

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

830 PUNCHBOWL STREET, ROOM 321

HONOLULU, HAWAII 96813

www.labor.hawaii.gov

Phone: (808) 586-8844 / Fax: (808) 586-9099

Email: dlir.director@hawaii.gov

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: Thursday, February 25, 2016

Time: 11:00 a.m.

Place: Conference Room 308, State Capitol

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

Re: H.B. No. 2473, H.D. 1 Relating to Enforcement of Wage Laws

I. OVERVIEW OF PROPOSED LEGISLATION

HB 2473 HD1 proposes to amend chapter 104, Hawaii Revised Statutes (HRS), to change the penalties due for violations of Hawaii's prevailing wage law from ten percent of back wages due or \$25 per offense to ten percent of back wages due and \$1,000 per offense for a first violation, and from the amount of wages due or \$200 per offense to the amount of wages due and \$10,000 per offense for a second violation.

DLIR strongly supports increasing the penalties for violations of chapter 104, especially as restoration of the department's enforcement capacity after 2009 has not occurred. The measure, if enacted, would modestly increase the amount of penalties going into the general fund.

II. CURRENT LAW

Act 251 (SLH, 1999) amended the penalty amounts in section 104-24, HRS, from, "... not more than \$1,000 for each offense." to a penalty of \$25 per offense or 10% of the back wages due for a first violation. Act 251 also changed the penalty amounts from 10% of the contract amount to \$100 for each offense or the amount of back wages due for a second violation. The penalty amount is the greater of the two options, for a first or second violation.

III. COMMENTS ON THE HOUSE BILL

The department strongly supports the increase in penalties for chapter 104 violations. Currently, making determinations and issuing any penalties has approximately a three year backlog in these complex investigations. The Wage Standards Division (WSD) had twenty-eight (28) authorized positions when Act 251 changed the penalties for first and second violations in 1999. WSD currently has seventeen (17) authorized positions at a time when public works construction is booming.

In 2014, the Legislature recognized the lack of enforcement capacity in enacting Act 130. Act 130 increased the penalties imposed under §104-22(b), HRS, on a contractor who interferes with or delays an investigation from \$1,000 to \$10,000 and from \$100 to \$1,000 per day for continuing to obstruct an investigation as well as immediate suspension.

In the last five years, WSD has issued forty-eight (48) Notice of Violations (NOVs) for violations of section 104-24(a) and four (4) 2nd NOVs for violations of section 104-24(b), and two (2) 3rd NOVs for violations of section 104-24(c). In addition, during that time nineteen (19) NOVs were issued that included suspension from working on public works for falsification or obstruction under section 104-25(a)(3).

Note: this proposal changes the penalties for the 1st and 2nd violations but keeps the violation for the 3rd violation at \$200 per offense or double the wages due.



Chamber of Commerce HAWAII

The Voice of Business

**Testimony to the House Committee on Finance
Thursday, February 25, 2016 at 11:00 A.M.
Conference Room 308, State Capitol**

RE: HOUSE BILL 2473 HD 1 RELATING TO ENFORCEMENT OF WAGE LAWS

Chair Luke, Vice Chair Nishimoto, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **opposes** HB 2473 HD1, which changes the penalties for government contractors who violate wages and hours laws and increases penalties, in addition to the separate payment of back wages, to \$1,000 for the first offense and \$10,000 for the second offense.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber understands the needs to look at changes in penalties, but has concerns on the proposed amounts. The penalty for the second offense is steep – \$10,000 is a significant amount, especially for smaller projects. We would like to see statistics on second violations – how many violators are there and how serious are the violations. While again we understand the need to adjust the penalties we believe that \$10,000 of the contract goes too far and is excessive.

Thank you for the opportunity to testify.

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



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

Uploaded via Capitol Website

February 25, 2016

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

SUBJECT: **OPPOSITION TO H.B. 2473, HD1, RELATING TO ENFORCEMENT OF WAGE LAWS.** Changes the penalties for government contractors who violate wages and hours laws. Increases penalties, in addition to the separate payment of back wages, to \$1,000 for the first offense and \$10,000 for the second offense. (HB2473 HD1)

HEARING

DATE: Thursday, February 25, 2016
TIME: 11:00 a.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 hundred 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. 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.

