

**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

March 31, 2016

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

Date: Friday, April 1, 2016

Time: 1:00 p.m.

Place: Conference Room 308, State Capitol

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

Re: S.B. No. 2723, S.D. 1, H.D.1 Relating to Enforcement of Wage Laws

I. OVERVIEW OF PROPOSED LEGISLATION

SB2723 SD1HD1 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 or \$1,000 per offense for a first violation, and for a 2nd violation from the amount of wages due or \$100 per offense to 50% of the amount of wages due and \$5,000 per offense, and for a 3rd violation, from twice the amount of wages due or \$200 per offense to the amount of wages due and \$10,000 per offense.

The proposal expands the amount of time between the second and the third violations from two years to three years.

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. During the last five years, the total amount of penalties issued was \$240,911. If this proposal were in effect during that time, the total amount of penalties issued would be approximately \$950,000 (+ \$700,000 into the general fund). This total does not include the \$2,000,000 in back wages due during that period. DLIR believes increased penalties would both serve as a deterrent and could help fund extra staff, which would certainly result in greater compliance by the regulated industry.

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, and for a third violation the penalty is twice the amount due or \$200 per violation and suspension for 3 years from public works. Penalties are deposited in the general fund.

III. COMMENTS ON THE SENATE 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.

DLIR suggests that insufficient staffing prevents WSD from enforcing the law in a manner that provides sufficient deterrence as intended by the law. 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 the law.

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 thirty-seven (37) Notices of Violation (NOVs) for violations under section 104-24(a) and four (4) 2nd NOVs for violations under section 104-24(b), and two (2) 3rd NOVs for violations under 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).

Expanding the amount of time from two to three years addresses the staffing capacity and length of investigations, which has impeded the Division's ability to issue subsequent Notice of Violations (NOVs) after the first one.

Penalties assessed for those fifty-four (54) violations over five years amounted to \$270,393 to 51 employers. The proposed changes to the penalties would have increased the amount assessed to \$922,796: an increase of \$652,403, which does not include the back wages due (\$2,000,000).



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

April 1, 2016

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

SUBJECT: **OPPOSITION TO S.B. 2723, SD1, HD1 RELATING TO ENFORCEMENT OF WAGE LAWS.** Requires government contractors who violate wages and hours laws to pay a penalty that is equal to 10% of the amount of back wages due or \$1,000 per offense, whichever is greater, for the first offense; a penalty equal to the amount of 50% back wages found due and \$5,000 for each offense, for the second offense; and a penalty equal to the amount of back wages found due and \$10,000 for each offense, for the third offense within three years of the second notification of violation.

HEARING

DATE: Friday, April 1, 2016
TIME: 1:00 p.m.
PLACE: Conference Room 308

Dear Chair Luke, Vice Chair Nishimoto and Members,

While we support the application of Chapter 104 where required, we **oppose** S.B. 2723. SD1, HD1, which proposes to unreasonably increase penalties against contractors that could have an inadvertent error on a certified payroll submission. **The main goal of addressing Chapter 104 violations should be to make the employee whole, not cause a contractor to go completely out of business, which is what this bill could do.** This bill 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 increase the monetary penalties for a first violation with ten percent of the back wages found due or \$1,000 per offense (up from current law of \$25.00 per offense), whichever is greater; and for a second violation, whether on the same contract or another, within two years of the first notice of violation with fifty per cent of the back wages due and \$5,000 (up from \$100 per offense) for each violation. Also this measure proposes to extend the time in which a contractor can be hit with a third notice of violation by changing it from two to three years of the second notice of violation which would require suspension and payment of a penalty of full back wage and \$10,000 for each offense.

Proponents of this measure argue that such increase in penalties are necessary to deter those that fail to pay prevailing wages on public works construction projects, but the question is whether there is really a need to change the law? The statistics from the Department of Labor and Industrial Relations (Department of Labor) indicate that such violations are few and far between. Statistics show that in the last five years, the Department of Labor has issued 37 1st Notice of violations, and four 2nd Notice of Violations.

This bill would mandate a minimum fine of \$5,000 for a second notice of violation 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. Certified payrolls include lots of requirements that are submitted on a weekly basis and there are times when inadvertent errors can happen. For the reasons mentioned, we are **opposed** to this measure and request that this measure be deferred.

Sincerely,

James Ramirez
Senior VP Construction Management
Hunt Companies
Ohana Military Communities

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



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

Uploaded via Capitol Website

April 1, 2016

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DATE: Friday, April 1, 2016
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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.

While GCA agrees that the prevailing wage law should be enforced, this bill will unfairly apply harsh and unnecessary penalties that could penalize contractors for inadvertent mistakes in certified payroll submissions. GCA opposes S.B. 2723, SD1, HD1 which proposes to egregiously increase fines and penalties for chapter 104 violations. GCA prefers H.B. 2472 which provides appropriations for five law enforcement positions within the Department of Labor and Industrial Relations to address its backlog of complaints and to further investigate employers who may be in non-compliance with Chapter 104.

