



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

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February 4, 2014

To: The Honorable Mark M. Nakashima, Chair,  
The Honorable Kyle T. Yamashita, Vice Chair, and  
Members of the House Committee Labor and Public Employment

Date: February 4, 2014  
Time: 9:00 a.m.  
Place: Conference Room 309, State Capitol

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

**Re: H.B. No. 1976 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 this bill.

**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 backlog of 251 pending prevailing wage investigations of 51 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. 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.

While it seems to be implied that the fund would be used to create positions and hire personnel to enforce the law, it would be clearer if the phrase "for enforcement" was modified to provide specifically for the inclusion of creating positions, training hiring personnel. A suggested amendment to Section 2, §371-(c) on page 3 lines 17-19 could read as follows:

"(c) The department shall expend moneys in the wage and hour for public works projects special fund to enforce the provisions of chapter 104 on public works projects, including but not limited to creating positions and hiring, and training personnel."



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  
LABOR & PUBLIC EMPLOYMENT  
ON  
February 4, 2014

H.B. 1976

RELATING TO PUBLIC WORKS

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

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

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.

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

**HAWAII OPERATING ENGINEERS  
INDUSTRY STABILIZATION FUND**



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

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

February 2, 2014

TO: The Honorable Mark M. Nakashima, Chair  
The Honorable Kyle T. Yamashita, Vice Chair and  
Members of the House Committee on Labor & Public Employment

Date: February 4, 2014  
Time: 9:00 a.m.  
Place: Conference Room 309, State Capitol

FROM: Kimberly Ribellia, Government Liaison  
Hawaii Operating Engineers Industry Stabilization Fund

RE: Support of House Bill 1976 – 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 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, 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. Thank you for your consideration in this matter.

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

Rep. Mark Nakashima, Chair  
Rep. Kyle Yamashita, Vice-Chair  
Committee on Labor and Public Employment  
Tuesday, 2-4-2014  
9:00 AM, Room 309

Re: Support of HB1976, Relating to Public Works.

Aloha Chair Nakashima, Vice-Chair Yamashita 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, Relating to Public Works, which establishes the wage and Hour for Public works Projects Special Fund and establishes and funds two additional labor law enforcement specialist IV positions to assist the enforcement of Hawaii's wage and hour law on public construction projects. Specifies a funding mechanism for the special fund and requires an annual report. Exempts the Department of Transportation's Airport Division from the special fund fee.

We believe that having more investigators available to monitor public works construction projects will help to deter and enforce violations of Chapter 104, HRS.

Therefore Local 675 supports HB1976, Relating to Public Works.

Thank you for this opportunity to testify.

Mahalo,

Glenn Ida  
808-295-1280

The House of Representatives  
The Twenty Seventh Legislature  
Committee on Labor and Public Employment  
February 4, 2014, 9:00 a.m.  
Room 309

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 those funds.

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 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.

**yamashita1**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, January 31, 2014 9:31 AM  
**To:** LABtestimony  
**Cc:** mendezj@hawaii.edu  
**Subject:** \*Submitted testimony for HB1976 on Feb 4, 2014 09:00AM\*

**HB1976**

Submitted on: 1/31/2014

Testimony for LAB on Feb 4, 2014 09:00AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Javier Mendez-Alvarez	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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**International Brotherhood of Electrical Workers  
LOCAL UNION NO. 1186 • Affiliated with AFL-CIO**

1935 HAU STREET, ROOM 401 • HONOLULU, HI 96819-5003  
TELEPHONE (808) 847-5341 • FAX (808) 847-2224

February 3, 2014

VIA FAX 586 6331

**LATE**

**TO: HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT**  
For Hearing on Tuesday, February 4, 2014, at 9:00 a.m., in Conf. Rm. 309

**RE: TESTIMONY IN STRONG SUPPORT OF HB 1976**

Honorable Chair Nakashima, Vice Chair Yamashita, and Committee Members,

The **International Brotherhood of Electrical Workers Local Union 1186** represents over 3,400 members working in electrical construction, telecommunications, and with Oceanic Cable. Our members include civil service employees at Pearl Harbor, Hickam, Kaneohe, and military facilities throughout Hawaii. IBEW Local 1186 also represents over 110 signatory electrical contracting companies that perform most of the electrical work in our state.

**We strongly support HB 1976**, which creates a Wage and Hour for Public Works Projects Special Fund, and establishes and funds two additional labor law enforcement specialist positions to assist the enforcement of Hawaii's wage and hour laws on public works construction projects.