H.B. 2473, HD1 proposes to amend Section 104-24, Hawaii Revised Statutes, which governs offenses for non-compliance of paying prevailing wages for public works construction. Such offenses could include filing a certified payroll late, misclassifying workers, failing to recognize overtime rates and other erroneous procedural requirements. This measure proposes to amend monetary penalties for a first violation by requiring ten percent of the back wages found due **and** \$1,000 per offense (current law is \$25.00 per offense); and for a second violation, whether on the same contract or another, within two years of the first notice of violation with back wages due **and** \$10,000 for each offense (current law is \$100 per offense). While proponents of this measure will argue that such an increase is necessary to deter such violations, the question is whether there is really a need to change the law, given that there have been not more than three second notices of violations each year for the last nine years. See attached Department of Labor and Industrial Relations Diagram detailing the number of second notice of violations since 2008. This Diagram suggests that the current law may be working to deter such violations.

While GCA agrees that the prevailing wage should be paid when applicable, the proposed increased penalties are unreasonable; and fails to correlate the amount of the violation to the unpaid amounts of back wages. Furthermore, the way the bill is drafted the minimum fine for a second notice of violation will be \$10,000 regardless of whether the actual violation was for a very small amount of unpaid wages or if it was for an inadvertent mistake or possible late filing of certified payroll. Furthermore, the HD1 version of this bill would compound the backwages with the penalties, while current law requires back wages **or** penalty of dollar amount, whichever is greater.

Therefore, this HD1 version is even more penalizing than the existing statute. As indicated in Section 104-24(e) “each ‘offense’ means each section of this chapter under which a contractor is cited; provided that, with respect to prevailing wage and overtime citations under section 104-2, each employee and each project shall be considered a separate offense.”

In order to exemplify how these offenses could penalize a contractor, whether a general or subcontractor, take this example: a contractor inadvertently misclassifies one worker who is working on two separate projects, but could be penalized with two notices of violations making him or her subject to a minimal \$10,000 fine plus the back wages. The statistics of second time violators indicate that such violations are few and far between, furthermore it is not clear whether the second time violations are for failure to pay prevailing wage or for other reasons, such as interference or inability to pay fines and back wages.

Other questions that must be raised include how many total violators exist and what has the outcome of any investigation been? Are those violations due to inadvertent misclassification of laborers and mechanics, inadequate recordkeeping or other reasons? Another measure’s preamble, H.B. 2472 mentions that the Department of Labor and Industrial Relations has a backlog of 420 complaints as of October 9, 2015, while the “wage standards division receives an average of 56 prevailing wage complaints per year.” If these statistics are true, one must ask how many of the 420 complaints that are backlogged are related to prevailing wage complaints and of those how many are for second time violations? If such violations are rampant, it may be a better idea to provide the department with more resources to not only investigate violators of Chapter 104, but also complete investigations in a timely manner to avoid such backlogs. These backlogs could be accomplished if H.B. 2472, which proposes to fund up to five additional labor law enforcement positions, was considered.

For the reasons mentioned, GCA remains opposed to this measure and requests that this measure be deferred. Thank you the opportunity to share our opposition to this measure.

Testimony of Brooke Wilson
Pacific Resource Partnership

State of Hawaii
House Committee on Finance
Representative Sylvia Luke, Chair
Representative Scott Nishimoto, Vice Chair

HB 2473, HD1 – Enforcement of Wage Laws
Thursday, February 25, 2016
11:00 A.M.
State Capitol – Room 308

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

In an effort to ensure a level playing field among those who do follow the prevailing wage law in the State of Hawaii, we support HB 2473, HD1 and its efforts to increase penalties to effectively deter violations and reduce the number of claims.

The current penalties are not strict enough to deter unscrupulous contractors from deliberately underpaying Hawaii's works. We have seen prevailing wage claims increase dramatically since 2009 when the legislature reduced the penalties for violations of Chapter 104, HRS. In addition to the influx of prevailing wages claims, there is currently a backlog of over 200 claims.

For the reasons mentioned above, we respectfully ask for your support on HB 2473, HD1.

Thank you for the opportunity to voice our opinion.

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.