S.B. 2723, SD1, HD1 unfairly proposes to amend Section 104-24, Hawaii Revised Statutes, which governs penalties for prevailing wages violations affecting public works construction. Such violations 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 or \$1,000 per offense, whichever is greater (**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 50% of back wages due and \$5,000 for each offense (**current law is \$100 per offense and deletes option to choose “whichever is greater”**). The most recent version of this

bill also amends the third violation clause and permits a 3rd violation within three years (up from current two years) of the 3rd violation to be punishable by penalty of full back wages and \$10,000 per offense (**current law is \$200 and includes “whichever is greater” clause which this version deletes**). This version keeps in place the current requirement that any violator with a third violation is suspended from new public work for three years.

In 1999, when this body amended the law pursuant to Act 251 (1999) and did away with the \$1,000 per offense for first notice of violation and 10% of the contract award for the second notice of violation, the House Committee on Judiciary and Hawaiian Affairs said:

[y]our committee finds that the suspension provisions and imposition of penalties including a flat penalty of ten percent of the contract amount for a second violation in current laws **are harsh and inequitable**. Your Committee believes that amendments to this measure will deter nonpayment of wages in a fair and reasonable manner. STAND. COM. REP. NO. 1763 (1999) (*Emphasis added.*).

The proposed amendments in this measure are harsh and inequitable as well. The question to ask is whether a change of the law is necessary, given that there the Department’s statistics show that in the last five years, the Department of Labor has issued only 37 First notice of violations, and only four Second Notice of 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 amount of back wages. Furthermore, the way the bill is drafted -- the minimum fine for a second notice of violation will be \$5,000 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. 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 minimum \$5,000 fine. 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? In the preamble of the preferred measure, H.B. 2472 which funds five law enforcement position it mentions that the Department 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. Furthermore, in order to protect against applying such harsh penalties to inadvertent good faith mistakes a defense clause to that effect should be added to the measure.

For the reasons mentioned, GCA remains opposed to the SD1 version of S.B. 2723 and requests that this measure be deferred. Thank you the opportunity to share our opposition to this measure.



Chamber of Commerce HAWAII

The Voice of Business

**Testimony to the House Committee on Finance
Friday, April 1, 2016 at 1:00 P.M.
Conference Room 308, State Capitol**

**RE: SENATE BILL 2723 SD1 HD1 RELATING TO ENFORCEMENT OF WAGE
LAWS**

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

The Chamber of Commerce Hawaii ("The Chamber") would like to **express concerns regarding SB 2723 SD1 HD1**, which requires government contractors who violate wages and hours laws to pay a penalty that is equal to 10% of the amount of back wages due or \$1,000 per offense, whichever is greater, for the first offense; a penalty equal to the amount of 50% back wages found due and \$5,000 for each offense, for the second offense; and a penalty equal to the amount of back wages found due and \$10,000 for each offense, for the third offense within three years of the second notification of violation.

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 – ten percent is a significant amount, especially for smaller projects. Sparse statistics of second time violations seem to suggest the law deters violators and no urgent need to change the law exists. While again we understand the need to adjust the penalties, we believe that these penalties goes too far and is excessive.

Thank you for the opportunity to testify.



Contractor's License No. ABC1036

☐ MAIN OFFICE: 648 PIILANI STREET, P.O. BOX 4669, HILO, HAWAII 96720
PHONE (808) 935-7194 FAX (808) 961-6417

☐ KONA OFFICE: 74-5039B QUEEN KAAHUMANU HWY., P.O. BOX 3169, KAILUA-KONA, HI 96740
PHONE (808) 329-8051 FAX (808) 329-3261

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Via Fax to 1(800) 535-3859

April 1, 2016

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

SUBJECT: **OPPOSITION TO S.B. 2723, SD1, HD1 RELATING TO ENFORCEMENT OF WAGE LAWS.** Requires government contractors who violate wages and hours laws to pay a penalty that is equal to 10% of the amount of back wages due or \$1,000 per offense, whichever is greater, for the first offense; a penalty equal to the amount of 50% back wages found due and \$5,000 for each offense, for the second offense; and a penalty equal to the amount of back wages found due and \$10,000 for each offense, for the third offense within three years of the second notification of violation.

HEARING

DATE: Friday, April 1, 2016
TIME: 1:00 p.m.
PLACE: Conference Room 308

Dear Chair Luke, Vice Chair Nishimoto and Members,

My name is Leslie Isemoto, President of Isemoto Contracting Co., Ltd. We have been a contractor since 1926.

While we support the application of Chapter 104 where required, we **oppose** S.B. 2723. SD1, HD1, which proposes to unreasonably increase penalties against contractors that could have an inadvertent error on a certified payroll submission. **The main goal of addressing Chapter 104 violations should be to make the employee whole, not cause a contractor to go completely out of business, which is what this bill could do.** This bill 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 increase the monetary penalties for a first violation with ten percent of the back wages found due or \$1,000 per offense (up from current law of \$25.00 per offense), whichever is greater; and for a second violation, whether on the same contract or another, within two years of the first notice of violation with fifty per cent of the back wages due and \$5,000 (up from \$100 per offense) for each violation. Also this measure proposes to extend the time in which a contractor can be hit with a third notice of violation by changing it from two to three years of the second notice of violation which would require suspension and payment of a penalty of full back wage and \$10,000 for each offense.

