



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

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HONOLULU, HAWAII 96813  
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March 18, 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: March 18, 2014  
Time: 10:30 a.m.  
Place: Conference Room 309, State Capitol

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

**Re: S.B. No. 3039 SD2 Relating to Public Works**

**I. OVERVIEW OF PROPOSED LEGISLATION**

This measure allows the department to add two Labor Law Enforcement Specialist (LLES) positions to assist in the enforcement of the Wages and Hours of Employees on Public Works (prevailing wages), Chapter 104, Hawaii Revised Statutes (HRS). The DLIR notes that general funded LLES positions are also able to enforce chapters 378, Part II and Part III, 387, 388, 390 and 396.

The proposal appropriates an undesignated amount from the general fund for the positions and takes effect July 1, 2050.

The Department appreciates the consideration to provide additional resources to enforce labor laws, whether special or general funded, as long as the enactment of the measure does not supplant the priorities identified in the supplemental budget request.

**II. CURRENT LAW**

The Wage Standards Division currently has four Labor Law Enforcement Specialists (LLES) investigator positions statewide qualified to investigate Chapter 104 investigations. The current backlog of 251 pending prevailing wage cases has pressed supervisors and the branch chief to also do investigations. The backlog disrupts the supervisors' and investigators' responsibility for enforcement of five other laws and 150 other wage complaints the Division enforces.

### III. COMMENTS ON THE SENATE BILL

This proposal would restore two of the five positions lost by Wage Standards Division 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 that resulted in addressing investigations by project rather than employer. These events together resulted in a backlog of 251 pending prevailing wage investigations of 50 contractors.

Prevailing wage investigations are complex investigations for senior investigators. Historically these claims represented about five percent of complaints filed in one fiscal year and took up twenty-five percent of an investigators time. In FY 2013, the percent of total complaints filed under prevailing wage law increased to 33% of the total complaints filed under the Compliance Branch and the Division has dedicated our senior investigator to these complaints. Using the skill of this investigator as a standard, the backlog on prevailing wage claims is at least four years. The complex nature of prevailing wage claims makes it difficult to complete more than 10 claims a year per investigator, which calculates to a three year backlog.

The department offers the following information for the Committee's consideration:

Two general funded LLES positions would require an appropriation of \$70,128 per annum. Two special funded LLES IV positions, capable of undertaking chapter 104 investigations, would require an appropriation of special funds in the amount of \$170,482 per annum.

The department requests funding these positions through a special fund and recommends the following language.

"§371- Wage and hour for public works projects special  
fund. (a) There is established in the state treasury the wage  
and hour for public works projects special fund.

(b) Except the department of transportation's airports  
division, any state department that receives an appropriation of  
state funds for capital improvement projects shall transfer 0.10  
per cent of all state fund appropriations made available for  
capital improvements designated for the construction cost

element into the wage and hour for public works projects special fund; provided that this transfer shall apply only to capital improvement project appropriations that are designated for the construction or renovation of state buildings. The department shall not assess any fees or any other charges on any state department depositing moneys into the wage and hour for public works projects special fund.

(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, hiring, and training personnel in the wage standards division.

(d) The department shall provide an annual report to the legislature no later than twenty days prior to the convening of each regular session that provides the status of the wage and hour for public works projects special fund, including but not limited to:

- (1) The amount of funds deposited into the special fund;
- (2) The amount of expenditures from the special fund;
- (3) The state departments that deposited moneys into the special fund; and
- (4) Any other activities of the special fund."



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  
March 18, 2014

S.B. 3039, S.D. 2

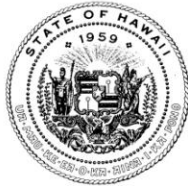
RELATING TO PUBLIC WORKS

Chair Nakashima and members of the Committee, thank you for the opportunity to submit written testimony on S.B. 3039, S.D. 2.

The Department of Accounting and General Services supports the intent of S.B. 3039, S.D. 2, provided that its passage does not replace or adversely impact priorities indicated in our Executive Budget, and defers to the Department of Labor and Industrial Relations on the substantive provisions of this measure.