The State's Wage & Hour department has been understaffed for over a decade. With the increasing amount of construction work already here, more resources are needed just to catch up to the great need for enforcing wage protections for working people. Many hard workers are taken advantage of on government projects, especially if they do not have union representation, and this causes fair contractors to lose work. The problem is so serious that private sector unions and contractors have had to spend hundreds of thousands of its members' own dollars to help the Department of Labor with investigating and reporting of all the violations we find.

Thank you for giving us this opportunity to testify in strong support of HB 1976.

Mahalo and aloha,

**Damien Kim**  
Business Manager – Financial Secretary  
International Brotherhood of  
Electrical Workers, Local Union 1186







# HAWAII LABORERS-EMPLOYERS COOPERATION AND EDUCATION TRUST

**LATE**

**TESTIMONY BY PETER H. M. LEE  
HAWAII LECET**

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

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Rep. Mark M. Nakashima, Chair  
Rep. Kyle T. Yamashita, Vice Chair

Rep. Henry J.C. Aquino    Rep. Kaniela Ing  
Rep. Sharon E. Har        Rep. Roy M. Takumi  
Rep. Linda Ichiyama      Rep. Ryan I. Yamane  
Rep. Gregg Takayama    Rep. Aaron Ling Johanson

NOTICE OF HEARING

DATE:    Tuesday, February 04, 2014  
TIME:    9:00 AM  
PLACE:   Conference Room 309  
          State Capitol  
          415 South Beretania Street

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

TO THE HONORABLE MARK M. NAKASHIMA, CHAIR, KYLE T. YAMASHITA, VICE CHAIR, AND MEMBERS OF THE 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, which establishes the Wage and Hour for Public Works Projects Special Fund and establishes and funds two additional labor law enforcement specialist IV positions to assist the enforcement of Hawaii's wage and hour law on public construction projects. This bill also specifies a funding mechanism for the special fund and requires an annual report, and exempts the Department of Transportation's Airports Division from the special fund fee. Effective July 1, 2014.



## HAWAII LABORERS-EMPLOYERS COOPERATION AND EDUCATION TRUST

Since 1995, I have worked closely with DLIR's Wage Standards Division (WSD) in enforcing HRS 104, and through the years I have witnessed investigators dwindle down due to attrition, budget cuts and/or furloughs. 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, Hawaii LECET welcomes funding of two additional labor law enforcement specialist IV positions to assist the enforcement of Hawaii's wage and hour law on public construction projects.

Again, mahalo for the opportunity to provide testimony in **strong support** of House Bill No. 1976.

1065 Ahua Street  
Honolulu, HI 96819  
Phone: 808-833-1681 FAX: 839-4167  
Email: [info@gcahawaii.org](mailto:info@gcahawaii.org)  
Website: [www.gcahawaii.org](http://www.gcahawaii.org)



# GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

**LATE**

Uploaded via Capitol Website

February 4, 2014

TO: HONORABLE MARK NAKASHIMA, CHAIR, HONORABLE KYLE YAMASHITA, VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR AND EMPLOYMENT

SUBJECT: **COMMENTS REGARDING H.B. 1976, RELATING TO PUBLIC WORKS.**  
Establishes the Wage and Hour for Public Works Projects Special Fund and establishes and funds two additional labor law enforcement specialist IV positions to assist the enforcement of Hawaii's wage and hour law on public construction projects. Specifies a funding mechanism for the special fund and requires an annual report. Exempts the Department of Transportation's Airports Division from the special fund fee. Effective July 1, 2014.

#### HEARING

DATE: Tuesday, February 4, 2014  
TIME: 9:00 a.m.  
PLACE: Conference Room 309

Dear Chair Nakashima, Vice Chair Yamashita 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 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 making the general contractor secondarily liable for payment of back wages and penalties impose on his subcontractor's notification of a violation or decision.

We urge the committee to defer the bill. Thank you for the opportunity to testify on this measure.



Testimony of Cindy McMillan  
The Pacific Resource Partnership

House Committee on Labor & Public Employment  
Representative Mark M. Nakashima, Chair  
Representative Kyle T. Yamashita, Vice Chair

HB 1976 - Public Works  
Tuesday, February 4, 2014  
9:00 AM  
Conference Room 309

Dear Chair Nakashima, Vice Chair Yamashita 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, which establishes the wage and hour for Public Works Projects Special Fund and establishes and funds two additional labor law enforcement specialist IV positions to assist the enforcement of Hawaii's wage and hour law on public construction projects. This measure specifies a funding mechanism for the special fund and requires an annual report. It also exempts the Department of Transportation's Airports Division from the special fund fee.

With the large amount of Capital Improvement Projects in Hawaii, it is imperative that our wage and hour law be strictly enforced on public construction projects.

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