Proponents of this measure argue that such increase in penalties are necessary to deter those that fail to pay prevailing wages on public works construction projects, but the question is whether there is really a need to change the law? The statistics from the Department of Labor

and Industrial Relations (Department of Labor) indicate that such violations are few and far between. Statistics show that in the last five years, the Department of Labor has issued 37 1st Notice of violations, and four 2nd Notice of Violations.

This bill would mandate a minimum fine of \$5,000 for a second notice of violation 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. Certified payrolls include lots of requirements that are submitted on a weekly basis and there are times when inadvertent errors can happen. For the reasons mentioned, we are **opposed** to this measure and request that this measure be deferred.

Sincerely,

A handwritten signature in black ink, appearing to read 'Leslie Isemoto', written in a cursive style.

Leslie Isemoto,
President



Pacific Shipyards

INTERNATIONAL

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

April 1, 2016

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

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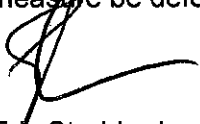
PACIFIC SHIPYARDS INTERNATIONAL strongly opposes this bill.

While we support the application of Chapter 104 where required, we **oppose** S.B. 2723, SD1, HD1, which proposes to unreasonably increase penalties against contractors that could have an inadvertent error on a certified payroll submission. **The main goal of addressing Chapter 104 violations should be to make the employee whole, not cause a contractor to go completely out of business, which is what this bill could do.** This bill 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 increase the monetary penalties for a first violation with ten percent of the back wages found due or \$1,000 per offense (up from current law of \$25.00 per offense), whichever is greater; and for a second violation, whether on the same contract or another, within two years of the first notice of violation with fifty per cent of the back wages due and \$5,000 (up from \$100 per offense) for each violation. Also this measure proposes to extend the time in which a contractor can be hit with a third notice of violation by changing it from two to three years of the second notice of violation which would require suspension and payment of a penalty of full back wage and \$10,000 for each offense.

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between. Statistics show that in the last five years, the Department of Labor has issued 37 1st Notice of violations, and four 2nd Notice of Violations.

This bill would mandate a minimum fine of \$5,000 for a second notice of violation 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. Certified payrolls include lots of requirements that are submitted on a weekly basis and there are times when inadvertent errors can happen. For the reasons mentioned, we are opposed to this measure and request that this measure be deferred.



Eric Stoddard
HR Manger



Ship Repair Association of Hawaii

P.O. Box 29001, Honolulu HI 96820

Ph# (808) 848-6211 Fax# (808) 848-6279

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

April 1, 2016

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

SUBJECT: **OPPOSITION TO S.B. 2723, SD1, HD1 RELATING TO ENFORCEMENT OF WAGE LAWS.**
Requires government contractors who violate wages and hours laws to pay a penalty that is equal to 10% of the amount of back wages due or \$1,000 per offense, whichever is greater, for the first offense; a penalty equal to the amount of 50% back wages found due and \$5,000 for each offense, for the second offense; and a penalty equal to the amount of back wages found due and \$10,000 for each offense, for the third offense within three years of the second notification of violation.

HEARING

DATE: Friday, April 1, 2016
TIME: 1:00 p.m.
PLACE: Conference Room 308

Dear Chair Luke, Vice Chair Nishimoto and Members,

The SHIP REPAIR ASSOCIATION OF HAWAII strongly **opposes** S.B. 2724, SD2, HD1 which proposes to expand the application of Chapter 104 (Prevailing Wage and Certified Payroll) to lessees on state owned land. This bill would require any improvements on publicly leased lands costing \$2,000 or more to pay prevailing wages and comply with Chapter 104 certified payroll requirements and thus be subject to penalties for non-compliance. While there are some exemptions, it will still have a significant impact on current leaseholders on public state lands, including any existing leases with any state agency.

This measure has a far reaching impact and could escalate costs for State lease holders, many of whom are small businesses and therefore could be passed on to the everyday consumer too. Currently, those that are required to comply with Chapter 104, Hawaii Revised Statute are required to submit weekly certified payroll affidavits and are punishable by fines for violations. Additionally, any work done on weekends or state holidays could be subject to overtime that may be equal to double or triple the cost of prevailing wage rates due to the passage of Act 165 (2015) passed last year. Will these leaseholders be subject to same?

Member Firms

Aerotek - Airgas - Anawati & Associates - BAE Systems Pearl Harbor, HI - C & S Services - Certified Coatings
CB Tech Services, Inc - Dresser-Rand Group, Inc - EAS Inc, Inc - Epsilon Systems Solutions, Inc - Hawaii Marine Cleaning
Honolulu Marine, LLC - HSE Electric Boat - HSE Mechanical, Inc - Inspee Testing - IMA International Marine & Industrial Applicators
Jo-Kell, Inc - Kratos - Defense & Security Solutions - Leeward Marine, Inc - Marisco, LTD - NSC Technologies Worldwide
Pacific Shipyards International, LLC - Phoenix International - Potter Electric, Inc - PCF Hawaii - Q.I.D. Systems, Inc - Safway
Trident Maritime Systems, LLC - US Joiner - JCI Metal Products - Ut Marine Services, LLC

We are **opposed** to S.B. 2724, SD2, HD1 and objects to the potentially detrimental and far reaching effect this measure will have, particularly to those leaseholders, including Hawaii's small businesses that may be on state leased lands.

