

**SB2261**

**LATE**

# BIA-HAWAII

BUILDING INDUSTRY ASSOCIATION

THE VOICE OF THE CONSTRUCTION INDUSTRY

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Bays Lung Rose & Holma

### Stephen Hanson

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## TESTIMONY TO THE SENATE COMMITTEE ON JUDICIARY & LABOR

THURSDAY, JANUARY 30, 2014

9:30 A.M.

HAWAII STATE CAPITOL - ROOM 016

### SUBJECT: H.B. 1500 - RELATING TO WAGES AND HOURS ON PUBLIC WORKS

Dear Chair Hee, Vice-Chair Shimabukuro, 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 **strongly opposes** S.B. 2261, which would: 1) prohibit private agreements from contravening or setting aside any requirement under chapter 104, HRS; 2) Adds definitions of "contractor" and "public work;" 3) Increase the prevailing wage penalty from \$1,000 per project and \$100 per day to \$10,000 per project and \$1,000 per day; 4) Clarify that general contractors are secondarily liable for payment of back wages and penalties imposed on any of their subcontractors; and 5) Require notifications of violations to be final and conclusive unless within 20 days after a copy is sent to the contractor, the contractor files a written notice of appeal.

Existing law, Chapters 104-4 and 104-24, HRS, already allows stoppage of work by the government if the contractor is found in violation of Chapter 104. Therefore, S.B. 2261 is unnecessary and will have a tremendous negative impact on the relationship between the government, contractors, and subcontractors involved in a public works project, as well as promote a more adversarial relationship between contractors and subcontractors, ultimately resulting in a higher cost to taxpayers.

Based on the foregoing reasons, BIA-Hawaii is in **strong opposition** to S.B. 2661.

We appreciate the opportunity to share with you our views.

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# GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

Uploaded via Capitol Website

January 30, 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. 2261 WITH SUGGESTIONS, RELATING TO WAGES AND HOURS ON PUBLIC WORKS.** Prohibits private agreements from contravening or setting aside any requirement under chapter 104, HRS. Adds definitions of "contractor" and "public work". Increases the prevailing wage penalty from \$1,000 per project and \$100 per day to \$10,000 per project and \$1,000 per day. Clarifies that general contractors are secondarily liable for payment of back wages and penalties imposed on any of their subcontractors. Requires notifications of violations to be final and conclusive unless within 20 days after a copy is sent to the contractor, the contractor files a written notice of appeal.

#### HEARING

DATE: Thursday, January 30,,2014  
TIME: 9:30 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. 2261 proposes to, among other things, increase the prevailing wage penalty from \$1,000 to \$10,000 per project and \$1,000 per day and purports to clarify that the general contractor would be secondarily liable for payment of back wages and penalties imposed on any of their subcontractors. While GCA agrees that the prevailing wage should be paid when applicable, the proposed amendments are unreasonable and thus GCA **opposes** this measure.

The GCA is also 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. The general contractor is usually not 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. Which party will be notified of the decision? Will all parties involved in the contract be sent the notice or just the subcontractor? If the general contractor is not timely notified he will not be able to file an appeal within the twenty one day window.

The GCA is concerned that because the general contractor on large public works projects may have numerous subcontractors working on the project, increased monitoring would be difficult. 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.

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