



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

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HONOLULU, HAWAII 96813
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Phone: (808) 586-8842 / Fax: (808) 586-9099
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March 27, 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: Thursday, March 27, 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: S.B. No. 2260 SD2, HD1 Relating to Wages and Hours on Public Works

The following chart shows the number of Notices of Violations (NOV) issued from FY2006-FY2013: only one suspension has occurred in the last eight years due to a contractor receiving a third NOV. The DLIR suggests the data below demonstrates that the current 3 year period for NOV's is insufficient as a deterrent as very few 1st NOV's result in subsequent NOV's due to the current length of investigations.

YEAR	FY2006	FY2007	FY2008	FY2009*	FY2010	FY2011	FY2012	FY2013
1 st NOV	7	10	7	8	11	5	9	16
2 nd NOV	0	3	1	0	1	0	1	1
3 rd NOV	0	0	0	0	0	1	0	0
Fraud Suspensions	NA	NA	NA	NA	0	1	3	7

* Act 146 (SLH, 2008) provided for suspension for falsification of records, delay or interference.

DLIR would also note that increasing the fee to \$10,000 for interference or delay per project is still a low amount compared to the overall size of a majority of projects and notes that during the last eight years the current \$1,000 fine was applied on average 2.5 times per year. Further, the average chapter 104 claim was \$5,000 for FY13, which means that the \$10,000 fine proposed in the measure equals the amount of two average claims. The \$100 fine for subsequent days of

failing to cooperate was not issued during this same eight-year period (the proposal increases that fine to \$1,000).

DLIR believes the measure, if enacted, will have a very small, positive affect on the State's general fund.

The department strongly supports this measure and suggests a technical amendment.

II. CURRENT LAW

The current prevailing wage penalties are \$1,000 per project and \$100 per day. The suspension period for a third violation and falsification of records is 3 years. Due to the length of time for an investigation and availability of due process procedures for the contractor, the Department finds that a contractor could delay the proceedings such that the 3 year period is of little consequence.

III. COMMENTS ON THE SENATE BILL

The amendments in this measure will assist the DLIR in ensuring that the contractor who deliberately violates the law will serve a suspension period that is more of a deterrent as envisioned by the Legislature.

The department suggests the following technical amendment.

In Section 2 of the bill, page 2, lines 16 and 17, in the definition of "Overtime compensation" the reference to "paragraph (7)" should be replaced with:

[~~(6)~~] "Overtime compensation" means compensation based on one and one-half times the laborers or mechanics basic hourly rate of pay plus the cost to an employer of furnishing a laborer or mechanic with fringe benefits as described in [~~paragraph (7)~~] the definition of "wages".

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
March 27, 2014

S.B. 2260, S.D. 2, H.D. 1

RELATING TO WAGES AND HOURS ON PUBLIC WORKS

Chair Luke and members of the Committee, thank you for the opportunity to submit written testimony on S.B. 2260, S.D. 2, H.D. 1.

The Department of Accounting and General Services supports the intent of S.B. 2260, S.D. 2, H.D. 1 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.

IRON WORKERS STABILIZATION FUND

March 27, 2014

Rep. Sylvia Luke, Chair
Committee on Finance
House
Room 308 – State Capitol
Honolulu, HI 96813

Re: SB2260 SD2 HD1, Relating to Wages and Hours on Public Works

Aloha Chair Luke & Honorable Members:

The Hawai'i Iron Workers Stabilization Fund is in **support** of SB2260 SD2 HD1. This bill will address the long-standing abuse perpetuated by certain contractors who do not pay the prevailing wages. The bill offers a greater deterrent by increasing suspension of violators from 3 to 5 years. This bill will help the Department of Labor and Industrial Relations to *enforce* the "Little Davis-Bacon" prevailing wage law of Chapter 104, Hawaii Revised Statutes.

We support the hard working men and women of our state who deserve to be compensated fairly for their labor. We also support the contractors that *follow the law*. Law-abiding contractors too often lose business to contractors who do not pay prevailing wages allowing them to offer a lower bid for contract in the first place.

Thank you for this opportunity to submit testimony.

Sincerely,


T. George Paris, Director

BIA-HAWAII

BUILDING INDUSTRY ASSOCIATION

THE VOICE OF THE CONSTRUCTION INDUSTRY

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Stephen Hanson

simplicityHR by ALTRES

TESTIMONY TO THE HOUSE COMMITTEE ON FINANCE

Thursday, March 27, 2014

3:00 p.m.

Hawaii State Capitol - Room 309

RE: S.B. 2260 S.D. 2, H.D. 2 - RELATING TO WAGES AND HOURS ON PUBLIC WORKS

Dear Chair Luke, Vice-Chairs Nishimoto and Johanson, 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 **opposes** S.B. 2260 S.D. 2, H.D. 1, increases the penalties imposed on a contractor who interferes with or delays an investigation to determine compliance with wage and hour laws of employees on public works. Specifies that a general contractor is secondarily liable for payment of back wages and penalties. Increases the suspension period from three to five years for a third violation. Clarifies the effective date of suspension. Specifies that suspension for falsification of records or delay or interference with an investigation is immediate. Specifies who the director of labor and industrial relations must notify of any suspension order.