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

Iain Wood
President

ROYAL PALM

Construction & Landscaping, Inc. - License # ABC-14300

P.O. Box 861030, 373 Kilani Avenue, Wahiawa, Hawaii 96786

Phone: (808) 622-3066; Fax: (808) 622-6107; E-mail: royalpalm.group@hawaiiantel.net

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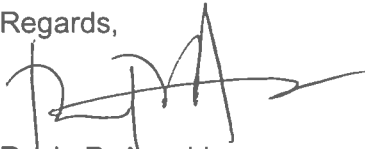
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Regards,

A handwritten signature in black ink, appearing to read 'RPA', with a long horizontal flourish extending to the right.

Renie P. Agsalda
President

RPA/jdg



Maui 202 Lalo Street • Kahului, HI. 96732-2924
Phone: (808) 877-3902 • Fax: (808) 871-6828
Service Dept: (808) 877-4040 • Fax: (808) 873-6199
Oahu 2265 Hoonee Place • Honolulu, HI. 96819
Phone: (808) 841-2112 • Fax: (808) 847-1991

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March 31, 2016

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PLACE: Conference Room 308

Dear Chair Luke, Vice Chair Nishimoto and Members,

While we support the application of Chapter 104 where required, we **oppose** S.B. 2723. SD1, HD1, which proposes to unreasonably increase penalties against contractors that could have an inadvertent error on a certified payroll submission. **The main goal of addressing Chapter 104 violations should be to make the employee whole, not cause a contractor to go completely out of business, which is what this bill could do.** This bill 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 increase the monetary penalties for a first violation with ten percent of the back wages found due or \$1,000 per offense (up from current law of \$25.00 per offense), whichever is greater; and for a second violation, whether on the same contract or another, within two years of the first notice of violation with fifty per cent of the back wages due and \$5,000 (up from \$100 per offense) for each violation. Also this measure proposes to extend the time in which a contractor can be hit with a third notice of violation by changing it from two to three years of the second notice of violation which would require suspension and payment of a penalty of full back wage and \$10,000 for each offense.

Proponents of this measure argue that such increase in penalties are necessary to deter those that fail to pay prevailing wages on public works construction projects, but the question is whether there is really a need to change the law? The statistics from the Department of Labor and Industrial Relations (Department of Labor) indicate that such violations are few and far between. Statistics show that in the last five years, the

Department of Labor has issued 37 1st Notice of violations, and four 2nd Notice of Violations.

This bill would mandate a minimum fine of \$5,000 for a second notice of violation 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. Certified payrolls include lots of requirements that are submitted on a weekly basis and there are times when inadvertent errors can happen. For the reasons mentioned, we are **opposed** to this measure and request that this measure be deferred.

Sincerely,

A handwritten signature in blue ink, appearing to read "Stephen T. Leis", written over the word "Sincerely,".

Stephen T. Leis,
President



general contractor license #ABC 21576

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

March 31, 2016

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

SUBJECT: **OPPOSITION TO S.B. 2723, SD1, HD1 RELATING TO ENFORCEMENT OF
WAGE LAWS.** Requires government contractors who violate wages and
hours laws to pay a penalty that is equal to 10% of the amount of back
wages due or \$1,000 per offense, whichever is greater, for the first
offense; a penalty equal to the amount of 50% back wages found due and
\$5,000 for each offense, for the second offense; and a penalty equal to
the amount of back wages found due and \$10,000 for each offense, for
the third offense within three years of the second notification of violation.

HEARING

DATE: Friday, April 1, 2016
TIME: 1:00 p.m.
PLACE: Conference Room 308

Dear Chair Luke, Vice Chair Nishimoto and Members,

While we support the application of Chapter 104 where required, we **oppose** S.B. 2723. SD1, HD1, which proposes to unreasonably increase penalties against contractors that could have an inadvertent error on a certified payroll submission. **The main goal of addressing Chapter 104 violations should be to make the employee whole, not cause a contractor to go completely out of business, which is what this bill could do.** This bill 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 increase the monetary penalties for a first violation with ten percent of the back wages found due or \$1,000 per offense (up from current law of \$25.00 per offense), whichever is greater; and for a second violation, whether on the same contract or another, within two years of the first notice of violation with fifty per cent of the back wages due and \$5,000 (up from \$100 per offense) for each violation. Also this measure proposes to extend the time in which a contractor can be hit with a third notice of violation by changing it from two to three years of the second notice of violation which would require suspension and payment of a penalty of full back wage and \$10,000 for each offense.

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A handwritten signature in black ink, appearing to read 'James N. Kurita', is written over a large, stylized, light-colored scribble or watermark.

