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LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA  
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March 29, 2016

To: The Honorable Jill N. Tokuda, Chair,  
The Honorable Donovan M. Dela Cruz, Vice Chair, and  
Members of the Senate Committee on Ways and Means

Date: Wednesday, March 30, 2016  
Time: 9:15 a.m.  
Place: Conference Room 211, State Capitol

From: Linda Chu Takayama, Director  
Department of Labor and Industrial Relations (DLIR)

**Re: H.B. No. 2472, H.D. 1, S.D. 1 Relating to the Department of  
Labor and Industrial Relations**

**I. OVERVIEW OF PROPOSED LEGISLATION**

HB2472 HD1SD1 proposes to restore five full-time, permanent, Labor Law Enforcement Specialist (LLES) positions in the Wage Standards Division (WSD) that were cut during the Reduction-in- Force (RIF) of 2009, and appropriates a \$249,864 to DLIR.

The department supports adding additional LLES positions in WSD if its passage does not replace or adversely impact priorities indicated in the Governor's Supplemental Budget request.

**II. CURRENT LAW**

The Wage Standards Division currently has seventeen (17) positions statewide with nine (9) in the Compliance Branch including:

- three (3) LLES IV positions on Oahu, plus two (2) LLES supervisors and one (1) Compliance Branch Chief ,
- one (1) on Maui,

- one (1) on Kauai and
- one (1) in Kona.

All of these positions help enforce the following laws:

- 1) Chapter 104 Wages and Hours of Employees on Public Works
- 2) Chapter 378, Part II Employment Practices, Lie Detector Tests
- 3) Chapter 387 Wage and Hour
- 4) Chapter 388 Payment of Wages and Other Compensation
- 5) Chapter 390 Child Labor
- 6) Chapter 398 Family Leave

The 2009 RIF included the loss of seven (7) LLES positions, which has significantly contributed to the large backlog of cases in the Compliance Branch. The Compliance Branch currently (3/28/16) has 369 pending cases—194 are complaints filed under chapter 104, Hawaii Revised Statutes (HRS). The 194 cases represent 140 investigations of 54 employers awaiting investigation by the six LLES's under chapter 104, HRS.

### **III. COMMENTS ON THE HOUSE BILL**

The loss in personnel has contributed to an increasing number of pending cases in the Compliance Branch (green line in chart below) because more cases are filed (Blue line in chart below) than can be resolved (red line in chart below). Until resolved cases outnumber complaints, as in 2006, 2007 and 2008, when there was a full complement of seasoned specialists, WSD cannot efficiently and effectively enforce the six laws under its jurisdiction.

The lack of sufficient staffing penalizes the innocent worker rather than the employer. Contractors undertaking public works projects are incentivized to cheat until caught because chapter 104 cases can take up to three years to make a determination. The inability to resolve cases in a timely fashion is highly problematic because the employers who allegedly violate wage laws often are able to close shop or run away before the resolution to the case. In many cases, DLIR is not able to ensure that workers receive fair compensation as provided for in by the law.

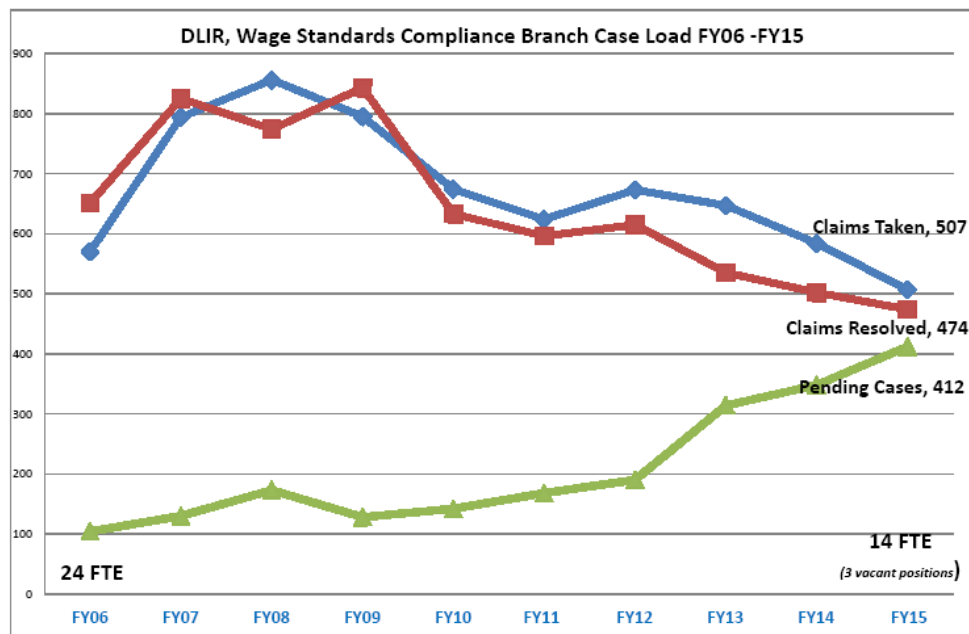
The average time a complaint has been on the chapter 104 pending claim list is 854 days with the median age of the cases 834 days waiting to be resolved. With a full staff the goal was to complete these cases in 180 days. The current average resolution time is 959 days from filing to resolution.