Sent Via E-mail to FINtestimony@capitol.hawaii.gov
Via Fax to 1(800) 535-3859

February 25, 2016

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

SUBJECT: **OPPOSITION TO H.B. 2473, HD1, RELATING TO ENFORCEMENT OF WAGE LAWS.** Changes the penalties for government contractors who violate wages and hours laws. Increases penalties, in addition to the separate payment of back wages, to \$1,000 for the first offense and \$10,000 for the second offense. (HB2473 HD1)

HEARING

DATE: Thursday, February 25, 2016
TIME: 11:00 a.m.
PLACE: Conference Room 308

Dear Chair Luke and Vice Chair Nishimoto and Members,

INSERT COMPANY INTRODUCTORY PARAGRAPH (Optional).

INSERT COMPANY NAME opposes H.B. 2473. SD1, which proposes to amend Section 104-24, Hawaii Revised Statutes, the law which governs penalties for payment of prevailing wages for public works construction. The bill proposes to compound back wages plus the monetary penalties for a first violation with ten percent of the back wages found due and \$1,000 per offense (up from current law of \$25.00 per offense); and for a second violation, whether on the same contract or another, within two years of the first notice of violation with back wages due and \$10,000 (up from \$100 per offense) for each violation. While proponents of this measure may argue that such an increase is necessary to deter those that fail to pay prevailing wages on public works construction projects, the question is whether there is really a need to change the law? The way the bill is drafted the minimum fine for a second notice of violation will be the amount of back wages due plus \$10,000, regardless of whether the actual violation was for a very small amount of unpaid wages or if it was for an inadvertent mistake or possible late filing of certified payroll.

The statistics from the Department of Labor and Industrial Relations (Department of Labor) indicate that such violations are few and far between, with less than three -- Second Notices of Violation each year for the last nine years. The Department of Labor's statistics suggest that the law currently in place may be working to deter such Chapter 104 violations. The current law requires that third violations within two years of a second notification of violation can result in suspension from doing public work for three years, which provides even further deterrence from such unlawful activities.

Swinerton Builders License No. ABC-3753
Pauahi Tower, 1003 Bishop Street, Suite 1340, Honolulu, HI 96813-6441
Main: 808.521.8408 Fax: 808.521.8438 www.swinerton.com

For the reasons mentioned, we are **opposed** to this measure and request that this measure be deferred. Thank you the opportunity to share our opposition to this measure.

Sincerely,

SWINERTON BUILDERS

A handwritten signature in black ink, appearing to read 'G. Ehara', written over a horizontal line.

George Ehara
VP/Division Manager

Hawai'i Construction Alliance

P.O. Box 179441
Honolulu, HI 96817
(808) 348-8885

February 24, 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 HB2473 HD1, Relating to Enforcement of Wage Laws

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 HB2473 HD1, relating to enforcement of wage laws**. This bill would change the penalties for contractors on public works projects who violate HRS Chapter 104, also known as the "Little Davis-Bacon Law," by amending HRS§104-24(a) to require a penalty of \$1,000 for a first offense, plus ten percent of back wages found due; and amending HRS§104-24(a) to require a penalty of \$10,000 for a second offense, plus the amount of back wages found due.

We also note, however, that HB2473 HD1 does not amend the penalties for third violations of HRS Chapter 104. We look forward to discussing proposals to address third violations further along in the legislative process.

As a result of our current fine structure, violations of HRS Chapter 104 are far too common, and the Department of Labor struggles to keep up with the numerous complaints which come in. With the current construction boom, and with the legislature's noble efforts to fund more public works and infrastructure projects, we fear that unscrupulous contractors will continue to violate the law unless the fine structure is changed.

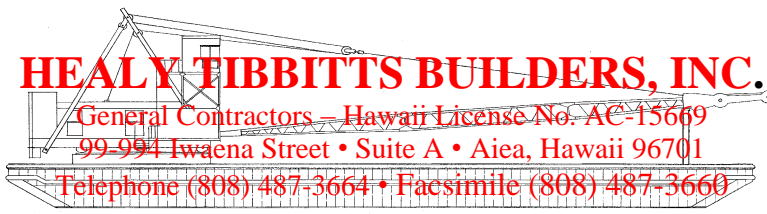
We firmly believe that contractors who bid on and win public works contracts should be held to the highest standard of responsibility when it comes to paying Hawai'i workers properly for their skills and labor. Increasing the fine structure will deter unscrupulous contractors from using public dollars to steal from the pockets of Hawai'i workers.

We strongly urge you to pass **HB2473 HD1, relating to enforcement of wage laws**, and thank you for the opportunity to provide this testimony.

