chair Luke and members of the Committee, thank you for the opportunity to submit written testimony on H.B. 1976, H.D. 1.

The Department of Accounting and General Services (DAGS) supports the intent of H.B. 1976, H.D. 1.

To improve efficiency, DAGS recommends that this measure be amended to require the 0.01 per cent assessments on construction CIP fund appropriations be automatically deposited into the wage and hour for public works projects special fund account rather than transferred by state departments required to deposit moneys into the special fund. DAGS defers to testimony submitted by the Department of Labor and Industrial Relations on this and other substantive provisions of H.B. 1976, H.D. 1.

Thank you for the opportunity to submit written testimony on this matter.



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

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HONOLULU, HAWAII 96813
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February 19, 2014

To: The Honorable Sylvia Luke, Chair,
The Honorable Scott Y. Nishimoto, Vice Chair,
The Honorable Aaron Ling Johanson, Vice Chair, and
Members of the House Committee on Finance

Date: February 19, 2014
Time: 3:00 p.m.
Place: Conference Room 308, State Capitol

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

Re: H.B. No. 1976, H.D. 1 Relating to Public Works

I. OVERVIEW OF PROPOSED LEGISLATION

This measure creates a new fund that will assist in enforcement of the Wages and Hours of Employees on Public Works (“prevailing wage”), Chapter 104, Hawaii Revised Statutes (HRS). The fund will be administered by the DLIR and requires all State departments except for the Airports Division of the Department of Transportation receiving capital improvement project funds to deposit .01 percent of the total amount into the fund as of July 1, 2014. The DLIR is required to provide an annual report.

The measure also appropriates \$85,241 for two Labor Law Enforcement Specialists (LLES).

The Department supports the proposal and requests an amendment to the percent of CIP funds deposited into the fund (.1 instead of .01).

II. CURRENT LAW

The enforcement of the prevailing wage is out of the general funds. Wage Standards currently has four LLES positions qualified to investigate 104 investigations, and has pressed supervisors and the branch chief to also do investigations. In addition, the investigators have responsibility for five other laws the Division enforces.

III. COMMENTS ON THE HOUSE BILL

This proposal makes good sense because it will use a portion of the construction funds that the law regulates to fund investigations of violations. Other states use versions of this method with success. For example, the State of New York uses 0.10 of one percent of construction funds to support their prevailing wage enforcement.

The Wage Standards Division lost 5 LLES positions in the 2009 reduction-in-force that directly affected the enforcement of the prevailing wage law. In addition, recent changes in the law (Act 160, 2011 SLH), have changed the investigation process of prevailing wage investigations. These events together resulted in a current backlog of 250 pending prevailing wage investigations of 50 contractors.

The department notes that the appropriation in Section 3 will fund two investigators for 6 months and the department assumes the intent of this bill would be to continue funding of the two investigators beyond that time period. However, the CIP funds subject to the prevailing wage and deposited into the fund created here fluctuate from year to year.

Based on estimates from the Department of Budget and Finance, .01 percent will not be enough to fund even one LLES position. Therefore, the department asks that the percentage of funds transferred as shown on page 3, line 7 be increased from 0.01 to 0.10 per cent to keep a fund balance that will maintain an appropriate amount to continue to fund investigators.

DLIR thinks the fiscal impact will be minimal as the percentage of funds going into the special fund is very small.



The Pacific Resource
PARTNERSHIP



Testimony of Cindy McMillan
The Pacific Resource Partnership

House Committee on Finance
Representative Sylvia Luke, Chair
Representative Scott Nishimoto, Vice Chair
Representative Aaron Ling Johanson, Vice Chair

HB 1976, HD1 – RELATING TO LABOR
Wednesday, February 19, 2014
3:00 PM
Conference Room 308

Aloha Chair Luke, Vice Chairs Nishimoto and Johanson, and members of the Committee:

The Pacific Resource Partnership (PRP) is a labor-management consortium representing over 240 signatory contractors and the Hawaii Regional Council of Carpenters.

PRP supports HB 1976, HD1 which establishes the Wage and Hour for Public Works Projects Special Fund to fund enforcement of wage and hour laws for public works projects. This measure also establishes and funds two additional labor law enforcement specialist IV positions in DLIR, effective July 1, 2014.

Currently, the capacity for investigation and enforcement of wage and hour laws is lacking. This bill will ensure that the public's investment in CIP projects and the workers' rights are protected.