James N. Kurita
Vice President/ Chief Operating Officer

SAH - Subcontractors Association of Hawaii

1188 Bishop St., Ste. 1003**Honolulu, Hawaii 96813-2938

Phone: (808) 537-5619 ✦ Fax: (808) 533-2739

April 1, 2016

LATE

Testimony To: House Committee on Finance
Representative Sylvia Luke, Chair

Presented By: Tim Lyons, President

Subject: S.B. 2723, SD 1, HD 1 - RELATING TO ENFORCEMENT OF WAGE LAWS.

Chair Luke and Members of the Committee:

I am Tim Lyons, President of the Subcontractors Association of Hawaii. The SAH represents the following nine separate and distinct contracting trade organizations.

HAWAII FLOORING ASSOCIATION

ROOFING CONTRACTORS ASSOCIATION OF HAWAII

HAWAII WALL AND CEILING INDUSTRIES ASSOCIATION

TILE CONTRACTORS PROMOTIONAL PROGRAM

PLUMBING AND MECHANICAL CONTRACTORS ASSOCIATION OF HAWAII

SHEETMETAL CONTRACTORS ASSOCIATION OF HAWAII

PAINTING AND DECORATING CONTRACTORS ASSOCIATION

PACIFIC INSULATION CONTRACTORS ASSOCIATION

We have suggestions for an amendment on this bill.

Our concern is that there does not appear to be any discretionary language in either the Hawaii Administrative Rules or in the statutes. As a result we find that there could easily be a situation where a bookkeeper has transposed a figure of \$40.61 per hour to \$40.16. Technically it is a violation however if the contractor calls it "inadvertent" and agrees to make up the difference in an expeditious manner, then it should not result in a violation. Our understanding is that at present, the Department may be using some discretion.

Therefore we would highly recommend that an amendment be added to the bill to change the words to "the Department may assess" instead of "the Department shall assess" (emphasis added).

Thank you for the opportunity to testify.



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

April 1, 2016

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

SUBJECT: **OPPOSITION TO S.B. 2723, SD1, HD1 RELATING TO ENFORCEMENT OF WAGE LAWS.**

Requires government contractors who violate wages and hours laws to pay a penalty that is equal to 10% of the amount of back wages due or \$1,000 per offense, whichever is greater, for the first offense; a penalty equal to the amount of 50% back wages found due and \$5,000 for each offense, for the second offense; and a penalty equal to the amount of back wages found due and \$10,000 for each offense, for the third offense within three years of the second notification of violation.

HEARING

DATE: Friday, April 1, 2016
TIME: 1:00 p.m.
PLACE: Conference Room 308

Dear Chair Luke, Vice Chair Nishimoto and Members,

Contract Furnishers of Hawaii, Inc. DBA Office Pavilion is a small woman-owned business in the contract furnishing industry, which participates in construction-related projects for public works.

Contract Furnishers of Hawaii, Inc. DBA Office Pavilion **opposes** S.B. 2723. SD1, HD1, which proposes to unreasonably increase penalties against contractors that could have an inadvertent error on a certified payroll submission. **The main goal of addressing Chapter 104 violations should be to make the employee whole, not cause a contractor to go completely out of business, which is what this bill could do.** This bill 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 increase the monetary penalties for a first violation with ten percent of the back wages found due or \$1,000 per offense (up from current law of \$25.00 per offense), whichever is greater; and for a second violation, whether on the same contract or another, within two years of the first notice of violation with fifty per cent of the back wages due and \$5,000 (up from \$100 per offense) for each violation. Also this measure proposes to extend the time in which a contractor can be hit with a third notice of violation by changing it from two to three years of the second notice of violation which would require suspension and payment of a penalty of full back wage and \$10,000 for each offense.

Proponents of this measure argue that such increase in penalties are necessary to deter those that fail to pay prevailing wages on public works construction projects, but the question is whether there is really a need to change the law? The statistics from the Department of Labor and Industrial Relations (Department of Labor) indicate that such violations are few and far between. Statistics show that in the last five years, the Department of Labor has issued 37 1st Notice of violations, and four 2nd Notice of Violations.

This bill would mandate a minimum fine of \$5,000 for a second notice of violation 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. Certified payrolls include lots of requirements that are submitted on a weekly basis and there are times when inadvertent errors can happen. For the reasons mentioned, we are **opposed** to this measure and request that this measure be deferred.

Contract Furnishers of Hawaii, Inc.
DbA: Office Pavilion "A Herman Miller Dealer"
Kukui Plaza, 50 S. Beretania St., Suite C-208B
Honolulu, HI 96813

Phone (808) 599-2411
Fax (808) 599-2617
www.officepavilionhawaii.com

Hawai'i Construction Alliance

LATE

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

March 31, 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 SB2723 SD1 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 SB2723 SD1 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 increasing penalties to:

- 10% of the amount of back wages due or \$1,000 per offense, whichever is greater, for a first offense;
- 50% of back wages due and \$5,000 per offense for a second offense; and
- The amount of back wages due and \$10,000 per offense for a third offense within three years of the second notice of violation.

