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

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February 23, 2016

To: The Honorable Sylvia Luke, Chair,
The Honorable Scott Y. Nishimoto, Vice Chair, and
Members of the House Committee on Finance

Date: Wednesday, February 24, 2016
Time: 3:00 p.m.
Place: Conference Room 308, State Capitol

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

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

I. OVERVIEW OF PROPOSED LEGISLATION

HB2472 HD1 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 blank amount 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.

The cost for three LLES IVs and two LLES II is \$249,864 per annum. DLIR also notes that changes in the investigation process due to the staff shortage has lowered the amount of penalties going into the general fund: - \$36,188 from FY14 to FY15.

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 and III Employment Practices
- 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 (2/19/16) has 387 pending cases—196 are complaints filed under chapter 104, HRS. The 196 cases represent 141 investigations of 55 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.

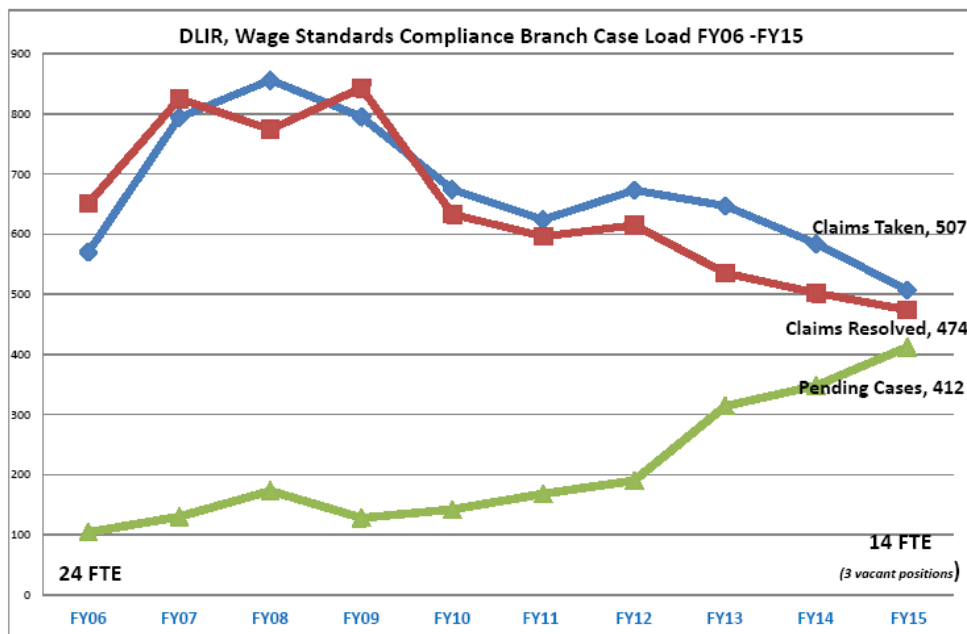
The average time a complaint has been on the chapter 104 pending claim list is

828 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 926 days from filing to

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 387 cases in February 2016, despite a 15% increase in the 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



HAWAII STATE AFL-CIO

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Randy Perreira
President

The Twenty-Eighth Legislature, State of Hawaii
Hawaii State House of Representatives
Committee on Finance

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Testimony by
Hawaii State AFL-CIO
February 24, 2016

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

The Hawaii State AFL-CIO supports H.B. 2472, H.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,

Randy Perreira
President

Hawai'i Construction Alliance

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Honolulu, HI 96817
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February 22, 2016

The Honorable Sylvia Luke, Chair
The Honorable Scott Y. Nishimoto, Vice Chair
and members
House Committee on Finance
Hawai'i State Legislature
Honolulu, Hawai'i 96813

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

Dear Chair Luke, Vice Chair Nishimoto, and members:

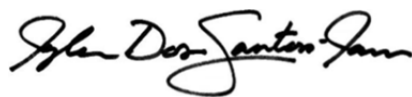
The Hawai'i Construction Alliance is comprised of the Hawai'i Regional Council of Carpenters; the Operative Plasterers' and Cement Masons' Union, Local 630; International Union of Bricklayers & Allied Craftworkers, Local 1; the Laborers' International Union of North America, Local 368; and the Operating 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, Relating to the Department of Labor and Industrial Relations. The bill would appropriate an unspecified amount of funds for five additional labor law enforcement specialist 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 387 wage standards complaints in the backlog and 140 prevailing wage investigations pending as of February 10, 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, Relating to the Department of Labor and Industrial Relations.**

Mahalo,



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

Testimony of Brooke Wilson
Pacific Resource Partnership

Committee on Finance
Representative Sylvia Luke, Chair
Representative Scott Nishimoto, Vice Chair

HB 2472, HD1 – Relating to Disability Compensation Division
Wednesday, February 24, 2016
3:00 P.M.
State Capitol – Room 308

Aloha Chair Luke, Vice Chair Nishimoto and members of the Committee:

We are in **support** of HB 2472, HD1. This bill 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.