Thank you for the opportunity to share our views with you and we kindly ask for your favorable consideration of HB 1976, HD1.



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Honolulu, HI 96819
Phone: 808-833-1681 FAX: 839-4167
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Website: www.gcahawaii.org



GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

Uploaded via Capitol Website

February 19, 2014

TO: HONORABLE SYLVIA LUKE, CHAIR, HONORABLE SCOTT NISHIMOTO AND HONORABLE AARON JOHANSON, VICE CHAIRS AND MEMBERS OF THE HOUSE COMMITTEE ON FINANCE

SUBJECT: **COMMENTS REGARDING H.B. 1976, HD1 RELATING TO PUBLIC WORKS.**
Establishes the Wage and Hour for Public Works Projects Special Fund to fund enforcement of wage and hour laws for public works projects. Establishes and funds two additional labor law enforcement specialist IV positions in DLIR. Effective July 1, 2014. (HB1976 HD1).

HEARING

DATE: Wednesday, February 19, 2014
TIME: 1:00 p.m.
PLACE: Conference Room 308

Dear Chair Luke, Vice Chairs Nishimoto and Johanson and Members of the Committee,

The General Contractors Association of Hawaii (GCA) is an organization comprised of over approximately hundred (600) general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is the largest construction association in the State of Hawaii. The mission is to represent its members in all matters related to the construction industry, while improving the quality of construction and protecting the public interest.

H.B. 1976, HD1 proposes to establish a special fund for two additional labor law enforcement specialist IV positions to assist enforce Hawaii's wage and hour law under HRS Chapter 104. While GCA has concerns regarding the creation of new special funds, the need for two additional labor law enforcement specialists appears necessary. These positions would allow DLIR the proper resources to speed up investigations to enforce prevailing wage provisions already provided in the law.

In lieu of H.B. 2322 and 2323 which proposes to among other things, increase suspension periods, increase fines and penalties and make a general contractor secondarily liable for the violations of their subcontractor for nonpayment of prevailing wages, GCA would recommend the Committee strongly consider this measure in its place.

The GCA is opposed to provisions in H.B. 2323, making the general contractor secondarily liable for payment of back wages and penalties impose on his subcontractor's notification of a violation or decision.

Thank you for the opportunity to provide comments on this measure.



LABORERS' INTERNATIONAL UNION OF NORTH AMERICA LOCAL 368



PETER A. GANABAN
*Business Manager/
Secretary-Treasurer*

ALFONSO OLIVER
President

JOBY NORTH II
Vice President

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MARK MAGUSARA
Auditor

MARK TRAVALINO
Auditor

JOSEPH YAW
Auditor

LEUMA L. LEATUMAUGA
Sergeant-At-Arms

February 17, 2014

Honorable Sylvia Luke, Chair
Honorable Scott Nishimoto, Vice Chair
Honorable Aaron Ling Johansen, Vice Chair
Members of the Finance Committee

RE: **HB1976 HD1** RELATING TO PUBLIC WORKS

Date: February 19, 2014
Time: 3:00 P.M.
Place: Room 308

Dear Chair Luke, Vice Chair Nishimoto, Vice Chair Johansen and members of the Finance Committee:

The Hawaii Laborers' Union strongly **supports** HB1976 HD1. This measure creates a new fund that will assist in enforcement of the Wages and Hours of Employees on Public Works ("prevailing wage"), Chapter 104, Hawaii Revised Statutes ("HRS"). The fund will be administered by the DLIR and requires all State departments except for the Airports Division of the Department of Transportation receiving capital improvement project funds to deposit .01 percent of the total amount into the fund as of July 1, 2014. The DLIR is required to provide an annual report.

Sb2413 SD1 is moving in the Senate that defines private-partnerships of public work construction projects in excess of \$2,000 under contract with a government agency. New private contractor will require some guidance in complying with the prevailing wage law. There are also signs that the economy is getting back on track with pent up demand for housing. There will be more construction thus requiring additional inspectors in the field.

Thank you for the opportunity to submit this testimony.