This proposal would put Hawai'i's fine structure in line with many other states. Currently, Hawai'i's fine structure is one of the most lenient in the nation, with only two other states have lower starting amounts for fines for prevailing wage violations. The proposal in SB2723 SD1 HD1 would put our fine structure in line with several other states who take prevailing wage violations seriously, including Washington, Delaware, and Montana, all of which have penalties starting at \$1,000 for first violations.

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 funding of 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 deliberately using public dollars to steal from the pockets of Hawai'i workers.

Opportunities are provided to contractors to correct so-called “inadvertent” errors before notices of violation are issued and penalties are assessed. Furthermore, ample opportunities are provided to contractors to learn about Chapter 104 through training programs offered by DLIR. Most recently, a workshop on Chapter 104 was offered on October 1, 2015, and another will be provided on April 12, 2016. These workshops provide contractors who are bidding on and performing public works projects with the opportunity to learn about “penalty and appeal provisions; the do’s and don’ts of certified payrolls; examples of the most common mistakes to avoid; and Wage Standards Division procedures.”

Therefore, we strongly urge you to pass **SB2723 SD1 HD1, relating to enforcement of wage laws**, and thank you for the opportunity to provide this testimony.

Mahalo,

A handwritten signature in black ink that reads "Tyler Dos Santos-Tam". The signature is written in a cursive, flowing style.

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

LATE

BIA-HAWAII

BUILDING INDUSTRY ASSOCIATION

THE VOICE OF THE CONSTRUCTION INDUSTRY

2016 OFFICERS

PRESIDENT
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SERVCO HOME & APPLIANCE
DISTRIBUTION

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VICE PRESIDENT
DEAN UCHIDA
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JW, INC.

SECRETARY
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RAYNOR OVERHEAD DOORS &
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HASEKO CONSTRUCTION
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SPECIAL APPOINTEE-ASSOCIATE
GARY T. OKIMOTO
HONOLULU WOOD TREATING, LLC

IMMEDIATE PAST PRESIDENT
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CONSTRUCTION, INC.

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CURT KIRIU
CK INDEPENDENT LIVING BUILDERS

DWIGHT MITSUNAGA
DM PACIFIC, INC.

JACKSON PARKER
D.R. HORTON, SCHULER DIVISION

JENNIFER ANDREWS
COLDWELL BANKER PACIFIC
PROPERTIES

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INTER-ISLAND SOLAR SUPPLY,
OAHU-MAUI-HAWAII-KAUAI

MARSHALL HICKOX
HOMEWORKS CONSTRUCTION, INC.

SARAH LOVE
BAYS LUNG ROSE & HOLMA

MAILING
P.O. BOX 970967
WAIPAHU, HAWAII
96797-0967

STREET
94-487 AKOKI STREET,
WAIPAHU, HAWAII 96797

P 808.847.4666
F 808.440.1198
E INFO@BIAHAWAII.ORG

WWW.BIAHAWAII.ORG

Testimony to the House Committee on Finance Friday, April 1, 2016 1:00 p.m. State Capitol - Conference Room 308

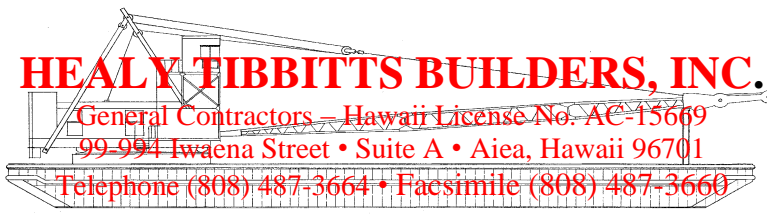
RE: S.B. 2723 S.D. 1 H.D. 1: Relating to Enforcement of Wage Laws.

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 S.B. 2723 S.D. 1 H.D. 1. 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

April 1, 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 S.B. 2723, SD1, HD1 RELATING TO ENFORCEMENT OF WAGE LAWS.** Requires government contractors who violate wages and hours laws to pay a penalty that is equal to 10% of the amount of back wages due or \$1,000 per offense, whichever is greater, for the first offense; a penalty equal to the amount of 50% back wages found due and \$5,000 for each offense, or the second offense; and a penalty equal to the amount of back wages found due and \$10,000 for each offense, for the third offense within three years of the second notification of violation.

HEARING

DATE: Friday, April 1, 2016
TIME: 1:00 p.m.
PLACE: Conference Room 308

Dear Chair Luke, 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.

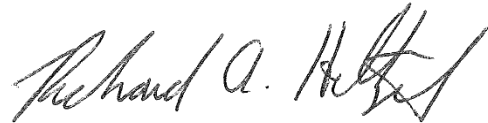
While we support the application of Chapter 104 where required, we **oppose** S.B. 2723. SD1, HD1, which proposes to unreasonably increase penalties against contractors that could have an inadvertent error on a certified payroll submission. **The main goal of addressing Chapter 104 violations should be to make the employee whole, not cause a contractor to go completely out of business, which is what this bill could do.** This bill 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 increase the monetary penalties for a first violation with ten percent of the back wages found due or \$1,000 per offense (up from current law of \$25.00 per offense), whichever is greater; and for a second violation, whether on the same contract or another, within two years of the first notice of violation with fifty per cent of the back wages due and \$5,000 (up from \$100 per offense) for each violation. Also this measure proposes to extend the time in which a contractor can be hit with a third notice of violation by changing it from two to three years of the second notice of violation which would require suspension and payment of a penalty of full back wage and \$10,000 for each offense.

