

**From:** [Bob Johnson](#)  
**To:** [WAM Testimony](#)  
**Subject:** Support of SB 2723 Increase to fines for prevailing wage violations  
**Date:** Tuesday, February 23, 2016 10:47:32 AM  
**Attachments:** [image003.png](#)

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I'm am sending this email because I am in support of this bill and increasing fines for prevailing wage violations.

Too many times I see low bidders win project and then later hear from their employees that they get paid under the table and not davis bacon wages, this is not fair to the employee or those bidders that do the right thing.

Mahalo

**Bob Johnson**

PIC, LLC  
President

**Cell:** 808-271-4180

**Office:** 808-440-8975

**Mail to:**

P.O. Box 235987

Honolulu, HI 96823-3519

**Email:** [bjohnson@pichawaii.us](mailto:bjohnson@pichawaii.us)

**Web Site:** [www.PICHawaii.us](http://www.PICHawaii.us)



# Hawai'i Construction Alliance

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

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February 22, 2016

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

## **RE: Strong Support for SB2723 SD1, Relating to Enforcement of Wage Laws**

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

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


We **strongly support** **SB2723 SD1, 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 ten per cent of the amount of back wages due or \$1,000 per offense, whichever is greater, for the first offense, and the amount of back wages due or \$10,000 for each offense, whichever is greater, for the second offense.

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 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 to be an effective deterrent.

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.

Therefore, we strongly urge you to pass **SD2723 SD1, 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  
execdir@hawaiiiconstructionalliance.org

1065 Ahua Street  
Honolulu, HI 96819  
Phone: 808-833-1681 FAX: 839-4167  
Email: [info@gcahawaii.org](mailto:info@gcahawaii.org)  
Website: [www.gcahawaii.org](http://www.gcahawaii.org)



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

Uploaded via Capitol Website

February 24, 2016

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

SUBJECT: **OPPOSITION TO S.B. 2723, SD1, RELATING TO ENFORCEMENT OF WAGE LAWS.** Requires government contractors who violate wages and hours laws to pay a penalty that is equal to ten per cent of the amount of back wages due or \$1,000 per offense, whichever is greater, for the first offense; and a penalty equal to the amount of back wages found due or \$10,000 for each offense, whichever is greater, for the second offense. Effective January 7, 2059. (SD1)

HEARING

DATE: Wednesday, February 24, 2016  
TIME: 1:15 p.m.  
PLACE: Conference Room 211

Dear Chair Tokuda and Vice Chair Dela Cruz 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.

S.B. 2723, SD1 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 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 back wages due or \$10,000 for each offense (current law is \$100 per offense), whichever is greater. 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.

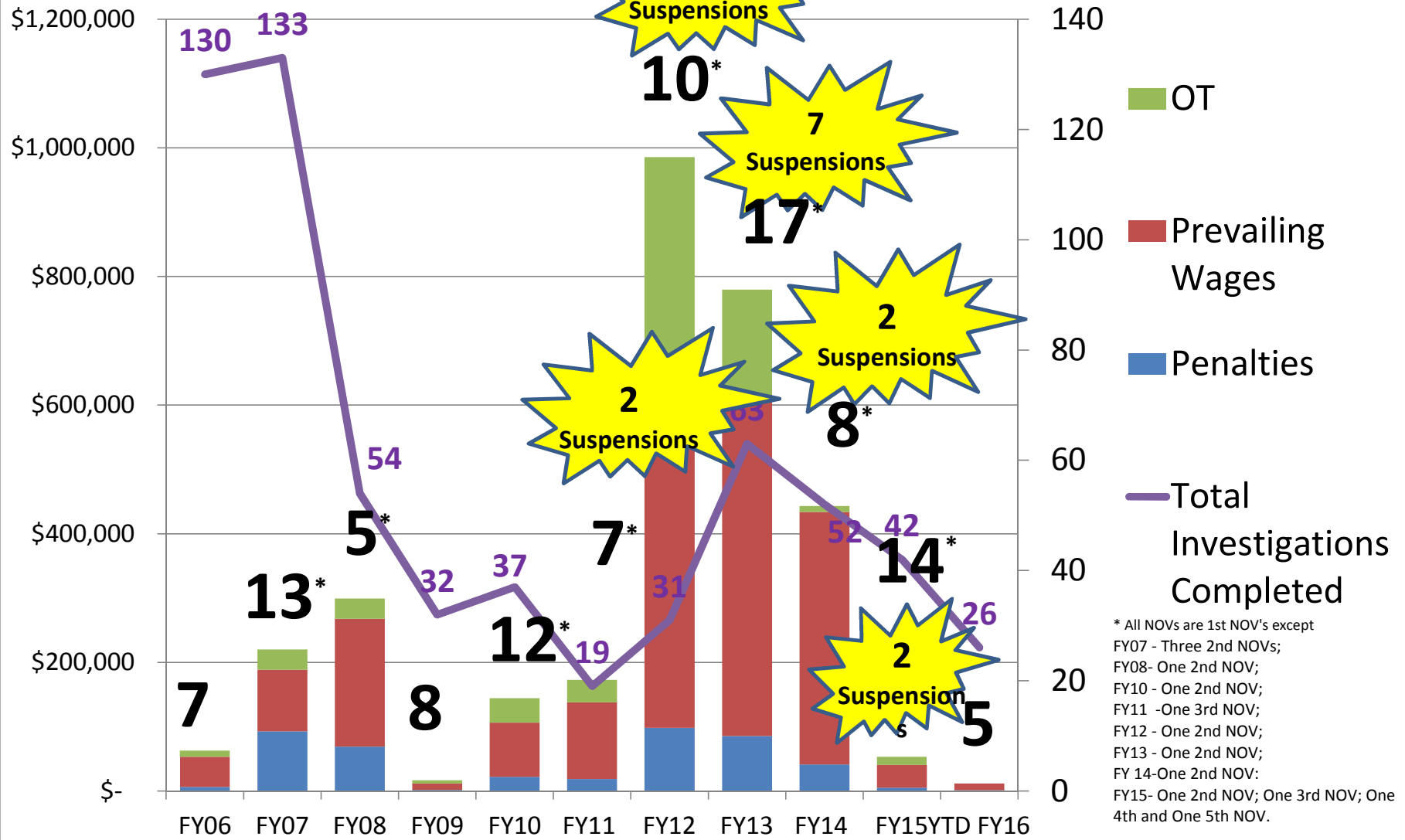
While GCA agrees that the prevailing wage should be paid when applicable, the proposed increased penalties are unreasonable; and fails to correlate the amount of the violation to the unpaid amounts of back wages. Furthermore, the way the bill is drafted the minimum fine for a second notice of violation 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. 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. 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 the SD1 version of this measure and requests that this measure be deferred. Thank you the opportunity to share our opposition to this measure.

