

SB2260

SD1

LATE

TESTIMONY

1065 Ahua Street
Honolulu, HI 96819
Phone: 808-833-1681 FAX: 839-4167
Email: info@gcawhawaii.org
Website: www.gcawhawaii.org



GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

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February 12, 2014

TO: HONORABLE CLAYTON HEE, CHAIR, HONORABLE MAILE SHIMABUKURO,
VICE CHAIR AND MEMBERS OF THE SENATE COMMITTEE ON JUDICIARY
AND LABOR

SUBJECT: **OPPOSITION TO S.B. 2260, SD1 WITH SUGGESTED AMENDMENTS,
RELATING TO WAGES AND HOURS ON PUBLIC WORKS.** Increases the
suspension period from three to five years for a third violation of a person or firm
who violates state law on wages and hours of employees on public works.
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. Repeals 06/30/2018. Effective 07/01/2050. (SD1)

HEARING

DATE: Wednesday, February 12, 2014
TIME: 10:00 a.m.
PLACE: Conference Room 016

Dear Chair Hee, Vice Chair Shimabukuro 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. 2260, SD1 proposes to increase the suspension period from three to five years for contractors who fail to pay prevailing wage and receive a third violation within two years, falsify records or interfere with an investigation. While GCA agrees that the prevailing wage should be paid when applicable, the proposed increase from three years to five years is unreasonable, will not further resolve the delay in processing violations and may not follow proper due process procedures.

This proposed measure is of grave 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 each 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 (three notice of violations = 3 years suspension). In that situation the contractor would have had no notice or an opportunity to correct the violation

before being subject to the penalty. While proponents of this bill would disagree on such a possibility, the law as currently written could allow for such an outcome.

As an alternative, the Committee may consider amending the law back to the original version of Section 104-24, HRS prior to the adoption of Act 160 (2011)

SECTION 2. Section 104-24, Hawaii Revised Statutes, proposed to be amended by amending subsection (d) to read as follows:

"(d) A first, second, or third violation refers to each investigation involving one or more projects [~~project~~] in which the department finds that a contractor has failed to comply with this chapter."

The above mentioned amendment would revert the determination back to the original determination on a per investigation basis instead of a per project basis.

The current SD1 version is not a solution to the real problem, which continues to be the lengthy process for conducting and completing an investigation and adjudication of a properly filed appeal. 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.

GCA suggests that in lieu the Committee consider the abovementioned amendment and/or S.B. 2260, this legislature consider S.B. 3039 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.

For these reasons, GCA opposes S.B. 2260 and requests that this bill be held.



Testimony of Cindy McMillan
The Pacific Resource Partnership

Senate Committee on Judiciary & Labor
Senator Clayton Hee, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

SB 2260, SD1 – RELATING TO WAGES AND HOURS ON PUBLIC WORKS
Wednesday, February 12, 2014
10:00 AM
Conference Room 016

Dear Chair Hee, Vice Chair Shimabukuro 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 2260, SD1, Relating to Wages and Hours on Public Works, which increases the suspension period from three to five years for a third violation of a person or firm who violates state law on wages and hours of employees on public works. This measure clarifies the effective date of suspension and specifies that suspension for falsification of records or delay or interference with an investigation is immediate.

PRP believes that labor is the backbone of our economy, and that every hardworking citizen should be compensated fairly and fully, in accordance with the terms of their employer (or former employer) has offered.

Therefore, PRP supports legislation like SB 2260, SD1 that seeks to ensure that our working citizens are not only fairly and justly compensated, but fully compensated for their contributions to their employer(s) and this State's economy.

Thank you for allowing us to voice our opinion and we respectfully request your support.