Mahalo,



Tyler Dos Santos-Tam
Executive Director
Hawai'i Construction Alliance



February 24, 2016

Sent Via E-mail to: FINtestimony@capitol.hawaii.gov

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

SUBJECT: **OPPOSITION TO H.B. 2473, HD1, RELATING TO ENFORCEMENT OF WAGE LAWS.** Changes the penalties for government contractors who violate wages and hours laws. Increases penalties, in addition to the separate payment of back wages, to \$1,000 for the first offense and \$10,000 for the second offense. (HB2473 HD1)

HEARING

DATE: Thursday, February 25, 2016

TIME: 11:00 a.m.

PLACE: Conference Room 308

Dear Chair Luke and Vice Chair Nishimoto and Members:

Healy Tibbitts Builders, Inc. is a general contractor in the State of Hawaii and has been actively engaged in construction work in Hawaii since the early 1960's. In addition to being a general contractor, Healy Tibbitts also performs work as a subcontractor for foundation work.

Healy Tibbitts Builders, Inc. **opposes** H.B. 2473. SD1, which proposes to amend Section 104-24, Hawaii Revised Statutes, the law which governs penalties for payment of prevailing wages for public works construction. The bill proposes to compound back wages plus the monetary penalties for a first violation with ten percent of the back wages found due **and** \$1,000 per offense (up from current law of \$25.00 per offense); and for a second violation, whether on the same contract or another, within two years of the first notice of violation with back wages due **and** \$10,000 (up from \$100 per offense) for each violation. While proponents of this measure may argue that such an increase is necessary to deter those that fail to pay prevailing wages on public works construction projects, the question is whether there is really a need to change the law? The way the bill is drafted the minimum fine for a second notice of violation will be the amount of back wages due plus \$10,000, regardless of whether the actual violation was for a very small amount of unpaid wages or if it was for an inadvertent mistake or possible late filing of certified payroll.

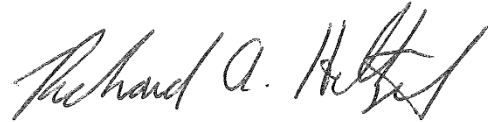
The statistics from the Department of Labor and Industrial Relations (Department of Labor) indicate that such violations are few and far between, with less than three -- Second Notices of Violation each year for the last nine years. The Department of Labor's statistics suggest that the law currently in place may be working to deter such Chapter 104 violations. The current law requires that third violations within two years of a second notification of violation can result in

Healy Tibbitts Builders, Inc.

suspension from doing public work for three years, which provides even further deterrence from such unlawful activities.

For the reasons mentioned, we are **opposed** to this measure and request that this measure be deferred. Thank you the opportunity to share our opposition to this measure.

Very truly yours,
Healy Tibbitts Builders, Inc.

A handwritten signature in black ink, reading "Richard A. Heltzel". The signature is written in a cursive style with a large, stylized initial "R".

Richard A. Heltzel
President



Sent Via E-mail to FINtestimony@capitol.hawaii.gov
Via Fax to 1(800) 535-3859

February 25, 2016

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

SUBJECT: **OPPOSITION TO H.B. 2473, HD1, RELATING TO ENFORCEMENT OF WAGE LAWS.** Changes the penalties for government contractors who violate wages and hours laws. Increases penalties, in addition to the separate payment of back wages, to \$1,000 for the first offense and \$10,000 for the second offense. (HB2473 HD1)

HEARING

DATE: Thursday, February 25, 2016
TIME: 11:00 a.m.
PLACE: Conference Room 308

Dear Chair Luke and Vice Chair Nishimoto and Members, **Pacific Power Electrical Contracting opposes** H.B. 2473. SD1, which proposes to amend Section 104-24, Hawaii Revised Statutes, the law which governs penalties for payment of prevailing wages for public works construction. The bill proposes to compound back wages plus the monetary penalties for a first violation with ten percent of the back wages found due **and** \$1,000 per offense (up from current law of \$25.00 per offense); and for a second violation, whether on the same contract or another, within two years of the first notice of violation with back wages due **and** \$10,000 (up from \$100 per offense) for each violation. While proponents of this measure may argue that such an increase is necessary to deter those that fail to pay prevailing wages on public works construction projects, the question is whether there is really a need to change the law? The way the bill is drafted the minimum fine for a second notice of violation will be the amount of back wages due plus \$10,000, regardless of whether the actual violation was for a very small amount of unpaid wages or if it was for an inadvertent mistake or possible late filing of certified payroll.