Sincerely,

Al Lardizabal
Government Relations



HAWAII LABORERS-EMPLOYERS COOPERATION AND EDUCATION TRUST

TESTIMONY BY PETER H. M. LEE HAWAII LECET

HOUSE OF REPRESENTATIVES
THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2014

COMMITTEE ON FINANCE

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Rep. Scott Y. Nishimoto, Vice Chair
Rep. Aaron Ling Johanson, Vice Chair

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Rep. Dee Morikawa	Rep. Gene Ward

NOTICE OF HEARING

DATE: Wednesday, February 19, 2014
TIME: 3:00 P.M.
PLACE: Conference Room 308
State Capitol
415 South Beretania Street

A G E N D A # 3

TESTIMONY ON HOUSE BILL NO. 1976, HD1, RELATING TO PUBLIC WORKS.

TO THE HONORABLE SYLVIA LUKE, CHAIR, SCOTT NISHIMOTO AND AARON JOHANSON, VICE CHAIRS, AND MEMBERS OF THE FINANCE COMMITTEE:

My name is Peter H. M. Lee, and I am the Construction Compliance Officer at Hawaii Laborers-Employers Cooperation and Education Trust (LECET). Hawaii LECET is a labor-management partnership between the Hawaii Laborers Union, Local 368, and its unionized contractors.

Mahalo for the opportunity to testify in **strong support** to House Bill No. 1976, HD1.

Since 1995, I have worked closely with DLIR's Wage Standards Division (WSD) in enforcing HRS 104 to stop **WAGE THEFT** in the construction industry. Through the years I



HAWAII LABORERS-EMPLOYERS COOPERATION AND EDUCATION TRUST

have witnessed WSD investigators dwindle down due to attrition, budget cuts and/or furloughs. Basically speaking, WSD is severely understaffed.

Not only does WSD enforces HRS 104 relating to wages and hours of employees on State or county public works construction projects, but they are also tasked to administer the following Statutes...

- Chapter 378, Part II, HRS, relating to lie detector tests in employment
- Chapter 378, Part III, HRS, relating to suspension, discharge, or discrimination due to a work related injury, on-site drug screening, or use of sick leave
- Chapter 387, HRS, relating to minimum wage and overtime
- Chapter 388, HRS, relating to unpaid wages and timely payment of wages
- Chapter 390, HRS, relating to child labor
- Chapter 398, HRS, relating to Hawaii family leave

Due to the severe understaffing, and the fact that WSD is tasked to enforce other labor laws, some HRS 104 complaints have taken year(s) to be assigned, investigated, and completed.

For these reasons, I am in **strong support** of House Bill No. 1976, HD1.

The House of Representatives
The Twenty Seventh Legislature
Committee Finance
February 19, 2014, 3:00 p.m.
Room 308



Statement of the Hawaii Regional Council of Carpenters on
H.B. 1976 Relating to Public Works

The proposals in H.B. 1976 are greatly needed, and the proposed funding system carries with it the benefit of experience in other jurisdictions. It is important that tax dollars for public works construction are awarded and expended in a fair system. Unfortunately, enforcement is a necessary part of achieving fairness.

Replenishing enforcement staff lost over past years, and providing a funding mechanism that will be in tune with the level of public works construction, is consistent with the recovery of our economy and our construction industry. It would be prudent to allocate **.10 percent** of construction funding **as part of administering the construction contract**.

Chapter 104 prevailing wage requirements are intended to level the playing field for bidders on public works, and prevent our own tax dollars from pushing wages down in our State. If unscrupulous contractors are able to win bids based on the assumption they can proceed to violate the law with impunity, law abiding contractors are put at a competitive disadvantage. Middle class jobs are eroded and our living standards spiral down.

Adequate enforcement will not only detect violations, but it will spur voluntary compliance. Actions resulting from H.B. 1976 will send a message, combined with education, to discourage unscrupulous contractors from bidding based on a business plan of underreporting hours worked, paying workers off-the-books, having skilled workers perform the work of one classification but misclassify and pay them at a lower rate, falsify reports to avoid paying daily overtime, etc. Fair competition for public works contracts needs protection.

Thank you for considering our comments on H.B. 1976.

LATE

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

Rep. Sylvia Luke, Chair
Rep. Scott Nishimoto, Vice-Chair
Rep. Aaron Ling Johanson, Vice-Chair
Committee on Finance
Wednesday, 2-19-2014
3:00 PM, Room 308

Re: Support of HB1976, HD1, Relating to Public Works.

Aloha Chair Luke, Vice-Chair Nishimoto, Vice-Chair Johanson and Members of the Committee,

My name is Glenn Ida representing the 2000 active members and retirees of the Plumbers and Fitters UA, Local 675. Local 675 is an affiliate of the Hawaii Building and Construction Trades Council.

