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The Twenty-Eighth Legislature, State of Hawaii
Hawaii State House of Representatives
Committee on Labor and Public Employment

Testimony by
Hawaii State AFL-CIO
February 12, 2016

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

The Hawaii State AFL-CIO supports H.B. 2472 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
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February 10, 2016

The Honorable Mark M. Nakashima, Chair
The Honorable Jarrett Keohokalole, Vice Chair
and members
House Committee on Labor and Public Employment
Hawai'i State Legislature
Honolulu, Hawai'i 96813

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

Dear Chair Nakashima, Vice Chair Keohokalole, 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, Relating to the Department of Labor and Industrial Relations. The bill would appropriate 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 over 400 wage standards complaints in the backlog and 150 prevailing wage investigations pending as of October 2015, 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, Relating to the Department of Labor and Industrial Relations.

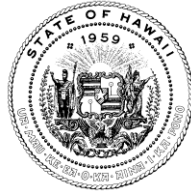
Mahalo,



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LATE

February 11, 2016

To: The Honorable Mark M. Nakashima, Chair,
The Honorable Jarrett Keohokalole, Vice Chair, and
Members of the House Committee on Labor & Public Employment

Date: Friday, February 12, 2016
Time: 10:00 a.m.
Place: Conference Room 309, State Capitol

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

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

I. OVERVIEW OF PROPOSED LEGISLATION

HB 2472 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 \$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 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 (2/10/16) has 387 pending cases—195 are complaints filed under chapter 104, HRS. The 195 cases represent 140 investigations of 54 employers 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.

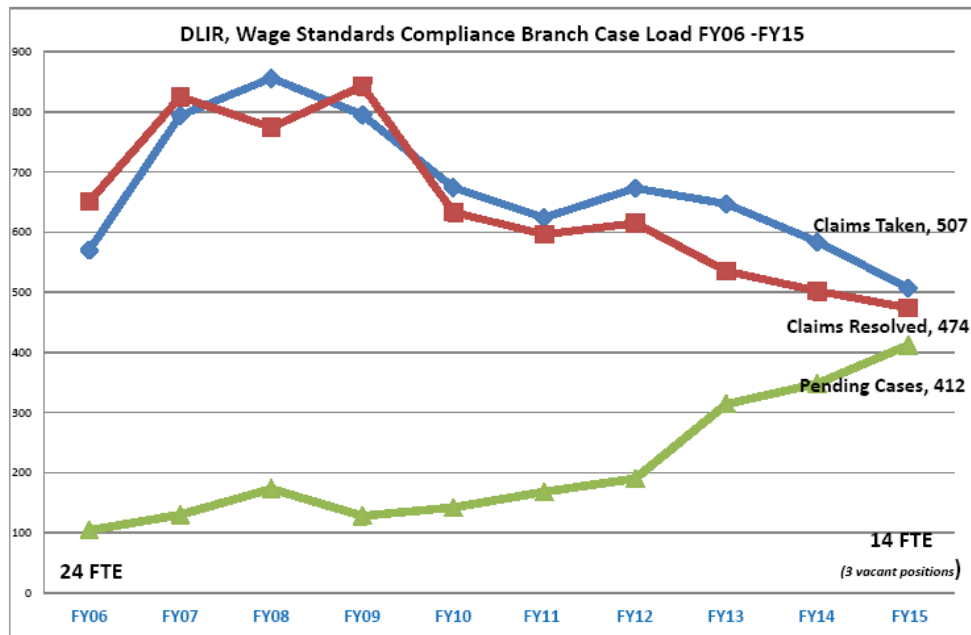
The lack of sufficient staffing penalizes the innocent worker rather than the employer. Contractors undertaking public works projects are incentivized to cheat until caught because chapter 104 cases can take up to three years to make a determination. The inability to resolve cases in a timely fashion 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 case closed.

Minimum wage and overtime wages under chapter 387 have an average pending age of 284 days when the goal with a full staff is to resolve these in 90 days. The current average resolution time 154 days.

Unpaid wage claims, the most common type of claim, with a 5-year average of 365

claims filed annually, have a current average pending age of 187 days when a fully staffed goal to resolution of these claims is 45 days. The current resolution average is 127 days.



2/10/2016

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.

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.