Healy Tibbitts Builders, Inc.

Proponents of this measure argue that such increase in penalties are necessary to deter those that fail to pay prevailing wages on public works construction projects, but the question is whether there is really a need to change the law? The statistics from the Department of Labor and Industrial Relations (Department of Labor) indicate that such violations are few and far between. Statistics show that in the last five years, the Department of Labor has issued 37 1st Notice of violations, and four 2nd Notice of Violations.

This bill would mandate a minimum fine of \$5,000 for a second notice of violation 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. Certified payrolls include lots of requirements that are submitted on a weekly basis and there are times when inadvertent errors can happen. For the reasons mentioned, we are **opposed** to this measure and request that this measure be deferred.

Very truly yours,
Healy Tibbitts Builders, Inc.



Richard A. Heltzel
President

Nan Inc

LATE

License #ABC-19711
636 Laumaka Street
Honolulu, Hawaii 96819
Telephone: (808) 842-4929
Facsimile: (808) 841-8281

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

April 1, 2016

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

SUBJECT: **OPPOSITION TO S.B. 2723, SD1, HD1 RELATING TO ENFORCEMENT OF WAGE LAWS.** Requires government contractors who violate wages and hours laws to pay a penalty that is equal to 10% of the amount of back wages due or \$1,000 per offense, whichever is greater, for the first offense; a penalty equal to the amount of 50% back wages found due and \$5,000 for each offense, for the second offense; and a penalty equal to the amount of back wages found due and \$10,000 for each offense, for the third offense within three years of the second notification of violation.

HEARING

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PLACE: Conference Room 308

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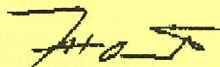
Nan Inc

Page 2 of 2

House Committee on Finance
April 1, 2016

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Sincerely,



Frank Okimoto
Vice President
Nan, Inc.



LATE



525 Kokea Street, Bldg. B-3 • Honolulu, Hawaii 96817 • Phone: (808) 845-6477 • Fax: (808) 845-6471 • E-mail: rmkaya@hawaii,rr.com
 Building and Improvement Specialist Since 1937
 Serving Hawaii for Over a Half Century

Sent Via E-mail to FINtestimony@capitol.hawaii.gov
 Via Fax to 1(800) 636-3659

March 31, 2016

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

SUBJECT: **OPPOSITION TO S.B. 2723, SD1, HD1 RELATING TO ENFORCEMENT OF WAGE LAWS.** Requires government contractors who violate wages and hours laws to pay a penalty that is equal to 10% of the amount of back wages due or \$1,000 per offense, whichever is greater, for the first offense; a penalty equal to the amount of 50% back wages found due and \$5,000 for each offense, for the second offense; and a penalty equal to the amount of back wages found due and \$10,000 for each offense, for the third offense within three years of the second notification of violation.

HEARING

DATE: Friday, April 1, 2016
 TIME: 1:00 p.m.
 PLACE: Conference Room 308

Dear Chair Luke, Vice Chair Nishimoto and Members,

While ROBERT M. KAYA BUILDERS, INC. supports the application of Chapter 104 where required, we **oppose** S.B. 2723, SD1, HD1, which proposes to unreasonably increase penalties against contractors that could have an inadvertent error on a certified payroll submission. **The main goal of addressing Chapter 104 violations should be to make the employee whole, not cause a contractor to go completely out of business, which is what this bill could do.** This bill 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 increase the monetary penalties for a first violation with ten percent of the back wages found due or \$1,000 per offense (up from current law of \$25.00 per offense), whichever is greater; and for a second violation, whether on the same contract or another, within two years of the first notice of violation with fifty per cent of the back wages due and \$5,000 (up from \$100 per offense) for each violation. Also this measure proposes to extend the time in which a contractor can be hit with a third notice of violation by changing it from two to three years of the second notice of violation which would require suspension and payment of a penalty of full back wage and \$10,000 for each offense.

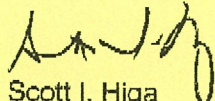
House Committee on Finance
OPPOSITION TO S.B. 2723, SD1, HD1
March 31, 2016
Page Two

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Yours truly,

ROBERT M. KAYA BUILDERS, INC.


Scott I. Higa
President

LATE

Lindemann Construction Inc.
500 Ala Kawa St. #216-J
Honolulu, HI 96817

Sent Via E-mail to FINtestimony@capitol.hawaii.gov
Via Fax to 1(800) 635-3859

April 1, 2016

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

SUBJECT: **OPPOSITION TO S.B. 2723, SD1, HD1 RELATING TO ENFORCEMENT OF WAGE LAWS.** Requires government contractors who violate wages and hours laws to pay a penalty that is equal to 10% of the amount of back wages due or \$1,000 per offense, whichever is greater, for the first offense; a penalty equal to the amount of 50% back wages found due and \$5,000 for each offense, for the second offense; and a penalty equal to the amount of back wages found due and \$10,000 for each offense, for the third offense within three years of the second notification of violation.