The DLIR is understaffed, and it is extremely difficult for the Department to keep up with the efforts required by state statute. We would welcome the restoration of positions that were cut during the reduction-in-force of 2009 by appropriating funds for five positions in the Wage Standards Division of the DLIR.

Thank you for the opportunity to share our opinion and we respectfully request support of HB 2472, HD1.

About PRP

Pacific Resource Partnership (PRP) is a not-for-profit organization that represents the Hawaii Regional Council of Carpenters, the largest construction union in the state, and more than 240 of Hawaii's top contractors. Through this unique partnership, PRP has become an influential voice for responsible construction and an advocate for creating a stronger, more sustainable Hawaii in a way that promotes a vibrant economy, creates jobs and enhances the quality of life for all residents.



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GCA of Hawaii
GENERAL CONTRACTORS ASSOCIATION OF HAWAII
Quality People. Quality Projects.

Uploaded via Capitol Website

February 24, 2016

TO: HONORABLE SYLIVA LUKE, CHAIR, HONORABLE SCOTT NISHIMOTO, VICE CHAIR, HOUSE COMMITTEE ON FINANCE

SUBJECT: **COMMENTS REGARDING H.B. 2472, HD1, RELATING TO THE DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS.** 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. (HB2472 HD1)

HEARING

DATE: Wednesday, February 24, 2016
TIME: 3:00 p.m.
PLACE: Conference Room 308

Dear Chair Luke and Vice Chair Nishimoto and Members,

The General Contractors Association of Hawaii (GCA) is an organization comprised of over five hundred seventy general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is the largest construction association in the State of Hawaii. GCA's 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.

H.B. 2472, HD1 proposes to fund five positions in the wage standards division to enforce Hawaii's wage and hour law under Chapter 104, Hawaii Revised Statute, along with other areas of wage and hour. Furthermore, this measure is a much better solution than H.B. 2473, Relating to Enforcement of Wage laws, which unfairly increases penalties for second notices of violation to \$10,000 per offense. It appears that the funding of five labor law enforcement specialists would be to restore the pre-2009 positions that were subject to cuts under the Reduction in Force procedures. These positions would allow DLIR the proper resources to speed up investigations to enforce prevailing wage provisions already provided in the law. While the statistics per the Department of Labor of second notice of violations seem minimal, the backlog of investigations per this measure's preamble appear high.

In lieu of H.B. 2473 (and its bad companion SB 2723, SD1), which proposes to unfairly and egregiously increase fines and penalties for chapter 104 violations, GCA prefers this measure in its place. The GCA is strongly opposed to provisions in H.B. 2473 (and its bad companion SB 2723, SD1) which would unfairly increase fines for second notices of violations to \$10,000 per offense.

Thank you for the opportunity to share our testimony regarding H.B. 2472, HD1.

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

HOUSE OF REPRESENTATIVES
THE TWENTY-EIGHTH LEGISLATURE
REGULAR SESSION OF 2016

LATE

TO: COMMITTEE ON FINANCE
The Honorable Sylvia Luke, Chair
The Honorable Scott Y. Nishimoto, Vice Chair, and
Members of the House Committee on Finance

FROM: Dennis W.S. Chang, Attorney-At - Law

Date: Wednesday, February 24, 2016

Time: 3:00 p.m.

Place: Conference Room 308, State Capitol

Re: H.B. No. 2472, HD1 Relating to the Department of Labor
and Industrial Relations

As a long practicing labor attorney for nearly four (4) decades with a heavy emphasis in the processing of workers' compensation claims for injured workers, I wholeheartedly endorse the passage of HB No. 2472. As the prior testimony of the Director has pointed out, the reduction in force has literally decimated the Department of Labor and Industrial Relations (DLIR). There are honest decent hard working civil servants in the Department. However, they can only do so much.

Though a separate division, the Wage Standards Division is vital to the workers' compensation process ensuring that workers get their fair payments. I have personally witnessed their staff, who are dedicated and congenial to the public. We need to rebuild not only the Disability Compensation Division, but also the Wage Standards Division and every other division in the DLIR.

We need the support to protect workers' rights, which has been lacking due to cutbacks and attrition. Despite the slight gains made by the last administration in the last few years through sheer extra effort and dedication, there is a limit and there is much more that must be done through adequate appropriations. For this reason alone, I must join the Director in the passage of this bill.

DILLINGHAM TRANSPORTATION BUILDING

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