Under current law, a contractor who inadvertently pays an employee working on multiple projects at the same time under an erroneous classification could potentially face a three year suspension for three notice of violations. This contractor would have insufficient notice or a lack of opportunity to correct the violation before being penalized.

Increasing the period from three to five years is unreasonable and will not resolve the delay in processing these violations, which is the real problem. Perhaps this Committee could review S.B. 3039, which would fund two permanent full time labor law enforcement specialist IV positions to help enforce the existing prevailing wage law.

We appreciate the opportunity to share with you our views.



LABORERS' INTERNATIONAL UNION OF NORTH AMERICA LOCAL 368



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

ALFONSO OLIVER
President

JOBY NORTH II
Vice President

TONI FIGUEROA
Recording Secretary

THOMAS CATHCART
Executive Board

JAMES DRUMGOLD JR.
Executive Board

LEIMOMI JOHNSON
Executive Board

MARK MAGUSARA
Auditor

MARK TRAVALINO
Auditor

JOSEPH YAW
Auditor

NELSON S. TERRADO
Sergeant-At-Arms

March 26, 2014

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

Re: SB2260 SD2 Relating to wages and Hours on Public Works

Dear Chair Luke:

On behalf of Mr. Peter Ganaban, Business Manager, Secretary/Treasurer and the several thousand members of the Hawaii laborers' Union, we offer our comments on the bill.

First and foremost is protecting the worker from any employer underpaying or not paying the worker as the Employer must under the prevailing wage law. And we sincerely appreciate the efforts of the DLIR in policing this law.

We wish to convey our concern however, about holding the general contractor secondarily liable for the payment of back wages and penalties. If any subcontractor is in arrears in making any payments to workers, that subcontractor must be held accountable to pay the back wages and penalties from any monies due to the subcontractor from performing any public construction work.

It is also fair to expect the delinquent subcontractor to exhaust all means to pay the back wages on a timely basis even if it means that they must borrow the money or sell assets. The penalties for non-payment of wages should be placed on the shoulders of the violating employer and not secondarily on the general contractor. In this aspect, the State has the means, authority and resources to collect the back wages and penalties from the violating subcontractor.

We defer to the GCA and BIA for their comments on the remaining issues in the bill, i.e. extension of the suspension period from 3 to 5 years, increase in penalties from \$100 per day to \$1,000 per day, and \$1000 to \$10,000 per project.

Thank you for the opportunity to submit this testimony.

Sincerely,

Al Lardizabal
Government Relations



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

EXECUTIVE BOARD

REGINALD CASTANARES

President

Plumbers & Fitters Local 675

March 26, 2014

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Vice President

International Brotherhood of
Electrical Workers Local 1186

Honorable Representative Sylvia Luke, Chair
Honorable Representative Scott Nishimoto, Vice Chair
Honorable Representative Scott Nishimoto, Vice Chair
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Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

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Carpet, Linoleum, & Soft Tile
Local 1926
Drywall, Tapers & Finishers
Local 1944
Glaziers, Architectural Metal &
Glassworkers Local 1889

RE: SB2260 SD2, HD1 RELATING TO WAGES AND HOURS ON PUBLIC WORKS
Hearing: Thursday, March 27, 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 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.

DOUGLAS FULP

Trustee

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

The Council Supports SB2260, SD2. HD1 which is intended to address ongoing abuse by contractors who willfully disregard wage and hour requirements when contracted to perform work on public works projects. Public works projects are funded by public tax payer dollars and therefore regulations intended to protect the public's best interest should be strictly enforced and adhered to.

JOSEPH O'DONNELL

Trustee

Iron Workers Local 625

Any willful intent to defraud the public should be dealt with swiftly and with significant consequence. Current penalties do not appear to dissuade contractors from such illegal practice of defrauding the public.

GARY AYCOCK

Boilermakers, Ironship Builders
Local 204

We believe this measure will improve the level of service the Department provides and further support the comments, testimony and respective proposed amendments as provided by the Department of Labor and Industrial Relations.

RONAN KOZUMA

Hawaii Teamsters & Allied
Workers Local 996

VAUGHN CHONG

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

KIKA G. BUKOSKI

Executive Director

Mahalo for the opportunity to provide testimony in support of SB2260, SD2, HD1.



Sent Via E-Mail: FINtestimony@capitol.hawaii.gov
Via Fax: 1-800-535-3859

March 26, 2014

TO: HONORABLE SYLVIA LUKE, CHAIR, HONORABLE SCOTT NISHIMOTO, VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

SUBJECT: **STRONG OPPOSITION TO S.B. 2260, SD2, HD1 RELATING TO WAGES AND HOURS ON PUBLIC WORKS.** Increases the penalties imposed on a contractor who interferes with or delays an investigation to determine compliance with wage and hour laws of employees on public works. Specifies that a general contractor is secondarily liable for payment of back wages and penalties. Increases the suspension period from three to five years for a third violation. Clarifies the effective date of suspension. Specifies that suspension for falsification of records or delay or interference with an investigation is immediate. Specifies who the director of labor and industrial relations must notify of any suspension order. Effective July 1, 2050. (SB2260 HD1)

HEARING

DATE: Thursday, March 27, 2014
TIME: 3:00 p.m.
PLACE: Conference Room 308

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

LYZ, Inc. is in strong opposition to S.B. 2260, SD2, HD1 because it would unfairly make the general contractor liable for the unpaid wages and penalties of a subcontractor that violates prevailing wage law under Chapter 104, HRS. Furthermore, the measure also includes other problematic provisions and fails to address further deterrence of such prevailing wage violations. While the payment of prevailing wage should apply where required under law, the provisions in this measure unfairly burden the general contractor.