HEARING

DATE: Friday, April 1, 2016
TIME: 1:00 p.m.
PLACE: Conference Room 308

Dear Chair Luke, Vice Chair Nishimoto and Members,

While we support the application of Chapter 104 where required, we **oppose** S.B. 2723, SD1, HD1, which proposes to unreasonably increase penalties against contractors that could have an inadvertent error on a certified payroll submission. **The main goal of addressing Chapter 104 violations should be to make the employee whole, not cause a contractor to go completely out of business, which is what this bill could do.** This bill 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 increase the monetary penalties for a first violation with ten percent of the back wages found due or \$1,000 per offense (up from current law of \$25.00 per offense), whichever is greater; and for a second violation, whether on the same contract or another, within two years of the first notice of violation with fifty per cent of the back wages due and \$5,000 (up from \$100 per offense) for each violation. Also this measure proposes to extend the time in which a contractor can be hit with a third notice of violation by changing it from two to three years of the second notice of violation which would require suspension and payment of a penalty of full back wage and \$10,000 for each offense.

Proponents of this measure argue that such increase in penalties are necessary to deter those that fail to pay prevailing wages on public works construction projects, but the question is whether there is really a need to change the law? The statistics from the Department of Labor and Industrial Relations (Department of Labor) indicate that such violations are few and far between. Statistics show that in the last five years, the Department of Labor has issued 37 1st Notice of violations, and four 2nd Notice of Violations.

House Committee on Finance
April 1, 2016
Page 2

This bill would mandate a minimum fine of \$5,000 for a second notice of violation 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. Certified payrolls include lots of requirements that are submitted on a weekly basis and there are times when inadvertent errors can happen. For the reasons mentioned, we are opposed to this measure and request that this measure be deferred.



S & M SAKAMOTO, INC.

GENERAL CONTRACTORS

LATE

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

April 1, 2016

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

SUBJECT: **OPPOSITION TO S.B. 2723, SD1, HD1 RELATING TO ENFORCEMENT OF WAGE LAWS.**
Requires government contractors who violate wages and hours laws to pay a penalty that is equal to 10% of the amount of back wages due or \$1,000 per offense, whichever is greater, for the first offense; a penalty equal to the amount of 50% back wages found due and \$5,000 for each offense, for the second offense; and a penalty equal to the amount of back wages found due and \$10,000 for each offense, for the third offense within three years of the second notification of violation.

HEARING

DATE: Friday, April 1, 2016
TIME: 1:00 p.m.
PLACE: Conference Room 308

Dear Chair Luke, Vice Chair Nishimoto and Members,

While we support the application of Chapter 104 where required, we **oppose** S.B. 2723, SD1, HD1, which proposes to unreasonably increase penalties against contractors that could have an inadvertent error on a certified payroll submission. **The main goal of addressing Chapter 104 violations should be to make the employee whole, not cause a contractor to go completely out of business, which is what this bill could do.** This bill 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 increase the monetary penalties for a first violation with ten percent of the back wages found due or \$1,000 per offense (up from current law of \$25.00 per offense), whichever is greater; and for a second violation, whether on the same contract or another, within two years of the first notice of violation with fifty per cent of the back wages due and \$5,000 (up from \$100 per offense) for each violation. Also this measure proposes to extend the time in which a contractor can be hit with a third notice of violation by changing it from two to three years of the second notice of violation which would require suspension and payment of a penalty of full back wage and \$10,000 for each offense.

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This bill would mandate a minimum fine of \$5,000 for a second notice of violation 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. Certified payrolls include lots of requirements that are submitted on a weekly basis and there are times when inadvertent errors can happen. For the reasons mentioned, we are **opposed** to this measure and request that this measure be deferred.

Very truly yours,
S & M Sakamoto, Inc.

Gerard Sakamoto
Chairman of the Board

KING & NEEL, INC.

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



LATE

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

April 1, 2016

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From: mailinglist@capitol.hawaii.gov
 Sent: Friday, April 01, 2016 1:12 PM
 To: FINTestimony
 Cc: jerry@kauainursery.com
 Subject: Submitted testimony for SB2723 on Apr 1, 2016 13:00PM

SB2723

Submitted on: 4/1/2016

Testimony for FIN on Apr 1, 2016 13:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Jerry Nishek	Individual	Oppose	No

Comments: I strongly oppose this bill. This bill is way out of line. You are trying to penalize people who are trying to the right thing and pay certified payroll wages but make simple mistakes and get penalized for human errors. The bill should go after contractors who do not pay any certified payroll payments and intentionally cheat by not paying their employees. We should not be fined for clerical errors or misunderstanding of what is the correct wage rate because of conflicting job and scope of work descriptions.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov