

DAVID Y. IGE  
GOVERNOR

SHAN S. TSUTSUI  
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA  
DIRECTOR

LEONARD HOSHIO  
DEPUTY DIRECTOR

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

830 PUNCHBOWL STREET, ROOM 321  
HONOLULU, HAWAII 96813

[www.labor.hawaii.gov](http://www.labor.hawaii.gov)  
Phone: (808) 586-8844 / Fax: (808) 586-9099  
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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. 2724, S.D. 2, H.D. 1 Relating to Prevailing Wages**

**I. OVERVIEW OF PROPOSED LEGISLATION**

SB2724 SD2 HD1 proposes to amend chapter 104, Hawaii Revised Statutes (HRS) to clarify that Hawaii's prevailing wage statute and administrative rules apply to construction on lands the State or a county leases to private entities, or where public land is used as collateral in financing. The measure also defines the lessor agency as the governmental contracting agency for the purposes of chapter 104, HRS.

The proposal also exempts single family residential construction of less than \$100,000, or construction costing less than \$500,000 for certain agricultural construction. It also provides that the director may terminate the work of any contractor or subcontractor where the contractor or subcontractor has not paid prevailing wages on a public work. Appropriates a blank amount to the DLIR for enforcement of Chapter 104, HRS.

The existing definition of “public “work” was last modified in statute in 1992 and in rules in 1996. DLIR believes that the very broad, existing definition in chapter 104 already covers the intended purpose of the measure, but also believes dialogue pertaining to this matter is beneficial for the public good and is eager to participate in the discussions as the measure moves through the legislative process.

DLIR notes that sub-lessee’s are not subject to chapter 104 by the administrative rules.

## **II. CURRENT LAW**

Chapter 104, HRS, currently applies to the construction of all public works in excess of \$2,000, and construction financed by special purpose revenue bonds. The definition of public work in section 104-1, HRS, reads as follows:

"Public work" means any project, including development of any housing pursuant to section 46-15 or chapter 201H and development, construction, renovation, and maintenance related to refurbishment **of any real or personal property**, where the funds or resources required to undertake the project **are to any extent derived, either directly or indirectly**, from public revenues of the State or any county, or from the sale of securities or bonds whose interest or dividends are exempt from state or federal taxes.

The Hawaii Administrative Rules (HAR) Title 12, Chapter 22, refines this definition of public work as follows:

“Public work” shall be as defined in section 104-2(a)\*, Hawaii Revised Statutes, and includes without limitation: (1) Any building, structure, road, or real property, the construction of which is undertaken:

### **(A) By authority of; and**

**(B)** Through the use of funds, grants, loans, bonds, **land**, or other resources of the State or any county, board, bureau, authority, commission, or other agency or instrumentality thereof, to serve the interest of the general public, regardless of whether title thereof is held by a state or county agency. However, subsequent construction to fixtures or appurtenances attached to the assigned space of an individual occupant, lessee, or tenant of the building or structure, contracted by other than a state or county agency or instrumentality thereof, shall not be subject to chapter 104, Hawaii Revised Statutes.

*\* Note: The definition for “Public Work” was recently moved from §104-2(a), HRS, to the main definition section (§104-1, HRS). [See Act 130, 2014]*

## **III. COMMENTS ON THE SENATE BILL**

Construction undertaken through the use of State or county land is already subject to the requirements of chapter 104. Compliance has been blocked when land owning agencies hold that lands leased to private parties are not State lands, and/or that the land is not a resource through which construction is undertaken. The course

for resolution has not been clear thus far, nor has the question of how to administer the requirements across varied land uses.

As in other cases where State or county resources provide a benefit realized through construction, the following items need to be clarified or otherwise established:

- Documented notice of the requirements, such as specifying the prevailing wage requirements in lease provisions.
- The method of reporting and filing of the requirement documentation, i.e. the submittal of the certified payroll records.

Without recovery of lost staff positions after 2009, the department is unable to investigate a number of the complaints related to chapter 104, HRS, filed each year, resulting in a backlog for investigation and further proceedings. Without information on the lands and public works these proposed amendments would apply to, it is difficult to quantify a request for the additional staffing that would be required.