LYZ, Inc. is particularly concerned with the proposed changes in Sections four and six of the measure. Section four, not only increases fines but proposes to make the general contractor secondarily liable for payment of back wages. The proposed language may conflict with Hawaii's prompt payment law. Furthermore, section six which proposes to increase suspension periods of violating contractors from three years to five years for third violation within a certain time period may have unintended consequences and may conflict with other department suspension periods.

These proposals are not solutions to the real problem, which continues to be lack of staff to process investigations, the lengthy process for conducting and completing prevailing wage investigations, and adjudication of a properly filed appeal.

For these reasons, **LYZ, Inc.** strongly opposes S.B. 2260, SD2, HD1 and respectfully requests deferral of this measure.

James N. Kurita
Vice President/ Chief Operating Officer



RALPH S. INOUE CO LTD
GENERAL CONTRACTOR

2831 Awaawaloa Street
Honolulu, Hawaii 96819

T: 808.839.9002
F: 808.833.5971

License No. ABC-457
Founded in 1962

Sent Via E-Mail: FINtestimony@capitol.hawaii.gov
Via Fax: 1-800-535-3859

March 26, 2014

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

SUBJECT: **STRONG OPPOSITION TO S.B. 2260, SD2, HD1 RELATING TO WAGES AND
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that suspension for falsification of records or delay or interference with an investigation is
immediate. Specifies who the director of labor and industrial relations must notify of any
suspension order. Effective July 1, 2050. (SB2260 HD1)

HEARING

DATE: Thursday, March 27, 2014
TIME: 3:00 p.m.
PLACE: Conference Room 308

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

Ralph S. Inouye Co., Ltd. (RSI), a State of Hawaii General Contractor, is in **strong opposition** to S.B. 2260, SD2, HD1 because it would unfairly make the general contractor liable for the unpaid wages and penalties of a subcontractor that violates prevailing wage laws under Chapter 104, HRS. This measure would require the general contractor to interpret complex laws and rules of all of its many sub-trades that the DLIR is charged with promulgating and interpreting. As so charged and to protect itself, the general contractor may significantly delay payments to its subcontractors until it is fully convinced there has been compliance with prevailing wage laws and rules, which many times has subtleties difficult to interpret. Furthermore, each general contractor may need to dedicate additional manpower to police compliance for each project, resulting in additional costs that raise project costs unnecessarily. Ultimately, this added cost would need to be passed on to the state and to its taxpaying public. It is suggested that a more appropriate and less costly solution is to fund additional compliance personnel for the DLIR to enforce compliance.

Accordingly, RSI **strongly opposes** S.B. 2260, SD2, HD1 and respectfully requests deferral of this measure.



S & M SAKAMOTO, INC.

GENERAL CONTRACTORS

LATE

Sent Via E-Mail: FINtestimony@capitol.hawaii.gov
Via Fax: 1-800-635-3859

March 27, 2014

TO: HONORABLE SYLVIA LUKE, CHAIR, HONORABLE SCOTT NISHIMOTO, VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

SUBJECT: **STRONG OPPOSITION TO S.B. 2260, SD2, HD1 RELATING TO WAGES AND HOURS ON PUBLIC WORKS.** Increases the penalties imposed on a contractor who interferes with or delays an investigation to determine compliance with wage and hour laws of employees on public works. Specifies that a general contractor is secondarily liable for payment of back wages and penalties. Increases the suspension period from three to five years for a third violation. Clarifies the effective date of suspension. Specifies that suspension for falsification of records or delay or interference with an investigation is immediate. Specifies who the director of labor and industrial relations must notify of any suspension order. Effective July 1, 2050. (SB2260 HD1)

HEARING

DATE: Thursday, March 27, 2014
TIME: 3:00 p.m.
PLACE: Conference Room 308

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

S & M Sakamoto, Inc. is in strong opposition to S.B. 2260, SD2, HD1 because it would unfairly make the general contractor liable for the unpaid wages and penalties of a subcontractor that violates prevailing wage law under Chapter 104, HRS. Furthermore, the measure also includes other problematic provisions and fails to address further deterrence of such prevailing wage violations. While the payment of prevailing wage should apply where required under law, the provisions in this measure unfairly burden the general contractor.

S & M Sakamoto, Inc. is particularly concerned with the proposed changes in Sections four and six of the measure. Section four, not only increases fines but proposes to make the general contractor secondarily liable for payment of back wages. The proposed language may conflict with Hawaii's prompt payment law. Furthermore, section six which proposes to increase suspension periods of violating contractors from three years to five years for third violation within a certain time period may have unintended consequences and may conflict with other department suspension periods.

These proposals are not solutions to the real problem, which continues to be lack of staff to process investigations, the lengthy process for conducting and completing prevailing wage investigations, and adjudication of a properly filed appeal.

For these reasons, **S & M Sakamoto, Inc.** strongly opposes S.B. 2260, SD2, HD1 and respectfully requests deferral of this measure.