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

NEIL ABERCROMBIE  
GOVERNOR



Testimony of  
GLENN M. OKIMOTO  
DIRECTOR

Deputy Directors  
FORD N. FUCHIGAMI  
RANDY GRUNE  
AUDREY HIDANO  
JADINE URASAKI

**STATE OF HAWAII**  
**DEPARTMENT OF TRANSPORTATION**  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

IN REPLY REFER TO:  
(808) 587-2165

March 18, 2014  
10:30 a.m.  
State Capitol, Room 309

**S.B. 3039, S.D. 2**  
**RELATING TO PUBLIC WORKS**

House Committee on Labor and Employment

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The Department of Transportation (DOT) appreciates the intent of S.B. 3039, S.D. 2, which provides \$200,000 in general revenues for two Specialist IV positions in the Department of Labor and Industrial Relations to enforce wage and hour laws while working on all public construction projects.

Thank you for the opportunity to provide testimony.

**HAWAII OPERATING ENGINEERS  
INDUSTRY STABILIZATION FUND**



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

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

March 17, 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: March 28, 2014  
Time: 10:30 a.m.  
Place: Conference Room 309, State Capitol

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

RE: Support of Senate Bill 3039, SD2 – 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 Senate Bill 3039, SD2 which appropriates general funds for two additional labor law enforcement Specialist IV positions to assist the enforcement of Hawaii's wage and hour law for public construction projects.

The additional labor law enforcement Specialist IV positions within the Department of Labor and Industrial Relations' Wage and Labor Division will assist in reducing the backlog of complaints that to need to be processed and investigated.

HOEISF strongly supports Senate Bill 3039, SD2. Thank you for your consideration in this matter.



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

SB 3039, SD2 - Public Works  
Tuesday, March 18, 2014  
10:30 AM  
Conference Room 309

Aloha 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 SB 3039, SD2, Appropriates funds for two additional labor law enforcement specialist IV positions in the department of labor and industrial relations to assist the enforcement of Hawaii's wage and hour law on public construction projects.

The Department's Wage Standards Division is severely understaffed, and it is extremely difficult for the Department to keep up with the enforcement efforts required by state statute. PRP would welcome the additional capacity to assist with the enforcement of Hawaii's wage and hour laws on public construction projects.

Thank you for the opportunity to share our views with you and we kindly ask for your favorable consideration of SB 3039, SD2.



The House of Representatives  
The Twenty Seventh Legislature  
Committee on Labor and Public Employment  
March 18, 2014, 10:30 a.m.  
Room 309

Statement of the Hawaii Regional Council of Carpenters on  
S.B. 3039 SD 2, Relating to Public Works

The funding of two Chapter 104 enforcement staff positions proposed in S.B. 3039 is greatly needed. A fixed funding system integrated into public works contract administration is of equal importance for uniform enforcement and voluntary compliance. 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.

It is a part of administering public works contracts to replenish enforcement staff lost over past years, and providing a funding mechanism that will be in tune with the level of public works construction. **.10 percent** of public works projects should be set aside to maintain staffing to assure that parties comply with the terms of the contracts they sign. This system carries with it the benefit of experience in other jurisdictions.

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.

Consistent enforcement will not only detect violations, but it will spur voluntary compliance. Actions resulting from S.B. 3039 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 restoring the integrity of Chapter 104 of our State law.





**HAWAII LABORERS-EMPLOYERS COOPERATION AND EDUCATION TRUST**  
1617 Palama Street Honolulu, HI 96817 Ph: 808-845-3238 Fax: 808-845-8300 URL: www.hilecet.org

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

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

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

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

AMENDED NOTICE OF HEARING

DATE: Tuesday, March 18, 2014  
TIME: 10:30 AM  
PLACE: Conference Room 309  
State Capitol  
415 South Beretania Street

A M E N D E D A G E N D A

**TESTIMONY ON SENATE BILL NO. 3039, SD2 - RELATING TO PUBLIC WORKS.**

TO THE HONORABLE MARK NAKASHIMA, CHAIR; KYLE 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 Senate Bill No. 3039, SD2, which appropriates funds for two additional labor law enforcement specialist IV positions in the department of labor and industrial relations to assist the enforcement of Hawaii's wage and hour law on public construction projects.

Since 1995, I have worked closely with DLIR's Wage Standards Division (WSD) in enforcing HRS 104, and preventing **WAGE THEFT** on public works construction projects. Through the years I have witnessed WSD investigators dwindle down



## HAWAII LABORERS-EMPLOYERS COOPERATION AND EDUCATION TRUST

1617 Palama Street Honolulu, HI 96817 Ph: 808-845-3238 Fax: 808-845-8300 URL: [www.hilecet.org](http://www.hilecet.org)

due to attrition, budget cuts and/or furloughs. To say the least, 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, most HRS 104 complaints have taken year(s) to be assigned, investigated, and completed.