The statistics from the Department of Labor and Industrial Relations (Department of Labor) indicate that such violations are few and far between, with less than three -- Second Notices of Violation each year for the last nine years. The Department of Labor's statistics suggest that the law currently in place may be working to deter such Chapter 104 violations. The current law requires that third violations within two years of a second notification of violation can result in suspension from doing public work for three years, which provides even further deterrence from such unlawful activities.

For the reasons mentioned, we are **opposed** to this measure and request that this measure be deferred. Thank you the opportunity to share our opposition to this measure.

Thank you,
Samantha Hoeft
CEO



S & M SAKAMOTO, INC.

GENERAL CONTRACTORS

Sent Via E-mail to FINtestimony@capitol.hawaii.gov
Via Fax to 1(800) 535-3859

February 25, 2016

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

SUBJECT: **OPPOSITION TO H.B. 2473, HD1, RELATING TO ENFORCEMENT OF WAGE LAWS.** Changes the penalties for government contractors who violate wages and hours laws. Increases penalties, in addition to the separate payment of back wages, to \$1,000 for the first offense and \$10,000 for the second offense. (HB2473 HD1)

HEARING

DATE: Thursday, February 25, 2016
TIME: 11:00 a.m.
PLACE: Conference Room 308

Dear Chair Luke and Vice Chair Nishimoto and Members,

S & M Sakamoto, Inc. opposes H.B. 2473, SD1, which proposes to amend Section 104-24, Hawaii Revised Statutes, the law which governs penalties for payment of prevailing wages for public works construction. The bill proposes to compound back wages plus the monetary penalties for a first violation with ten percent of the back wages found due and \$1,000 per offense (up from current law of \$25.00 per offense); and for a second violation, whether on the same contract or another, within two years of the first notice of violation with back wages due and \$10,000 (up from \$100 per offense) for each violation. While proponents of this measure may argue that such an increase is necessary to deter those that fail to pay prevailing wages on public works construction projects, the question is whether there is really a need to change the law? The way the bill is drafted the minimum fine for a second notice of violation will be the amount of back wages due plus \$10,000, regardless of whether the actual violation was for a very small amount of unpaid wages or if it was for an inadvertent mistake or possible late filing of certified payroll.

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Committee on Judiciary and Labor
February 24, 2016

S & M SAKAMOTO, INC.

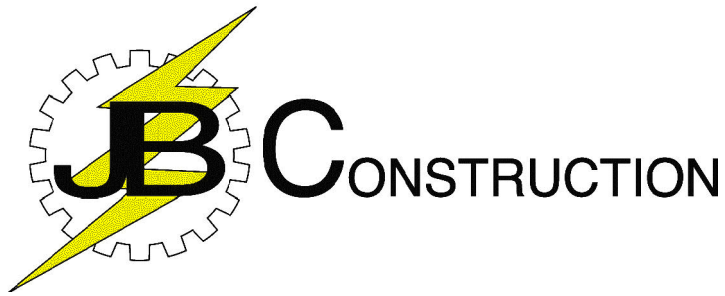
GENERAL CONTRACTORS

For the reasons mentioned, we are opposed to this measure and request that this measure be deferred. Thank you the opportunity to share our opposition to this measure.

Sincerely,

Gerard Sakamoto
Chairman of the Board

S. M. SAKAMOTO, INC.
GENERAL CONTRACTORS



Electrical and General Contracting Services

91-110 Hanua Street #310
Kapolei, HI 96707

Phone: 808-682-8189
Fax: 808-682-8610

Sent Via E-mail to FINtestimony@capitol.hawaii.gov
Via Fax to (800) 535-3859

February 24, 2016

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

SUBJECT: **OPPOSITION TO H.B. 2473, HD1, RELATING TO ENFORCEMENT OF WAGE
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wages and hours laws. Increases penalties, in addition to the separate
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second offense. (HB2473 HD1)