Very truly yours,

Gerard Sakamoto
President



525 Kokea Street, Bldg. B-3 • Honolulu, Hawaii 96817 • Phone: (808) 845-6477 • Fax: (808) 845-6471 • E-mail: rmkaya@hawaii.r.com

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March 26, 2014

FAX No. 1-800-535-3859

TO: HONORABLE SYLVIA LUKE CHAIR
HONORABLE SCOTT NISHIMOTO, VICE CHAIR
MEMBERS OF THE HOUSE COMMITTEE ON LABOR AND PUBLIC
EMPLOYMENT

SUBJECT: **STRONG OPPOSITION TO S.B. 2260, SD2, HD1 RELATING TO WAGES AND HOURS ON PUBLIC WORKS.** Increases the penalties imposed on a contractor who interferes with or delays an investigation to determine compliance with wage and hour laws of employees on public works. Specifies that a general contractor is secondarily liable for payment of back wages and penalties. Increases the suspension period from three to five years for a third violation. Clarifies the effective date of suspension. Specifies that suspension for falsification of records or delay or interference with an investigation is immediate. Specifies who the director of labor and industrial relations must notify of any suspension order. Effective July 1, 2050. (SB2260 HD1)

HEARING

DATE: Thursday, March 27, 2014
TIME: 3:00 p.m.
PLACE: Conference Room 308

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

ROBERT M. KAYA BUILDERS, INC. is in **strong opposition** to S.B. 2260, SD2, HD1 because it would unfairly make the general contractor liable for the unpaid wages and penalties of a subcontractor that violates prevailing wage law under Chapter 104, HRS. Furthermore, the measure also includes other problematic provisions and fails to address further deterrence of such prevailing wage violations. While the payment of prevailing wage should apply where required under law, the provisions in this measure unfairly burden the general contractor.

ROBERT M. KAYA BUILDERS, INC. is particularly concerned with the proposed changes in Sections four and six of the measure. Section four, not only increases fines but proposes to make the general contractor secondarily liable for payment of back wages. The proposed language may conflict with Hawaii's prompt payment law. Furthermore, section six which proposes to increase suspension periods of violating contractors from three years to five years for third violation within a certain time period may have unintended consequences and may conflict with other department suspension periods.

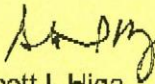
S.B. 2260, SD2, HD1
March 26, 2014
Page 2

These proposals are not solutions to the real problem, which continues to be lack of staff to process investigations, the lengthy process for conducting and completing prevailing wage investigations, and adjudication of a properly filed appeal.

For these reasons, ROBERT M. KAYA BUILDERS, INC. strongly opposes S.B. 2260, SD2, HD1 and respectfully requests deferral of this measure.

Yours truly,

ROBERT M. KAYA BUILDERS, INC.


Scott I. Higa
President

**RALPH S. INOUE CO LTD**
GENERAL CONTRACTOR2831 Awaawaloa Street
Honolulu, Hawaii 96819T: 808.839.9002
F: 808.833.5971License No. ABC-457
Founded In 1962Sent Via E-Mail: FINtestimony@capitol.hawaii.gov
Via Fax: 1-800-535-3859

March 26, 2014

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

SUBJECT: **STRONG OPPOSITION TO S.B. 2260, SD2, HD1 RELATING TO WAGES AND HOURS ON PUBLIC WORKS.** Increases the penalties imposed on a contractor who interferes with or delays an investigation to determine compliance with wage and hour laws of employees on public works. Specifies that a general contractor is secondarily liable for payment of back wages and penalties. Increases the suspension period from three to five years for a third violation. Clarifies the effective date of suspension. Specifies that suspension for falsification of records or delay or interference with an investigation is immediate. Specifies who the director of labor and industrial relations must notify of any suspension order. Effective July 1, 2050. (SB2260 HD1)

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

Ralph S. Inouye Co., Ltd. (RSI), a State of Hawaii General Contractor, is in **strong opposition** to S.B. 2260, SD2, HD1 because it would unfairly make the general contractor liable for the unpaid wages and penalties of a subcontractor that violates prevailing wage laws under Chapter 104, HRS. This measure would require the general contractor to interpret complex laws and rules of all of its many sub-trades that the DLIR is charged with promulgating and interpreting. As so charged and to protect itself, the general contractor may significantly delay payments to its subcontractors until it is fully convinced there has been compliance with prevailing wage laws and rules, which many times has subtleties difficult to interpret. Furthermore, each general contractor may need to dedicate additional manpower to police compliance for each project, resulting in additional costs that raise project costs unnecessarily. Ultimately, this added cost would need to be passed on to the state and to its taxpaying public. It is suggested that a more appropriate and less costly solution is to fund additional compliance personnel for the DLIR to enforce compliance.

Accordingly, RSI **strongly opposes** S.B. 2260, SD2, HD1 and respectfully requests deferral of this measure.