WSD has deployed a number of strategies as stopgap measures. The temporary measures include modifications to the investigative process, which have produced

shorter investigations with smaller amounts due. WSD also has to rely on contractors to conduct self-audits to correct identified issues. The modifications to the investigative process also result in reduced penalties that are paid into the general fund. From FY 2014 to FY 2015 penalties to the State decreased from \$41,326 for eight (8) notice of violations to \$5,138 for fourteen (14) notice of violations.

Authorizing overtime for our LLES IVs and Vs has reduced the backlog from 412 cases in October 2015 to 369 cases in March 2016, despite a 15% increase in the total number of complaints filed.

Nonetheless, DLIR is not in the position to ensure the protections afforded by wage laws until the allocation of additional resources. Therefore, the department supports this measure, if its passage does not replace or adversely impact priorities indicated in the Governor's Supplemental Budget request.



2/10/2016

# Hawai'i Construction Alliance

P.O. Box 179441  
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(808) 348-8885

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March 28, 2016

The Honorable Jill N. Tokuda, Chair  
The Honorable Donovan M. Dela Cruz, Vice Chair  
and members  
Committee on Ways and Means  
Hawai'i State Senate  
Honolulu, Hawai'i 96813

**RE: Strong Support for HB2472 HD1 SD1, Relating to the Department of Labor and Industrial Relations**

Dear Chair Tokuda, Vice Chair Dela Cruz, and members:

The Hawai'i Construction Alliance is comprised of the Hawai'i Regional Council of Carpenters; the Operative Plasterers' and Cement Masons' Union, Local 630; International Union of Bricklayers & Allied Craftworkers, Local 1; the Laborers' International Union of North America, Local 368; and the Operating Engineers, Local Union No. 3. Together, the member unions of the Hawai'i Construction Alliance represent 15,000 working men and women in the basic crafts of Hawai'i's construction industry.

**We strongly support HB2472 HD1 SD1, Relating to the Department of Labor and Industrial Relations.** The bill would appropriate \$249,864 for the hiring of three permanent, full-time equivalent labor law enforcement specialist IV positions and two permanent, full-time equivalent labor law enforcement specialist III positions in the Department of Labor and Industrial Relations to protect Hawai'i employees' wages and enforce Hawai'i's labor laws, including wage and hour laws on public works construction projects.

Simply put: the backlog on prevailing wage complaints is far too large. As a result, the State has not received fines that it is owed, Hawai'i workers haven't received back wages, and cheating contractors continue to be able to bid on and win public works jobs. With 365 wage standards cases in the backlog and 195 prevailing wage cases pending as of March 14, it is clear that more staff and resources are needed for the department to effectively enforce Hawai'i's wage laws.

**Therefore, we strongly urge your committee's favorable action on HB2472 HD1 SD1, Relating to the Department of Labor and Industrial Relations.**

Mahalo,



Tyler Dos Santos-Tam  
Executive Director  
Hawai'i Construction Alliance  
[execdir@hawaiiconstructionalliance.org](mailto:execdir@hawaiiconstructionalliance.org)



**HAWAII LABORERS-EMPLOYERS COOPERATION AND EDUCATION TRUST**  
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**TESTIMONY OF HAWAII LECET  
CLYDE T. HAYASHI – DIRECTOR**

THE SENATE  
THE TWENTY-EIGHTH LEGISLATURE  
REGULAR SESSION OF 2016

COMMITTEE ON WAYS AND MEANS  
Senator Jill N. Tokuda, Chair  
Senator Donovan M. Dela Cruz, Vice Chair