HEARING

DATE: Thursday, February 25, 2016
TIME: 11:00 a.m.
PLACE: Conference Room 308

Dear Chair Luke and Vice Chair Nishimoto and Members,

JB Construction LLC is small construction company that has been in business in Kapolei for 24 years. We primarily do government contracts. We take pride in the fact that our employees are well paid. We have employee's that have been with us for over 20 years. We try to keep on top of all pay increases in Chapter 104. Some trades rates change twice a year. So there are times when these increases slip by us, BUT we always find it and go back and correct our honest mistake. It seems that these fines are excessive. I am all for enforcing the law against will for violators. These violators create an unfair competitive bid process

JB Construction LLC opposes H.B. 2473. SD1, which proposes to amend Section 104-24, Hawaii Revised Statutes, the law which governs penalties for payment of prevailing wages for public works construction. The bill proposes to compound back wages plus the monetary penalties for a first violation with ten percent of the back wages found due **and** \$1,000 per offense (up from current law of \$25.00 per offense); and for a second violation, whether on the same contract or another, within two years of the first notice of violation with back wages due **and** \$10,000 (up from \$100 per offense) for each violation. While proponents of this measure may argue that such an increase is necessary to deter those that fail to pay prevailing wages on public works construction projects, the question is whether there is really a need to change the law? The way the bill is drafted the minimum fine for a second notice of violation will be the amount of back wages due plus \$10,000, regardless of whether the actual violation was for a very small amount of unpaid wages or if it was for an inadvertent mistake or possible late filing of certified payroll.

The statistics from the Department of Labor and Industrial Relations (Department of Labor) indicate that such violations are few and far between, with less than three -- Second Notices of Violation each year for the last nine years. The Department of Labor's statistics suggest that the law currently in place may be working to deter such Chapter 104 violations. The current law requires that third violations within two years of a second notification of violation can result in suspension from doing public work for three years, which provides even further deterrence from such unlawful activities.

For the reasons mentioned, we are **opposed** to this measure and request that this measure be deferred. Thank you the opportunity to share our opposition to this measure.

John Braum
Owner
JB Construction LLC

KING & NEEL, INC.

1164 Bishop Street • Suite 1710 • Honolulu, Hawaii 96813
Telephone: (808) 521-8311
Fax: (808) 526-3893



Sent Via E-mail to FINtestimony@capitol.hawaii.gov
Via Fax to 1(800) 535-3859

February 25, 2016

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

SUBJECT: **OPPOSITION TO H.B. 2473, HD1, RELATING TO ENFORCEMENT OF WAGE LAWS.** Changes the penalties for government contractors who violate wages and hours laws. Increases penalties, in addition to the separate payment of back wages, to \$1,000 for the first offense and \$10,000 for the second offense. (HB2473 HD1)

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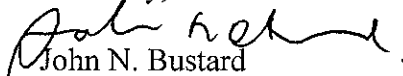
Dear Chair Luke and Vice Chair Nishimoto and Members,

King & Neel, Inc. opposes H.B. 2473. SD1, which proposes to amend Section 104-24, Hawaii Revised Statutes, the law which governs penalties for payment of prevailing wages for public works construction. The bill proposes to compound back wages plus the monetary penalties for a first violation with ten percent of the back wages found due **and** \$1,000 per offense (up from current law of \$25.00 per offense); and for a second violation, whether on the same contract or another, within two years of the first notice of violation with back wages due **and** \$10,000 (up from \$100 per offense) for each violation. While proponents of this measure may argue that such an increase is necessary to deter those that fail to pay prevailing wages on public works construction projects, the question is whether there is really a need to change the law? The way the bill is drafted the minimum fine for a second notice of violation will be the amount of back wages due plus \$10,000, regardless of whether the actual violation was for a very small amount of unpaid wages or if it was for an inadvertent mistake or possible late filing of certified payroll.

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For the reasons mentioned, we are **opposed** to this measure and request that this measure be deferred. Thank you the opportunity to share our opposition to this measure.