**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

March 26, 2014

Honorable Sylvia Luke, Chair
House Committee on Finance
Hawaii State Capitol
415 South Beretania Street, Room 306
Honolulu, HI 96813

Dear Chair Luke:

RE: Opposition of Senate Bill 2260, SD2, HD1 – Relating to Wages and Hours on 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 HOEISF, I am testifying in **strong opposition** to Senate Bill 2260, SD2, HD1, which increases the suspension period from three to five years for a third violation of a person who violates state law on wages and hours of employees on public work projects. The proposed bill also includes language that requires the general contractor to be secondarily liable for the payment of the back wages and penalties assessed against any of the contractors on the public works construction project that are unpaid.

HOEISF does not support the increase in the amount of years a contractor can be suspended for a third violation for failing to pay prevailing wages. HOEISF is satisfied with the current suspension period listed in the State's Hawaii Revised Statute.

HOEISF also believes the proposed language to hold the General Contractor liable for a Subcontractor's violation is unreasonable. The General Contractor should not be responsible for enforcing State laws. If the violation was issued to the Subcontractor, then it is the responsibility of the Department of Labor and Industrial Relations (DLIR) to follow up with that company.

In lieu of SB 2260, SD2, HD1, HOEISF is in strong support of Senate Bill 3039, SD2, HD1, which provides additional labor law enforcement positions within DLIR. HOEISF anticipates the addition of these two positions will help DLIR with enforcement of current laws in HRS relating to prevailing wages and hours on public work projects.

HOEISF **strongly opposes** Senate Bill 2260, SD2, HD1. Thank you for your consideration in this matter.

Sincerely,

Kimberly Ribellia
Government Liaison
Hawaii Operating Engineers
Industry Stabilization Fund

WARRIOR

CONTRACTING, LLC

LATE

Sent Via E-Mail: FINtestimony@capitol.hawaii.gov

Via Fax: 1-800-535-3859

March 27, 2014

TO: HONORABLE SYLVIA LUKE, CHAIR, HONORABLE SCOTT NISHIMOTO, VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

SUBJECT: **STRONG OPPOSITION TO S.B. 2260, SD2, HD1 RELATING TO WAGES AND HOURS ON PUBLIC WORKS.** Increases the penalties imposed on a contractor who interferes with or delays an investigation to determine compliance with wage and hour laws of employees on public works. Specifies that a general contractor is secondarily liable for payment of back wages and penalties. Increases the suspension period from three to five years for a third violation. Clarifies the effective date of suspension. Specifies that suspension for falsification of records or delay or interference with an investigation is immediate. Specifies who the director of labor and industrial relations must notify of any suspension order. Effective July 1, 2050. (SB2260 HD1)

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

Warrior Contracting, LLC is in **strong opposition** to S.B. 2260, SD2, HD1 because it would unfairly make the general contractor liable for the unpaid wages and penalties of a subcontractor that violates prevailing wage law under Chapter 104, HRS. Furthermore, the measure also includes other problematic provisions and fails to address further deterrence of such prevailing wage violations. While the payment of prevailing wage should apply where required under law, the provisions in this measure unfairly burden the general contractor.

Warrior Contracting is particularly concerned with the proposed changes in Sections four and six of the measure. Section four, not only increases fines but proposes to make the general contractor secondarily liable for payment of back wages. The proposed language may conflict with Hawaii's prompt payment law. Furthermore, section six which proposes to increase suspension periods of violating contractors from three years to five years for third violation within a certain time period may have unintended consequences and may conflict with other department suspension periods.

These proposals are not solutions to the real problem, which continues to be lack of staff to process investigations, the lengthy process for conducting and completing prevailing wage investigations, and adjudication of a properly filed appeal.

For these reasons, Warrior Contracting, LLC strongly opposes S.B. 2260, SD2, HD1 and respectfully requests deferral of this measure.

Sincerely,



Denny Watts
Executive Vice President

Las Vegas
3443 Neeham Suite 8
North Las Vegas, NV 89030
P: (702) 283-1859
F: (702) 220-7067
NV #0074622, #0075632

Honolulu
735 Bishop St. #401
Honolulu, HI 96813
P: (808) 260-1117
F: (808) 260-1118
HI ABC #33154

From: info <info@tomsbackhoe.com>
Sent: Wednesday, March 26, 2014 5:17 PM
To: FINTestimony
Subject: H.D. 1 version S.B. 2260 Testimony



Tom's Backhoe & Excavation is **strongly opposed** to the current H.D. 1 version S.B. 2260 because it revives language from a previously deferred bill (H.B. 2323) referencing the general contractor being secondarily liable for the nonpayment of prevailing wage by the subcontractor and also includes other provisions that are problematic and fails to address legislative intent. While GCA agrees that the prevailing wage should be paid when applicable, the proposed amendments do not address the real problem facing the Department of Labor and Industrial Relations, particularly the lack of staff to enforce Chapter 104, HRS. The proposed increase from three years to five years is unreasonable, increasing fines from \$100 per day to \$1,000 per day and \$1,000 per project to \$10,000 per project will not deter such unlawful activity. Furthermore, this measure will not resolve the delay in processing Chapter 104 public works prevailing wage violations.

We work as both a sub-contractor and a general, and the added liability and burden on the general is unfair. Additionally, this law would penalize those who have and continue to follow the prevailing wage rules by increasing the amount of work they need to do.