DAVID Y. IGE  
GOVERNOR OF  
HAWAII



SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA  
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

Testimony of  
SUZANNE D. CASE  
Chairperson

Before the House Committee on  
FINANCE

Friday, April 1, 2016  
1:00 P.M.  
State Capitol, Room 308

In consideration of  
SENATE BILL NO. 2724, SENATE DRAFT 2, HOUSE DRAFT 1  
RELATING TO PREVAILING WAGES

Senate Bill 2724, Senate Draft 2, House Draft 1 proposes to broaden Chapter 104 (wages and hours of employees on public works), Hawaii Revised Statutes, to include private businesses that lease state or county lands without any involvement or interest of the state or county in the businesses. **The Department of Land and Natural Resources (Department) opposes this bill.**

The current law applies to projects built by or for, or funded by, the State or county, such as government offices, schools, libraries, courthouses, and other government facilities. Senate Bill 2724, Senate Draft 2, House Draft 1 expands the law to include private projects located on leases of public lands under the jurisdiction of the Department. The Department currently has leases issued to lessees for private operations such as hotels, industrial and warehouse operations, and retail centers. Examples of these leases include the Sand Island Industrial Park and West Ridge Mall on Oahu, and the Naniloa and Hilo Hawaiian hotels and HPM hardware store in Hilo, which are all leases of public lands. The Department has no interest in these private businesses. If private businesses on public lands are going to be subject to this legislation, then perhaps all projects, whether located on public or private land, should be made subject to the law. Otherwise, public lands will be placed at a significant disadvantage in the marketplace for resort, industrial, and commercial operations. Business may choose to locate their operations on private land, which will ultimately lead to a reduction in ceded land revenues for the State as well as the Office of Hawaiian Affairs.

Furthermore, the bill would require the Department to have oversight over lessees and sublessees above and beyond any rights afforded to and responsibilities required of landlords. The Department's land management staff would have to ensure that its lessees and any sublessees are complying with labor law requirements<sup>1</sup>.

Senate Bill 2724, Senate Draft 2, House Draft 1 raises legal, economic and implementation issues for the Department. The Department respectfully requests that this bill be deferred.

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<sup>1</sup> This could be problematic and require a reorganization and consultation with the union for the land management division because the staff are land managers and not labor law specialists. Position descriptions and class specifications may need to be changed, which may make it difficult for current staffers to qualify for the position with the added labor law requirements. With the impact of reduced revenues, it will be very difficult financially for the land management division to afford adding new positions or contracting for labor law specialists.

**DAVID Y. IGE**  
Governor

**SHAN S. TSUTSUI**  
Lt. Governor



**JAMES J. NAKATANI**  
Executive Director

STATE OF HAWAII  
**AGRIBUSINESS DEVELOPMENT CORPORATION**  
235 S. Beretania Street, Room 205  
Honolulu, HI 96813  
Phone: (808) 586-0186 Fax: (808) 586-0189

**TESTIMONY OF JAMES J. NAKATANI  
EXECUTIVE DIRECTOR  
AGRIBUSINESS DEVELOPMENT CORPORATION**

**BEFORE THE FINANCE COMMITTEE**

Friday, April 1, 2016  
1:00 p.m.

**SENATE BILL NO. 2724  
RELATING TO PREVAILING WAGES**

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

The Agribusiness Development Corporation (“ADC”) strongly opposes Senate Bill No. 2724 which seeks to require contracts for construction projects on public lands to comply with the prevailing wages set forth in Chapter 104, Hawaii Revised Statutes (“HRS”). The ADC would support this measure provided that it is amended to exempt projects that serves an agricultural or conservation purpose to exclude our local farms and businesses from this amendment to the prevailing wage law that would essentially increase their operating costs.

Since its inception, the ADC has issued several land agreements to farms and agribusiness as well as participated in agricultural projects across the state, including the management of the Waiahole Water System on Oahu and the administration of the Kekaha agricultural land on Kauai. The ADC has concerns that requiring private entities to comply with the current provisions of Hawaii’s

prevailing wage law will deter farms and agribusinesses from leasing public land from ADC. The ADC depends on the revenue it generates on its land for debt services, repairs and maintenance to its infrastructure, and operations, and cannot afford a reduction in revenue. Furthermore, requiring the farmers to pay higher wages may cause further financial hardships on an industry already dealing with thin profit margins.

Thank you for the opportunity to testify.



Randy Perreira  
President

# HAWAII STATE AFL-CIO

345 Queen Street, Suite 500 • Honolulu, Hawaii 96813

Telephone: (808) 597-1441

Fax: (808) 593-2149

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

Testimony by  
Hawaii State AFL-CIO  
April 1, 2016

S.B. 2724, S.D.2, H.D.1 – RELATING TO  
PREVAILING WAGES

The Hawaii State AFL-CIO strongly supports S.B. 2724, S.D.2, H.D.1, which specifies that development, construction, renovation, and maintenance on public land or financed based on public land are public works subject to state prevailing wage and hour requirements regardless of the contracting parties or funding source, with limited exemptions for certain housing construction.

Prevailing wages ensure, at a minimum, construction workers including other workers are paid appropriate wages and benefits in their local jurisdiction. Prevailing wages encourage a more productive workforce which helps ensure projects are constructed efficiently, safely and with quality craftsmanship. At a time with lower wages and fewer benefits, prevailing wages help keep the economy moving forward by guaranteeing workers are provided with above-average wages which in turn leads to more economic spending.

Thank you for the opportunity to testify.

Respectfully submitted,

Randy Perreira  
President





## AIRPORT CONCESSIONAIRES COMMITTEE

Honorable Sylvia Luke  
Chair, Committee on Finance  
Hawaii State Senate  
State Capitol Building Room 308, Hearing: 1:00pm, April 1, 2016

RE: S.B. 2724, HD1 – Relating to Prevailing Wages

Dear Chair Luke and Honorable Committee Members:

My name is Peter Fithian and I am the Legislative and Governmental Affairs Chair for the Airport Concessionaires Committee. Our Committee represents the majority of concession operators at our public airports who along with the airlines equally provide about 50% of the operating revenues for our public airports.

We oppose this bill which seeks to expand the current law to airport-tenant improvements. Some of our members are very-small businesses who likely find it very difficult to bear the additional financial burden if this bill becomes law. DOT should lower our rents if this bill becomes law.

This legislation is not fair. Some of our members prior to this Legislative session entered into agreements with Hawaii DOT Airports for leases with required improvements with some taking place now and some in the future after the DOT completes landlord improvements 2, 3 or more years from now. These agreements were entered into without knowledge or awareness that cost of construction for tenant improvements will most likely be much higher due to the requirements of this legislation. This is not fair.

Our members typically have short term leases of only 5 to 10 years and to amortize significant cost increases over such short terms is a tremendous burden

RE: S.B. 2724, HD1 – Relating to Prevailing Wages

Airport Concessionaires Committee Testimony

March 23, 2016

Page 2 of 2

that discourages doing business at the airports unless the airport lowers the rent requirements. DOT will need to reduce its fair rent appraisals.

For DOT, this expansion of the law will likely result in less payments to support our public airport system. In our opinion, this is not good for Hawaii or Hawaii tourism since concession revenues help to keep low-airline-landing fees.

As you know, while the building is constructed and maintained by the State and wages are paid by the State's contractors according to Chapter 104 our concession members are not required to follow the wage provisions of Chapter 104 when "interior-tenant improvements" to the space provided by DOT-Air (the leased premises) to our members by way of DOT lease. This bill will require our members to follow the wage provisions of Chapter 104 which will lead to significantly higher interior-tenant-improvement costs for our members who typically have short-term leases of only 5 to 10 years as stated.

Further, cost of "interior-tenant improvements" are already very high at the airports due to security and other measures imposed on airport construction. Our members put such "interior-tenant improvements" out to bid and pay construction and wage costs which continue to rise significantly and already a major burden.

For the foregoing reasons we respectfully urge you not to pass this bill.

Thank you for allowing us to testify.



Sent Via E-mail to [FINtestimony@capitol.hawaii.gov](mailto: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. 2724, SD2, HD1 RELATING TO PREVAILING WAGE.**  
Specifies that development, construction, renovation, and maintenance on public land or financed based on public land are public works subject to state prevailing wage and hour requirements regardless of the contracting parties or funding source, with limited exemptions for certain housing construction. Appropriates funds for enforcement of wage and hour requirements.

HEARING

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

Dear Chair Luke and Vice Chair Nishimoto and Members,

INSERT COMPANY NAME **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?

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.

Sincerely,

James Ramirez  
Senior VP Construction Management  
Hunt Companies  
Ohana Military Communities



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

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HEARING

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

Dear Chair Luke and Vice Chair Nishimoto and Members,

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

Isemoto Contracting Co., Ltd. **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?

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.

Sincerely,

A handwritten signature in black ink, appearing to read "Leslie Isemoto". The signature is fluid and cursive, with a prominent initial "L" and a long, sweeping tail.

Leslie Isemoto

# 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](mailto:royalpalm.group@hawaiiantel.net)

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Via Fax to 1(800) 535-3859

April 1, 2016

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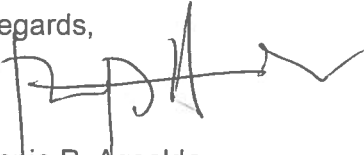
Dear Chair Luke and Vice Chair Nishimoto and Members,

Royal Palm Construction & Landscaping, Inc. **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?

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.

Regards,

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

Remie P. Aagsalda  
President

RPA/jdg





# 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](mailto: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. 2724, SD2, HD1 RELATING TO PREVAILING WAGE.**

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funds for enforcement of wage and hour requirements.

### HEARING

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

Dear Chair Luke and Vice Chair Nishimoto and Members,

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 - BAF Systems Pearl Harbor, HI - C & S Services - Certified Coatings  
CB Tech Services, Inc - Dresser-Rand Group, Inc - E-MS Inc, Inc - Epsilon Systems Solutions, Inc - Hawaii Marine Cleaning  
Honolulu Marine, LLC - HSI-Electric Boat - HSI-Mechanical, Inc - Inspect-Testing - IMLA 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 - PCE Hawaii - Q.I.D. Systems, Inc - Safway  
Trident Maritime Systems, LLC - US Joiner - JCF Metal Products - Uts Maritime 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 in a cursive style.

Iain Wood  
President



# Pacific Shipyards

INTERNATIONAL

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

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#### HEARING

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

Dear Chair Luke and Vice Chair Nishimoto and Members,

PACIFIC SHIPYARDS INTERNATIONAL 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?

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 'Eric Stoddard', with a long horizontal flourish extending to the right.

Eric Stoddard  
HR Manger



## HAWAII REGIONAL COUNCIL OF CARPENTERS

April 1, 2016

The Honorable Representative Sylvia Luke, Chair  
The Honorable Representative Scott Nishimoto, Vice Chair, and  
Members of the Committee on Finance

### **Statement of the Hawaii Regional Council of Carpenters on SB 2724 – Prevailing Wages**

Friday, April 1, 2016  
1:00 a.m., State Capitol, Room 308

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

The Hawaii Regional Council of Carpenters (HRCC) strongly supports SB 2724,  
which requires contracts for construction on public lands to comply with wage  
and hour requirements set forth in Chapter 104, HRS.

Currently, the administrative rules provide that prevailing wages are to be paid for  
construction undertaken through the use of "...land or other resources of the State  
or any county..." State land is used for a variety of private activities, calling for SB  
2724 to provide the clarification that is needed for enforcement.

In the example of the Naniloa Hotel on Banyan Drive in Hilo, the benefit of using  
State oceanfront land should not become a part of depressing area standard wages  
and benefits for construction workers. Prevailing wages are not being required for  
construction work in that case, including construction required by the State in the  
agreement for the use of the land.

Hawaii contractors who contribute to skilled craft training are at a disadvantage  
when prevailing wages are not required to "level the playing field." Hawaii  
contractors that lessen the burdens on government and the community by  
providing fringe benefits and fair wages are at a huge disadvantage.

The fact that agreements are reached and documented prior to the use of the land,  
and prior to the start of construction, provides the mechanism for the  
administration of the Chapter 104 provision.

Thank you for your consideration of our support for the passage of SB 2724.

#### 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



general contractor license #ABC 21576

Sent Via E-mail to [FINtestimony@capitol.hawaii.gov](mailto: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. 2724, SD2, HD1 RELATING TO PREVAILING WAGE.**  
Specifies that development, construction, renovation, and maintenance on public land or financed based on public land are public works subject to state prevailing wage and hour requirements regardless of the contracting parties or funding source, with limited exemptions for certain housing construction. Appropriates funds for enforcement of wage and hour requirements.

HEARING

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

Dear Chair Luke and Vice Chair Nishimoto and Members,

LYZ, Inc. **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?

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 'James N. Kurita', is written over a circular stamp or seal.