Sincerely,


John N. Bustard
Executive Vice President



general contractor license #ABC 21576

Sent Via E-mail to FINtestimony@capitol.hawaii.gov
Via Fax to 1(800) 535-3859

February 24, 2016

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

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TIME: 11:00 a.m.
PLACE: Conference Room 308

Dear Chair Luke and Vice Chair Nishimoto and Members,

LYZ, Inc. **opposes** H.B. 2473. SD1, which proposes to amend Section 104-24, Hawaii Revised Statutes, the law which governs penalties for payment of prevailing wages for public works construction. The bill proposes to compound back wages plus the monetary penalties for a first violation with ten percent of the back wages found due **and** \$1,000 per offense (up from current law of \$25.00 per offense); and for a second violation, whether on the same contract or another, within two years of the first notice of violation with back wages due **and** \$10,000 (up from \$100 per offense) for each violation. While proponents of this measure may argue that such an increase is necessary to deter those that fail to pay prevailing wages on public works construction projects, the question is whether there is really a need to change the law? The way the bill is drafted the minimum fine for a second notice of violation will be the amount of back wages due plus \$10,000, regardless of whether the actual violation was for a very small amount of unpaid wages or if it was for an inadvertent mistake or possible late filing of certified payroll.

The statistics from the Department of Labor and Industrial Relations (Department of Labor) indicate that such violations are few and far between, with less than three -- Second Notices of Violation each year for the last nine years. The Department of Labor's statistics suggest that the law currently in place may be working to deter such Chapter 104 violations. The current law requires that third violations within two years of a second notification of violation can result in suspension from doing public work for three years, which provides even further deterrence from such unlawful activities.

For the reasons mentioned, we are **opposed** to this measure and request that this measure be deferred. Thank you the opportunity to share our opposition to this measure.

A handwritten signature in black ink, appearing to read 'James N. Kurita', is written over a circular scribble.

James N. Kurita
Vice President/ Chief Operating Officer

**JAYAR CONSTRUCTION, INC.**

1176 Sand Island Parkway ▼ Honolulu, Hawaii 96819

Tel (808) 843-0500 ▼ Fax (808) 843-0067

Contractor's License ABC-14156

February 24, 2016

TO: Honorable Sylvia Luke, Chair, Honorable Scott Nishimoto, Vice Chair, House
Committee on FinanceSUBJECT: **OPPOSITION TO H.B. 2473, HD1**, Relating to Enforcement of Wage
Law.

Hearing Date: Thursday, February 25, 2016

Hearing Time: 11:00 A.M. Hearing

Hearing Place: Conference Room 308

Dear Chair Luke, Vice Chair Nishimoto and Members of the Committee,

Jayar Construction, Inc. is a general contractor specializing in site work. We currently have 110 employees and have been in business for over 28 years.

Jayar opposes H.B. 2473, HD1, which proposes to amend Section 104-24, HRS, the law which governs penalties for payment of prevailing wages for public works construction. The bill proposes to compound penalties on back wages for a first violation with ten percent of the back wages found due and \$1,000 penalty per offense (up for the current \$25.00 per offense), and for a second violation within two years of the first notice of violation a penalty of \$10,000 (up from the current \$100.00 per offense) for each violation. While proponents of this measure argue that such an increase is necessary to deter those that fail to pay prevailing wages, the question is whether there is really a need to change the law. The way the bill is drafted the minimum fine for a second notice of violation will be \$10,000, regardless of whether the actual violation was for a very small amount of unpaid wages or if it was for an inadvertent mistake or possible late filing of certified payroll.

The statistics from the Department of Labor and Industrial Relations indicate that such violations are few and far between, with less than three Second Notices of Violation each year for the last nine years. The statistics suggest that the current law is effective in deterring Chapter 104 violations. In addition the current law requires that a third violation within two years of a second violation can result in suspension from doing public works for three years, which provides an even greater deterrence from such unlawful activities.

For the reasons mentioned above, Jayar is opposed to this measure and request that this measure be deferred. Thank you for this opportunity to share our position on this measure.

Sincerely,

Stephen Yoshida,
CFO & HR Manager

LATE



WILLOCKS CONSTRUCTION CORPORATION

Sent Via E-mail to FINtestimony@capitol.hawaii.gov
Via Fax to 1(800) 535-3859

February 25, 2016

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

SUBJECT: **OPPOSITION TO H.B. 2473, HD1, RELATING TO ENFORCEMENT OF WAGE LAWS.**
Changes the penalties for government contractors who violate wages and hours laws. Increases penalties, in addition to the separate payment of back wages, to \$1,000 for the first offense and \$10,000 for the second offense. (HB2473 HD1)