Gabriel Hoeffken VP

--

This is a shared email account, to contact Gabe or Nora directly please use gabe@tomsbackhoe.com or nora@tomsbackhoe.com

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Toms Backhoe & Excavation Co., Inc .
651 Papipi Rd.
Kula, HI 96790
Phone: (808) 878-6233
Fax: (808) 878-2783
info@tomsbackhoe.com
AC19828



TOMCO CORP.
General Contractors

LATE

March 27, 2014

TO: HONORABLE SYLVIA LUKE, CHAIR, HONORABLE SCOTT NISHIMOTO, VICE CHAIR
AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR AND PUBLIC
EMPLOYMENT

SUBJECT: **STRONG OPPOSITION TO S.B. 2260, SD2, HD1 RELATING TO WAGES AND HOURS ON PUBLIC WORKS.** Increases the penalties imposed on a contractor who interferes with or delays an investigation to determine compliance with wage and hour laws of employees on public works. Specifies that a general contractor is secondarily liable for payment of back wages and penalties. Increases the suspension period from three to five years for a third violation. Clarifies the effective date of suspension. Specifies that suspension for falsification of records or delay or interference with an investigation is immediate. Specifies who the director of labor and industrial relations must notify of any suspension order. Effective July 1, 2050. (SB2260 HD1)

HEARING

DATE: Thursday, March 27, 2014

TIME: 3:00 p.m.

PLACE: Conference Room 308

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

TOMCO CORP. is in strong opposition to S.B. 2260, SD2, HD1 because it would unfairly make the general contractor liable for the unpaid wages and penalties of a subcontractor that violates prevailing wage law under Chapter 104, HRS. Furthermore, the measure also includes other problematic provisions and fails to address further deterrence of such prevailing wage violations. While the payment of prevailing wage should apply where required under law, the provisions in this measure unfairly burden the general contractor.

TOMCO CORP. is particularly concerned with the proposed changes in Sections four and six of the measure. Section four, not only increases fines but proposes to make the general contractor secondarily liable for payment of back wages. The proposed language may conflict with Hawaii's prompt payment law. Furthermore, section six which proposes to increase suspension periods of violating contractors from three years to five years for third violation within a certain time period may have unintended consequences and may conflict with other department suspension periods.

These proposals are not solutions to the real problem, which continues to be lack of staff to process investigations, the lengthy process for conducting and completing prevailing wage investigations, and adjudication of a properly filed appeal.

For these reasons, **TOMCO CORP.** strongly opposes S.B. 2260, SD2, HD1 and respectfully requests deferral of this measure.

500 Ala Kawa St., Suite #100A Honolulu, Hawaii 96817
Telephone #: (808) 845-0755 Fax #: (808) 845-1021
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1065 Ahua Street
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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.

LATE

Uploaded via Capitol Website

March 27, 2014

TO: HONORABLE SYLVIA LUKE, CHAIR, HONORABLE SCOTT NISHIMOTO, VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

SUBJECT: **STRONG OPPOSITION TO S.B. 2260, SD2, HD1 RELATING TO WAGES AND HOURS ON PUBLIC WORKS.** Increases the penalties imposed on a contractor who interferes with or delays an investigation to determine compliance with wage and hour laws of employees on public works. Specifies that a general contractor is secondarily liable for payment of back wages and penalties. Increases the suspension period from three to five years for a third violation. Clarifies the effective date of suspension. Specifies that suspension for falsification of records or delay or interference with an investigation is immediate. Specifies who the director of labor and industrial relations must notify of any suspension order. Effective July 1, 2050. (SB2260 HD1)

HEARING

DATE: Thursday, March 27, 2014
TIME: 3:00 p.m.
PLACE: Conference Room 308

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

The General Contractors Association of Hawaii (GCA) is an organization comprised of 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.

GCA is **strongly opposed** to the current H.D. 1 version S.B. 2260 because it revives language from a previously deferred bill (H.B. 2323) referencing the general contractor being secondarily liable for the nonpayment of prevailing wage by the subcontractor and also includes other provisions that are problematic and fails to address legislative intent. While GCA agrees that the prevailing wage should be paid when applicable, the proposed amendments do not address the real problem facing the Department of Labor and Industrial Relations, particularly the lack of staff to enforce Chapter 104, HRS. The proposed increase from three years to five years is unreasonable and increasing fines from \$100 per day to \$1,000 per day and \$1,000 per project to \$10,000 per project will not meet the goal of further deterring such unlawful activity. Furthermore, this measure will not resolve the delay in processing violations.

Section 4 amending HRS, Section 104-22 (b) & (c) – Increase in Fines and Making General Contractor Secondly Liable For Back wages and Penalties of Subcontractor not paying prevailing wage

The GCA is opposed to making the general contractor secondarily liable for payment of back wages and penalties and the process in which the bill proposes to allow the Department of Labor and Industrial Relations to access funds from the contracting agency that are due to the general contractor. The proposed language may conflict with Hawaii's prompt payment law, which requires general contractors to pay subcontractors within ten days after receipt of the money from the agency. The proposal would permit the government contracting agency (that the general contractor holds a contract with) to pay the Department of Labor and Industrial Relations from funds due to the general contractor for amounts assessed as a subcontractors back wages and penalties. This process may present due process issues and lacks a fair opportunity for the general contractor or any prime contractor to object to the transfer of such funds.