# Chapter 104 Notice of Violations Issued\*



\* All NOV's are 1st NOV's except  
 FY07 - Three 2nd NOV's;  
 FY08 - One 2nd NOV;  
 FY10 - One 2nd NOV;  
 FY11 - One 3rd NOV;  
 FY12 - One 2nd NOV;  
 FY13 - One 2nd NOV;  
 FY14 - One 2nd NOV;  
 FY15 - One 2nd NOV; One 3rd NOV; One 4th and One 5th NOV.



SHARING YOUR VISION. BUILDING SUCCESS.

Sent Via E-mail to [WAMtestimony@capitol.hawaii.gov](mailto:WAMtestimony@capitol.hawaii.gov)

February 24, 2016

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

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

Requires government contractors who violate wages and hours laws to pay a penalty that is equal to ten per cent of the amount of back wages due or \$1,000 per offense, whichever is greater, for the first offense; and a penalty equal to the amount of back wages found due or \$10,000 for each offense, whichever is greater, for the second offense. Effective January 7, 2059. (SD1)

HEARING

DATE: Wednesday, February 24, 2016

TIME: 1:15 p.m.

PLACE: Conference Room 211

Dear Chair Tokuda and Vice Chair Dela Cruz and Members,

**Nordic PCL Construction, Inc. opposes** S.B. 2723. 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 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 back wages due or \$10,000 (up from \$100 per offense) for each violation, whichever is greater. 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 \$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.

Yours truly,

Glen Kaneshige, President

**NORDIC PCL CONSTRUCTION, INC.**

1099 Alakea Street, Suite 1600, Honolulu, HI 96813

Telephone: 808-541-9101 ♦ Fax: 808-541-9108 ♦ [www.nordicpcl.com](http://www.nordicpcl.com)



general contractor license #ABC 21576

Sent Via E-mail to [WAMtestimony@capitol.hawaii.gov](mailto:WAMtestimony@capitol.hawaii.gov)  
Via Fax to 808-587-7220

February 23, 2016

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

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

**LAWS.** Requires government contractors who violate wages and hours laws to pay a penalty that is equal to ten per cent of the amount of back wages due or \$1,000 per offense, whichever is greater, for the first offense; and a penalty equal to the amount of back wages found due or \$10,000 for each offense, whichever is greater, for the second offense. Effective January 7, 2059. (SD1)

HEARING

DATE: Wednesday, February 24, 2016  
TIME: 1:15 p.m.  
PLACE: Conference Room 211

Dear Chair Tokuda and Vice Chair Dela Cruz and Members,

**LYZ, Inc. opposes** S.B. 2723. 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 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 back wages due or \$10,000 (up from \$100 per offense) for each violation, whichever is greater. 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 \$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 stamp.

James N. Kurita  
Vice President/COO

Leonard K.P. Leong  
Vice President

February 24, 2016

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

SUBJECT: **OPPOSITION TO S.B. 2723, SD1, RELATING TO ENFORCEMENT OF WAGE  
LAWS.** Requires government contractors who violate wages and hours



laws to pay a penalty that is equal to ten per cent of the amount of back wages due or \$1,000 per offense, whichever is greater, for the first offense; and a penalty equal to the amount of back wages found due or \$10,000 for each offense, whichever is greater, for the second offense. Effective January 7, 2015. (SD1)

HEARING

DATE: Wednesday, February 24, 2016  
TIME: 1:15 p.m.  
PLACE: Conference Room 211

Dear Chair Tokuda and Vice Chair Dela Cruz and Members,

Royal supports the requirement that wages for public work construction be paid.