NOTICE OF DECISION MAKING

DATE: Wednesday, March 30, 2016  
TIME: 9:15 a.m.  
PLACE: Conference Room 211  
State Capitol  
415 South Beretania Street

**TESTIMONY ON HOUSE BILL NO. 2472 HD1 SD1, RELATING TO THE DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS.**

TO THE HONORABLE JILL TOKUDA, CHAIR, DONOVAN DELA CRUZ, VICE CHAIR, AND MEMBERS OF THE COMMITTEE ON WAYS AND MEANS:

My name is Clyde T. Hayashi, and I am the Director of Hawaii Laborers' 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** of House Bill No. 2472 HD1 SD1 which appropriates funds for five additional labor law enforcement specialist positions in the department of labor and industrial relations to protect Hawaii employees' wages and enforce Hawaii's labor laws, including wage and hour laws on public works construction projects.

Hawaii LECET has been working with the Department of Labor and Industrial Relations, Wage Standards Division (WSD) for years and has seen the decimation of this division from the work furloughs to the 2009 Reduction in Force. In addition, seasoned investigators are being lost due to retirement. Appropriating funds for five additional labor law enforcement specialists will be a big help in reducing WSD's backlog.

The lack of enforcement of HRS 104, Hawaii's prevailing wage laws has resulted in more bad contractors being able to get away with cheating on the backs of their employees (wage theft). They bid public works projects using the prevailing wages and then proceed to knowingly pay their employees much less. These huge amounts of wages stolen from employees ends up in the pocket of the contractors.

Lack of enforcement has also hurt good contractors who follow the law and pay their employees proper wages. They are at a clear disadvantage when bidding for projects against bad contractors who intend to commit wage theft.

For these reasons, Hawaii LECET strongly supports House Bill No. 2472 HD1 SD1 and respectfully urges your favorable consideration.



Randy Perreira  
President

# HAWAII STATE AFL-CIO

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The Twenty-Eighth Legislature, State of Hawaii  
Hawaii State Senate  
Committee on Ways and Means

Testimony by  
Hawaii State AFL-CIO  
March 30, 2016

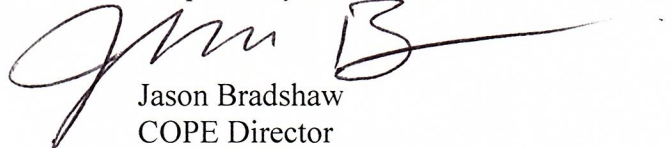
H.B. 2472, H.D.1, S.D.1 – RELATING TO  
THE DEPARTMENT OF LABOR AND  
INDUSTRIAL RELATIONS

The Hawaii State AFL-CIO supports H.B. 2472, H.D.1, S.D.1, which appropriates funds for five additional labor law enforcement specialist positions in the Department of Labor and Industrial Relations (DLIR) to protect Hawaii employees' wages and enforce Hawaii's labor laws, including wage and hour laws on public works construction projects.

Appropriating funds for five additional labor law enforcement specialists will help reduce the DLIR's Wage Standards Division backlog and ensure contractors comply with the law.

Thank you for the opportunity to testify.

Respectfully submitted,



Jason Bradshaw  
COPE Director

# DENNIS W. S. CHANG

*Attorney at Law, A Limited Liability Law Corporation*

WORKER'S RIGHTS - LABOR LAW  
WORKER'S COMPENSATION  
SOCIAL SECURITY DISABILITY  
LABOR UNION REPRESENTATION  
EMPLOYEES RETIREMENT SYSTEM  
BODILY INJURIES

March 29, 2016

To: The Honorable Jill N. Tokuda, Chair,  
The Honorable Donovan M. Dela Cruz, Vice Chair, and  
Members of the Senate Committee on Ways and Means

Date: Wednesday, March 30, 2016

Time: 9:15 a.m.

Place: Conference Room 211, State Capitol

From: Dennis W. S. Chang, AAI

**Re: H.B. No. 2472, H.D. 1, S.D. 1**

**Relating to the Department of Labor and Industrial Relations**

I strongly support the appropriations bill. All divisions are intertwined and the additional bodies for the Wage Standards Division directly impacts the workers' compensation process and wages of workers. I have witnessed this first hand - the remaining skeleton staff are extremely dedicated and work far and beyond what is required because of the gross shortage of their normal team. At times without their professionalism it would be literally impossible to conduct an investigation to secure proper wages for workers. They possess the requisite expertise to gather proof for what should have been paid or what has been underpaid to workers.

Please move the bill forward.