

HB2413

HD1



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

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

March 18, 2014

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

Date: Tuesday, March 18, 2014
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. 2413, H.D. 1 Relating to Labor

I. OVERVIEW OF PROPOSED LEGISLATION

Amends the Hawaii prevailing wage law to include public-private partnerships in the definition of a contracting agency and within the coverage of Chapter 104, Hawaii Revised Statutes, Wages and Hours of Employees on Public Works. Non-substantive, technical amendments were made in the HD1.

The Department supports this proposal and notes there will be no fiscal impact.

II. CURRENT LAW

The current definition of a "Governmental contracting agency" does not contain language specifically addressing public-private agreements.

III. COMMENTS ON THE HOUSE BILL

The Wages and Hours of Employees on Public Works law applies to "every contract in excess of \$2,000 for construction of a public work project to which a governmental contracting agency is a party; provided that this chapter shall not apply to experimental and demonstration housing developed pursuant to section 46-15 or housing developed pursuant to chapter 201H if the cost of the project is less than \$500,000 and the eligible bidder or eligible developer is a private nonprofit corporation.

The department lends its support if this provision makes it clearer that a governmental contracting agency includes any public-private partnership. The Department does not believe there will be an additional fiscal impact because these types of partnerships are already included under the law so any cost to the State is already being carried.

**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 16, 2014

TO: The Honorable Clayton Hee, Chair
The Honorable Maile S.L. Shimabukuro, Vice Chair and
Members of the Senate Committee on Judiciary and Labor

Date: March 18, 2014
Time: 10:00 a.m.
Place: Conference Room 016, State Capitol

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

RE: Support of House Bill 2413, HD1 – Relating to Labor

Good Afternoon, 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 Stabilization fund, I would like to state our **support** of House Bill 2413, HD1 which applies provisions relating to prevailing wages for public construction work to public-private partnerships.

House Bill 2413, HD1 clarifies the law to state that prevailing wages will be paid when a government agency enters into an in public-private partnership.

Again, the stabilization fund supports the passage of House Bill 2413, HD1. Thank you for consideration of this matter.



HAWAII LABORERS-EMPLOYERS COOPERATION AND EDUCATION TRUST

TESTIMONY BY PETER H. M. LEE
HAWAII LECET

COMMITTEE ON JUDICIARY AND LABOR

Senator Clayton Hee, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

NOTICE OF HEARING

DATE: Tuesday, March 18, 2014
TIME: 10:00 am
PLACE: Conference Room 016
State Capitol
415 South Beretania Street

TESTIMONY ON HOUSE BILL NO. 2413, HD1, RELATING TO LABOR.

TO THE HONORABLE CLAYTON HEE, CHAIR, MAILE SHIMABUKURO, 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. 2413, HD1.

Public/private construction projects have become popular in recent years. They are public-works projects funded and/or operated through a partnership of government and private-sector companies.

The Department of Labor and Industrial Relations (DLIR) states...

"Public work" shall be as defined in section 104-2(a), Hawaii Revised Statutes, and includes without limitation:

1) Any building, structure, road, or real property, the construction of which is undertaken:

(A) By authority of; and

(B) Through the use of funds, grants, loans, special purpose revenue bonds, land, or other resources of the State or any county, board, bureau, authority, commission, or other agency or instrumentality thereof, to serve the interest of the general public, regardless of whether title thereof is held by a state or county agency.

Based on the above, it is evident to me that there are clear public benefits in public/private partnerships, and the applicability of 104 HRS should apply. For these reasons, I am in **STRONG SUPPORT** of House Bill No. 2413, HD1.

Hawai'i Construction Alliance

P.O. Box 179441
Honolulu, HI 96817
(808) 348-8885

March 17, 2014

The Honorable Clayton Hee, Chair
The Honorable Maile Shimabukuro, Vice Chair
and members
Senate Committee on Judiciary and Labor
Hawai'i State Capitol
Honolulu, Hawai'i 96813

Dear Chair Hee, Vice Chair Shimabukuro, and members:

The Hawai'i Construction Alliance is in **support** of HB2413 HD1, relating to labor. HB2413 HD1 would apply provisions relating to prevailing wages for public construction work to public-private partnerships.

The Hawai'i Construction Alliance is comprised of the Hawai'i Regional Council of Carpenters; the Hawai'i Masons Union, Local 1 and Local 630; the Laborers' International Union of North America, Local 368; and the Operating Engineers, Local 3. Together, the four member unions of the Hawai'i Construction Alliance represent over 15,000 working men and women in the four basic crafts of Hawai'i's construction industry.

HB2413 HD1 inserts "public-private partnerships" into the definition of "governmental contracting agency" in HRS §104-2. Many state and county agencies are exploring public-private partnerships to carry out much-needed projects, and we find this clarification to be an important step toward ensuring that prevailing wages are paid to workers involved in public-private partnerships. This clarification is also consistent with the purpose of Chapter 104, which includes leveling the playing field for bidders on public works projects and ensuring that public works spending does not push wages down here in the State of Hawai'i.

Mahalo for the opportunity to submit these comments in support of HB2413 HD1.

Aloha,



Tyler Dos Santos-Tam
Executive Director
Hawai'i Construction Alliance
execdir@hawaiiconstructionalliance.org

The Senate
The Twenty Seventh Legislature
Committee Judiciary and Labor
March 18, 2014, 10:00 a.m.
Room 016

Statement of the Hawaii Regional Council of Carpenters on
H.B. 2413 HD 1, Relating to Labor

The clarification made in HB 2413 is timely, does not expand the coverage of HRS Chapter 104 and the Bill should be passed.

As State and county governments are necessarily exploring new ways to finance public works, the law should be clarified accordingly. Public-private partnerships are one means of financing being pursued, and may be structured in such a way that a government plan or interest is served, utilizing government resources, but the contracting for construction services may be done by a private partner. Making a proactive clarification as proposed in the Bill can serve to avoid misunderstandings and/or legal disagreement later.

While it can be said that all construction described above is covered by current language in Chapter 104, clarification is worthwhile. In 2006 the legislature clarified a Chapter 104 administrative rule and put that language in statute, applying to a private party contracting for construction services under conditions other than that of H.B. 2413. The legislature later clarified that Chapter 104 prevailing wages apply to the Certificate of Participation construction of public schools by a private developer. In both cases clarifications were put in place before rather than after a problem emerged.

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. It is intended to apply to any construction or renovation work undertaken through the use of State or county resources.

Thank you for considering our support for H.B. 2413.