HEARING

DATE: Thursday, February 25, 2016
TIME: 11:00 a.m.
PLACE: Conference Room 308

Dear Chair Luke and Vice Chair Nishimoto and Members,

Willocks Construction Corporation opposes H.B. 2473. SD1, which proposes to amend Section 104-24, Hawaii Revised Statutes, the law which governs penalties for payment of prevailing wages for public works construction. The bill proposes to compound back wages plus the monetary penalties for a first violation with ten percent of the back wages found due **and** \$1,000 per offense (up from current law of \$25.00 per offense); and for a second violation, whether on the same contract or another, within two years of the first notice of violation with back wages due **and** \$10,000 (up from \$100 per offense) for each violation. While proponents of this measure may argue that such an increase is necessary to deter those that fail to pay prevailing wages on public works construction projects, the question is whether there is really a need to change the law? The way the bill is drafted the minimum fine for a second notice of violation will be the amount of back wages due plus \$10,000, regardless of whether the actual violation was for a very small amount of unpaid wages or if it was for an inadvertent mistake or possible late filing of certified payroll.

The statistics from the Department of Labor and Industrial Relations (Department of Labor) indicate that such violations are few and far between, with less than three -- Second Notices of Violation each year for the last nine years. The Department of Labor's statistics suggest that the law currently in place may be working to deter such Chapter 104 violations. The current law requires that third violations within two years of a second notification of violation can result in suspension from doing public work for three years, which provides even further deterrence from such unlawful activities.

For the reasons mentioned, we are **opposed** to this measure and request that this measure be deferred. Thank you the opportunity to share our opposition to this measure.

Hugh M. Willocks, President

Gary T. Powell, Treasurer

BIA-HAWAII
BUILDING INDUSTRY ASSOCIATION

THE VOICE OF THE CONSTRUCTION INDUSTRY

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Testimony to the House Committee on Finance
Thursday, February 25, 2016
11:00 a.m.
State Capitol - Conference Room 308

RE: HB 2473 HD1: Relating to Enforcement of Wage Laws.

Dear Chair Luke, Vice-Chair Nishimoto, and members of the Committee:

My name is Gladys Marrone, Chief Executive Officer 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 is in opposition to HB 2473 HD1. While we understand the need to look at changes in penalties, the proposed amounts are problematic. The penalty for the second offense is a significant amount, especially for smaller projects. Again, while we understand the need to adjust the penalties, we believe that the amount goes too far and is excessive.

Thank you for the opportunity to express our views on this matter.

LATE



LATE

HAWAII REGIONAL COUNCIL OF CARPENTERS

February 25, 2016

The Honorable Representative, Chair Sylvia Luke,
The Honorable Representative, Vice Chair Scott Y. Nishimoto, and
Members of the Hawaii State House of Representatives Committee on Finance

Statement of the Hawaii Regional Council of Carpenters on HB 2473, HD1 – Enforcement of Wage Laws

Thursday, February 25, 2016
11:00 a.m., State Capitol, Room 308

Dear Chair Luke, Vice Chair Nishimoto, and members of the Committee,

The Hawaii Regional Council of Carpenters (HRCC) supports HB 2473, HD1, which changes the penalties for government contractors who violate wages and hours laws. This measure proposes to revisit the penalty system that existed prior to 1999.

Violations of Hawaii's prevailing wage law are a frequent occurrence especially in the current construction boom. The current penalty system does not effectively deter unscrupulous contractors, particularly on lucrative public works projects.

Thank you for allowing us to voice our support of HB 2473, HD1 and we respectfully request the passage of this bill.

STATE HEADQUARTERS & BUSINESS OFFICES

OAHU: 1311 Houghtailing Street, Honolulu, Hawaii 96817-2712 • Ph. (808) 847-5761 Fax (808) 841-0300
HILO OFFICE: 525 Kilauea Avenue, Room 205, Hilo, Hawaii 96720-3050 • Ph. (808) 935-8575 Fax (808) 935-8576
KONA OFFICE: 75-126 Lunapule Road, Kailua-Kona, Hawaii 96740-2106 • Ph. (808) 329-7355 Fax (808) 326-9376
MAUI OFFICE: 330 Hookahi Street, Wailuku, Maui 96793-1449 • Ph. (808) 242-6891 Fax (808) 242-5961
KAUAI OFFICE: Kuhio Medical Ctr. Bldg., 3-3295 Kuhio Hwy., Suite 201, Lihue, Kauai 96766-1040 • Ph. (808) 245-8511 Fax (808) 245-8911