The general contractor is not usually involved in the investigation of a subcontractor for alleged violation of the wage and hour law and therefore, unable to try to get the subcontractor to comply with the request of the DLIR. The definition of contractor in the law includes general, subcontractors and other entities and individuals while the change in the statute states the notice is sent to the contractor. The GCA is concerned that because the general contractor on large public works projects may have numerous subcontractors working on the project. We believe it is unfair to hold the general contractor responsible to pay penalties for actions taken by a subcontractor when he or she has no knowledge or control over activities regarding payment of appropriate wages.

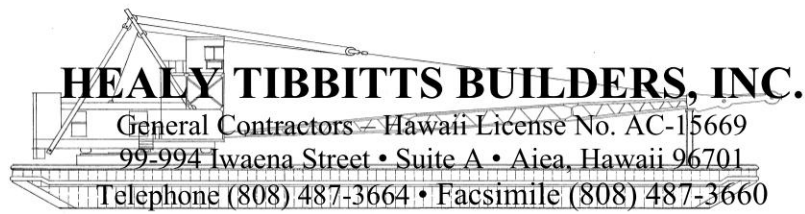
Section 6 amending HRS, Section 104-24-- Increase Suspension Period from three to five years if third Chapter 104 violation committed within two years of second violation.

The proposed increase in suspension period is not a solution to the real problem, which continues to be lack of staff to process investigations and the lengthy process for conducting and completing an investigation and adjudication of a properly filed appeal. The proposed increase from three to five years is of concern to GCA since Act 160 (2011) was passed just three years ago where the intent of the law was to clarify that a single violation of prevailing wage refers to a separate project. Under current law a contractor who inadvertently pays an employee working on multiple projects at the same time under an erroneous classification could potentially face a three year suspension, and under this law, a five year suspension. In that situation the contractor would have no notice or opportunity to correct the violation before being

According to 2011 testimony investigations of prevailing wage violations could take up to two years to resolve. Increasing the penalty from three years to five years will not solve this delay nor deter the non-compliant contractors from such activity. Per DLIR as of November 27, 2013, a total of fifteen cases have resulted in three year suspensions for various violations. Furthermore these suspension periods would be in conflict with other department suspension periods, particularly the State Procurement Code, which permits only three year suspensions.

In closing, GCA suggests that in lieu of this measure, the Committee highly consider S.B. 3039, S.D. 2, HD.D. 1, also on this Committee's agenda, which establishes a wage and hour for public works projects special fund to assist the DLIR with enforcement of wage and hour law. S.B. 3039 proposes to fund two full time permanent labor law enforcement specialist IV positions. These positions would allow DLIR the proper resources to speed up investigations to enforce prevailing wage provisions already provided in the law.

We respectfully request that the committee defer the bill. Thank you for the opportunity to testify on this measure.



Sent Via E-Mail: FINtestimony@capitol.hawaii.gov

LATE

March 27, 2014

TO: HONORABLE SYLVIA LUKE, CHAIR, HONORABLE SCOTT NISHIMOTO, VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

SUBJECT: **STRONG OPPOSITION TO S.B. 2260, SD2, HD1 RELATING TO WAGES AND HOURS ON PUBLIC WORKS.** Increases the penalties imposed on a contractor who interferes with or delays an investigation to determine compliance with wage and hour laws of employees on public works. Specifies that a general contractor is secondarily liable for payment of back wages and penalties. Increases the suspension period from three to five years for a third violation. Clarifies the effective date of suspension. Specifies that suspension for falsification of records or delay or interference with an investigation is immediate. Specifies who the director of labor and industrial relations must notify of any suspension order. Effective July 1, 2050. (SB2260 HD1)

HEARING

DATE: Thursday, March 27, 2014

TIME: 3:00 p.m.

PLACE: Conference Room 308

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

Healy Tibbitts Builders, Inc. is a general contractor in the State of Hawaii and has been actively engaged in construction work in Hawaii since the early 1960's.

Healy Tibbitts Builders, Inc. is in **strong opposition** to S.B. 2260, SD2, HD1 because it would unfairly make the general contractor liable for the unpaid wages and penalties of a subcontractor that violates prevailing wage law under Chapter 104, HRS. Furthermore, the measure also includes other problematic provisions and fails to address further deterrence of such prevailing wage violations. While the payment of prevailing wage should apply where required under law, the provisions in this measure unfairly burden the general contractor.

Healy Tibbitts Builders, Inc. is particularly concerned with the proposed changes in Sections four and six of the measure. Section four, not only increases fines but proposes to make the general contractor secondarily liable for payment of back wages. The proposed language may conflict with Hawaii's prompt payment law. Furthermore, section six which proposes to increase

suspension periods of violating contractors from three years to five years for third violation within a certain time period may have unintended consequences and may conflict with other department suspension periods.

These proposals are not solutions to the real problem, which continues to be lack of staff to process investigations, the lengthy process for conducting and completing prevailing wage investigations, and adjudication of a properly filed appeal.

For these reasons, Healy Tibbitts Builders, Inc. strongly opposes S.B. 2260, SD2, HD1 and respectfully requests deferral of this measure.