For these reasons, I am in **STRONG SUPPORT** of Senate Bill No. 3039, SD2.



*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*

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Hawaii Teamsters & Allied  
Workers Local 996

**VAUGHN CHONG**  
Roofers, Waterproofers & Allied  
Workers United Union of Roofer  
Local 221

March 17, 2014

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

RE: SB3039 SD2 RELATING TO PUBLIC WORKS WAGES AND HOUR LAW;  
APPROPRIATION  
Hearing: Tuesday, March 18, 2014, 10:30 a.m. Conference Room 309

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 14 out of 15 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 SB3039, SD2 to ensure that Hawaii's wage and hour law is strictly enforced on public construction projects by creating additional labor law enforcement specialist IV positions within the department of labor and industrial relations to enforce Hawaii's wage and hour law and appropriating funds for the positions

We encourage your committee to approve SB3039, SD2 and further urge your committee to make such appropriations effective upon approval.

Mahalo for the opportunity to provide comment in support of SB3039, SD2.





# **BIA-HAWAII**

**BUILDING INDUSTRY ASSOCIATION**

THE VOICE OF THE CONSTRUCTION INDUSTRY

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BKA Builders, Inc.

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Gentry Homes, Ltd.

### **Vice President**

**Craig Washofsky**  
Servco Home & Appliance Distribution

### **Treasurer**

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First Hawaiian Bank

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Graham Builders, Inc.

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Hawaiian Dredging Construction Co., Inc.

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**Dean Uchida**  
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BIA-Hawaii

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### **Clifton Crawford**

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### **Eric Bass**

D.R. Horton, Schuler Division

### **Gary T. Okimoto**

Honolulu Wood Treating

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### **Mark Hertel**

Inter-Island Solar Supply, Oahu-Maui-  
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Homeworks Construction, Inc.

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### **Ryan Engle**

Bays Lung Rose & Holma

### **Stephen Hanson**

simplicityHR by ALTRES

## **Testimony to the House Committee on Labor & Public Employment**

**Tuesday, March 18, 2014**

**10:30 a.m.**

**State Capitol - Room 309**

### **RE: S.B. 3039 S.D. 2, Relating to Public Works**

Dear Chair Nakashima, Vice-Chair Yamashita, and members of the Committee:

My name is Gladys Marrone, Government Relations Director for the Building Industry Association of Hawaii (BIA-Hawaii), the Voice of the Construction Industry. We promote our members through advocacy and education, and provide community outreach programs to enhance the quality of life for the people of Hawaii. BIA-Hawaii is a not-for-profit professional trade organization chartered in 1955, and affiliated with the National Association of Home Builders.

BIA-Hawaii **supports** S.B. 3039 S.D. 1, which appropriates funds for two additional labor law enforcement specialist IV positions in the department of labor and industrial relations to assist the enforcement of Hawaii's wage and hour law on public construction projects.

These new positions would assist the DLIR's Wage Standards Division in enforcing Chapter 104, HRS, by having more personnel investigating violations. This measure would alleviate the need for contractors to be secondarily liable for the violations of their subcontractor for nonpayment of prevailing wages, as proposed in S.B. 2260.

We appreciate the opportunity to share with you our views.

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.

Uploaded via Capitol Website

March 18, 2014

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

SUBJECT: **S.B. 3039, SD2, RELATING TO PUBLIC WORKS.** Appropriates funds for two additional labor law enforcement specialist IV positions in the department of labor and industrial relations to assist the enforcement of Hawaii's wage and hour law on public construction projects. Effective 7/1/2050. (SD2)

HEARING

DATE: Tuesday, March 18, 2014  
TIME: 10:30 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.

S.B. 3039, SD2 proposes to appropriate from general funds two additional labor law enforcement specialist IV positions to assist enforce Hawaii's wage and hour law under HRS Chapter 104. The need for two additional labor law enforcement specialists appears necessary and this measure proposes funding for fiscal year 2014-2015. These positions would allow DLIR the proper resources to complete investigations to enforce prevailing wage provisions already provided in the law.

**In lieu of S.B. 2260, SD2, HD1 (yet to be published), 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 strongly opposed to provisions in S.B. 2260, SD2, HD1 (yet to be published), which would make 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 testify on this measure.