Local 675 supports HB1976, HD1, Relating to Public Works, which establishes the Wage and Hour for Public Works Projects Special Fund to fund enforcement of wage and hour laws for public works projects. Establishes and funds two additional labor law enforcement specialist IV positions in the DLIR.

We believe that the additional language in reference to the expenditures of the Special Fund," including but not limited to creating positions, hiring and training personnel," will make available, 2 labor law enforcement specialist IV positions now and if needed, more investigators in the future to monitor public works construction projects and to strictly enforce the provisions of Chapter 104, HRS.

Therefore Local 675 supports HB1976, HD1.

Thank you for this opportunity to testify.

Mahalo,

Glenn Ida
808-295-1280



A'ohe hana nui ka alu'ia
"No Task Is Too Big When Done Together By All"

HAWAII BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO

735 Bishop Street, Suite 412 * Honolulu, Hawaii 96813
(808) 524-2249 - FAX (808) 524-6893

KIKA G. BUKOSKI
Executive Director

February 18, 2014

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Local 221

Honorable Representative Sylvia Luke, Chair
Honorable Representative Scott Nishimoto, Vice Chair
Honorable Representative Aaron Ling Johanson
Members of the Committee on Finance
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

RE: IN SUPPORT OF HB1976, HD1 RELATING TO PUBLIC WORKS
Hearing: Wednesday, February 19, 2014, 3:00 p.m. Conference Room 308

Honorable Chair, Vice Chair and Committee Members;

The Hawaii Building & Construction Trades Council, AFL-CIO is a chartered member of the Building and Construction Trades Department, AFL-CIO first organized in 1908 and comprised of 16 out of 17 construction trade unions with 386 state, local and provincial councils in the United States and Canada and an estimated 15,000 members locally. Our primary mission is to provide employment opportunities and living wages for many of Hawaii's working men and women in the construction industry.

The Council SUPPORTS HB1976, HD1, which establishes the Wage and Hour for Public Works Special Fund to fund enforcement of wage and hour laws for public works projects and establishes and funds two additional labor law enforcement specialists IV positions in DLIR.

We support any additional enforcement available to reduce and/or mitigate illegal and unscrupulous contracting practices on public works projects. We believe giving sufficient resources to the Department of Labor and Industrial Relations will go a long way towards achieving such objectives.

We support HB1976, HD1 which includes language to specify that expenditures for creating positions, hiring, and training personnel for enforcement purposes are allowable expenditures from this Special Fund and humbly request your approval.

Thank you for the opportunity to provide comments in SUPPORT of HB1976, HD1.

**HAWAII OPERATING ENGINEERS
INDUSTRY STABILIZATION FUND**



*Uniting our strengths and working together
for a better tomorrow.*

Affiliated AFL-CIO
OPEIU - 3 - AFL-CIO (3)

LATE

February 18, 2014

TO: The Honorable Sylvia Luke, Chair
The Honorable Scott Y. Nishimoto, Vice Chair
The Honorable Aaron Ling Johanson, Vice Chair and
Members of the House Committee on Finance

Date: February 19, 2014
Time: 3:00 p.m.
Place: Conference Room 308, State Capitol

RE: Support of House Bill 1976, HD1 – Relating to Public Works

My name is Kimberly Ribellia, Government Liaison, of the Hawaii Operating Engineers Industry Stabilization Fund (HOEISF), a labor management fund representing 4000 unionized members in heavy engineering site work and 500 general contractors specializing in heavy site and vertical construction.

On behalf of the Stabilization Fund, I am in **support** of House Bill 1976, HD1 which establishes the Wage and Hour Public Works Project Special Fund and creates and funds two additional labor law enforcement Specialist IV positions to assist the enforcement of Hawaii's wage and hour law for public construction projects.

While HOEISF supports HB 1976, HD1, we strongly encourage members of this committee to ensure that the Department of Labor and Industrial Relation Wage and Labor Division receive adequate funding to fill all existing permanent labor law enforcement specialist positions in their FY14-15 operating budget.

HOEISF strongly supports House Bill 1976, HD1. Thank you for your consideration in this matter.

The House of Representatives
The Twenty Seventh Legislature
Committee Finance
February 19, 2014, 3:00 p.m.
Room 308

Statement of the Hawaii Regional Council of Carpenters on
H.B. 1976 Relating to Public Works

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Thank you for considering our comments on H.B. 1976.