Contractor in general pays their workers since we appreciate their hard work and effort.

An increase in fine for violation is not necessary since these mistakes are rare.

An increase in fine of up to \$10,000 will not deter violations since violation occur because of misunderstanding in legibility or timely submittal of time sheet.

Increasing fine will not accomplish the good of stopping violation.

Sincerely,

A handwritten signature in black ink that reads 'Leonard K.P. Leong'.  
Leonard K.P. Leong  
Vice President



**From:** [Peter Eldridge](#)  
**To:** [WAM Testimony](#)  
**Subject:** Opposition to S.B. 2723, SD1, relating to enforcement of wage laws.  
**Date:** Tuesday, February 23, 2016 10:40:07 AM

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

Dear Chair Tokuda and Vice Chair Dela Cruz and Members,

My partner and I own and operate Raynor Hawaii Overhead Doors Inc. – a small Hawaii company that employs 25 people who all work hard and pay taxes. We are selected by many general contractors to be subs on prevailing wage jobs and have never had a late filing or mis-paid a single employee.

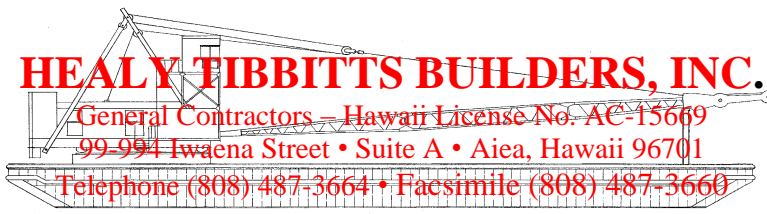
Raynor Hawaii Overhead Doors Inc. **opposes** S.B. 2723. SD1, which proposes to amend Section 104-24, Hawaii Revised Statutes, the law which governs penalties for payment of prevailing wages for public works construction. The bill proposes to increase the monetary penalties for a first violation with 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 back wages due or \$10,000 (up from \$100 per offense) for each violation, whichever is greater. The current law is working as evidenced by the statistics from the DLIR.

As a small business owner it greatly concerns me that 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.

There have been 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.

Since the current law is adequate and the suggested changes may inadvertently provide huge penalties for minor violations we are **opposed** to this measure and request that this measure be deferred. Thank you the opportunity to share our opposition to this measure.

Peter Eldridge  
Raynor Overhead Doors and Gates Inc.  
96-1368 Waihona Street, Pearl City, HI 96782  
(808) 284-1947



February 23, 2016

Sent Via E-mail to: [WAMtestimony@capitol.hawaii.gov](mailto:WAMtestimony@capitol.hawaii.gov)

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

SUBJECT: **OPPOSITION TO S.B. 2723, SD1, RELATING TO ENFORCEMENT OF WAGE LAWS.** Requires government contractors who violate wages and hours laws to pay a penalty that is equal to ten per cent of the amount of back wages due or \$1,000 per offense, whichever is greater, for the first offense; and a penalty equal to the amount of back wages found due or \$10,000 for each offense, whichever is greater, for the second offense. Effective January 7, 2015. (SD1)

HEARING

DATE: Wednesday, February 24, 2016

TIME: 1:15 p.m.

PLACE: Conference Room 211

Dear Chair Tokuda and Vice Chair Dela Cruz 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** S.B. 2723. 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 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 back wages due or \$10,000 (up from \$100 per offense) for each violation, whichever is greater. 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 \$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

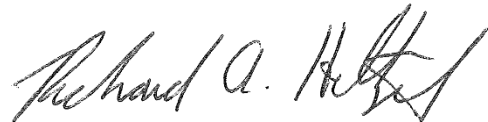
**Healy Tibbitts Builders, Inc.**

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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.

Very truly yours,  
Healy Tibbitts Builders, Inc.

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

Richard A. Heltzel  
President



# S & M SAKAMOTO, INC.

GENERAL CONTRACTORS

Sent Via E-mail to [WAMtestimony@capitol.hawaii.gov](mailto:WAMtestimony@capitol.hawaii.gov)  
Via Fax to 808-587-7220

February 24, 2016

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

SUBJECT: **OPPOSITION TO S.B. 2723, SD1, RELATING TO ENFORCEMENT OF WAGE LAWS.** Requires government contractors who violate wages and hours laws to pay a penalty that is equal to ten per cent of the amount of back wages due or \$1,000 per offense, whichever is greater, for the first offense; and a penalty equal to the amount of back wages found due or \$10,000 for each offense, whichever is greater, for the second offense. Effective January 7, 2059. (SD1)

HEARING

DATE: Wednesday, February 24, 2016  
TIME: 1:15 p.m.  
PLACE: Conference Room 211

Dear Chair Tokuda and Vice Chair Dela Cruz and Members,

S & M Sakamoto, Inc. opposes S.B. 2723. 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 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 back wages due or \$10,000 (up from \$100 per offense) for each violation, whichever is greater. 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 \$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.