Sincerely,

Rick
Heltzel

Richard A. Heltzel
President

Digitally signed by Rick Heltzel
DN: cn=Rick Heltzel, c=Mass, o=Healy Builders, Inc., ou,
email=rick.heltzel@healybuilders.com, cn=111
Date: 2014.02.20 20:15:24 -0500



A Minority Woman Owned & Operated Small Business



LATE

500 ALAKAWA STREET, BLDG 119 • HONOLULU, HAWAII 96817 • PH: (808) 842-7955 • FAX: (808) 842-3985 • LIC #BC-14014

Sent Via E-Mail: FINtestimony@capitol.hawaii.gov
Via Fax: 1-800-535-3859

March 27, 2014

TO: HONORABLE SYLVIA LUKE, CHAIR, HONORABLE SCOTT NISHIMOTO, VICE CHAIR
AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR AND PUBLIC
EMPLOYMENT

SUBJECT: **STRONG OPPOSITION TO S.B. 2260, SD2, HD1 RELATING TO WAGES AND HOURS ON PUBLIC WORKS.** Increases the penalties imposed on a contractor who interferes with or delays an investigation to determine compliance with wage and hour laws of employees on public works. Specifies that a general contractor is secondarily liable for payment of back wages and penalties. Increases the suspension period from three to five years for a third violation. Clarifies the effective date of suspension. Specifies that suspension for falsification of records or delay or interference with an investigation is immediate. Specifies who the director of labor and industrial relations must notify of any suspension order. Effective July 1, 2050. (SB2260 HD1)

HEARING

DATE: Thursday, March 27, 2014
TIME: 3:00 p.m.
PLACE: Conference Room 308

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

WALTZ ENGINEERING, INC. - A MINORITY WOMAN OWNED SMALL BUSINESS is in **strong opposition** to S.B. 2260, SD2, HD1 because it would unfairly make the general contractor liable for the unpaid wages and penalties of a subcontractor that violates prevailing wage law under Chapter 104, HRS. Furthermore, the measure also includes other problematic provisions and fails to address further deterrence of such prevailing wage violations. While the payment of prevailing wage should apply where required under law, the provisions in this measure unfairly burden the general contractor.

WALTZ ENGINEERING, INC. is particularly concerned with the proposed changes in Sections four and six of the measure. Section four, not only increases fines but proposes to make the general contractor secondarily liable for payment of back wages. The proposed language may conflict with Hawaii's prompt payment law. Furthermore, section six which proposes to increase suspension periods of violating contractors from three years to five years for third violation within a certain time period may have unintended consequences and may conflict with other department suspension periods.

These proposals are not solutions to the real problem, which continues to be lack of staff to process investigations, the lengthy process for conducting and completing prevailing wage investigations, and adjudication of a properly filed appeal.

For these reasons, **WALTZ ENGINEERING, INC.** strongly opposes S.B. 2260, SD2, HD1 and respectfully requests deferral of this measure.

LATE



Sent Via E-Mail: FINtestimony@capitol.hawaii.gov
Via Fax: 1-800-535-3859

March 27, 2014

TO: HONORABLE SYLVIA LUKE, CHAIR, HONORABLE SCOTT NISHIMOTO, VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

SUBJECT: **STRONG OPPOSITION TO S.B. 2260, SD2, HD1 RELATING TO WAGES AND HOURS ON PUBLIC WORKS.** Increases the penalties imposed on a contractor who interferes with or delays an investigation to determine compliance with wage and hour laws of employees on public works. Specifies that a general contractor is secondarily liable for payment of back wages and penalties. Increases the suspension period from three to five years for a third violation. Clarifies the effective date of suspension. Specifies that suspension for falsification of records or delay or interference with an investigation is immediate. Specifies who the director of labor and industrial relations must notify of any suspension order. Effective July 1, 2050. (SB2260 HD1)

HEARING

DATE: Thursday, March 27, 2014
TIME: 3:00 p.m.
PLACE: Conference Room 308

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

Swinerton Builders is in **strong opposition** to S.B. 2260, SD2, HD1 because it would unfairly make the general contractor liable for the unpaid wages and penalties of a subcontractor that violates prevailing wage law under Chapter 104, HRS. Furthermore, the measure also includes other problematic provisions and fails to address further deterrence of such prevailing wage violations. While the payment of prevailing wage should apply where required under law, the provisions in this measure unfairly burden the general contractor.

Swinerton Builders is particularly concerned with the proposed changes in Sections four and six of the measure. Section four, not only increases fines but proposes to make the general contractor secondarily liable for payment of back wages. The proposed language may conflict with Hawaii's prompt payment law. Furthermore, section six which proposes to increase suspension periods of violating contractors from three years to five years for third violation within a certain time period may have unintended consequences and may conflict with other department suspension periods.

These proposals are not solutions to the real problem, which continues to be lack of staff to process investigations, the lengthy process for conducting and completing prevailing wage investigations, and adjudication of a properly filed appeal.

Swinerton Builders License No. ABC-3753
Pauahi Tower, 1003 Bishop Street, Suite 1340, Honolulu, HI 96813-6401
Tel: 808.521.8408 Fax: 808.521.8438 www.swinerton.com

For these reasons, Swinerton Builders strongly opposes S.B. 2260, SD2, HD1 and respectfully requests deferral of this measure.

Sincerely,

SWINERTON BUILDERS

A handwritten signature in blue ink, appearing to read "GEHARA", is written over the company name.

George Ehara
VP/Division Manager

Cc: file