James N. Kurita  
Vice President/ Chief Operating Officer



PO Box 17603 • Honolulu, HI 96817-0603 • (808) 842.1359 • Fax (808) 841.1270  
info@sibahawaii.org • sibahawaii.org

To: 1) Sylvia Luke, Chair  
2) Members of the House Committee on Finance

From: Rodney Kim, Executive Director  
Sand Island Business Association 

Date: March 31, 2016

RE: Testimony Opposing SB 2724, SD 2 (Prevailing Wages)  
*Hearing Time:* Friday, April 1, 2016, 1pm  
Conference Room 308

The Sand Island Business Association (SIBA) strongly opposes the passage of SB 2724, SD 2. The impact of this bill will impose a substantial financial burden on SIBA and its 100 small business tenants.

SIBA has a 55-year lease with the Department of Land & Natural Resources for the development and management of the Sand Island Industrial Park. This agreement was negotiated under the State Industrial Park Law (1988).

SIBA's tenants, at their cost, constructed over \$40 million in infrastructure improvements and continues to maintain the streets, sidewalks, landscaping, street lights, and storm drains at a cost of \$250,000 annually. In addition, our tenants, since 1992, have constructed leasehold improvements assessed at over \$65 million.

The bill would require SIBA to only hire those businesses willing to pay prevailing wages and submit payroll affidavits to perform its repair and maintenance work. This requirement will be a cost that all of our sub-tenants will have to bear.

Also, our sub-tenants would have to hire only those businesses willing to pay prevailing wages and submit payroll affidavits to build and/or repair their leasehold improvements. This will increase the cost to our small business sub-tenants.

We strongly question the need for this bill. For example, what is the documented abuse?

We urge this committee to not pass this bill.

Testimony of  
Pacific Resource Partnership

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

SB 2724, SD2, HD1 – Prevailing Wages

Friday, April 1, 2016  
1:00 P.M.  
State Capitol – Room 308

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

By way of background, the administrative rules of the Department of Labor and Industrial Relations (DLIR) provides for the payment of prevailing wages when there is construction undertaken through the use of "... land, or other resources of the state or any county." And while the Department's Administrative rules are clear and aligned with the spirit and intent of Hawaii's Little Davis-Bacon law, there remains a grey area in HRS 104; and it is the intent of this bill to close this loop hole which developers are currently using to avoid the payment of prevailing wage on construction projects that take place on public lands that are leased privately.

Prevailing wages lead to a larger, stronger, property tax base for government, and reduce the reliance on safety net services like food stamps, healthcare, and subsidized housing. Additionally, prevailing wages help grow the middle class and make it harder for cheaters to operate in the underground economy, a sector known for unsafe working conditions and evasion of taxes and mandatory health coverage for workers.

At a time when the middle class is slipping further away from the 1%, it is critical that policies are in place to protect living wages from degradation. Clarifying that prevailing wages must be applied to private projects which take place on State and County owned land is good for construction workers, union and non-union, and beneficial to other sectors as it shores up the wage floor for all.

The spirit of the federal Davis-Bacon Act and locally Hawaii's Little-Davis Bacon law is based on the principle that State and County resources and assets should not be used in a manner which degrades living wages of a community. Put simply, public lands shouldn't be used to impoverish local workers.





**(Continued From Page 1)**

We respectfully ask for your **support** on SB 2724, SD2, HD1.

Thank you for the opportunity to share our views with you.

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.*

# DIVISION 16 INCORPORATED

1088 Sand Island Parkway, Honolulu, HI 96819

Phone: (808) 841-2000

Fax: (808) 841-2001

Sent Via E-mail to [FINtestimony@capitol.hawaii.gov](mailto: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. 2724, SD2, HD1 RELATING TO PREVAILING WAGE.**  
Specifies that development, construction, renovation, and maintenance on public land or financed based on public land are public works subject to state prevailing wage and hour requirements regardless of the contracting parties or funding source, with limited exemptions for certain housing construction. Appropriates funds for enforcement of wage and hour requirements.

## HEARING

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

Dear Chair Luke and Vice Chair Nishimoto and Members,

DIVISION 16 INCORPORATED **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?

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.



# 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 2724 SD2 HD1 RELATING TO PREVAILING WAGES**

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

The Chamber of Commerce Hawaii ("The Chamber") **strongly opposes** SB 2724 SD2 HD1, which specifies that development, construction, renovation, and maintenance on public land or financed based on public land are public works subject to state prevailing wage and hour requirements regardless of the contracting parties or funding source, with limited exemptions for certain housing construction. Appropriates funds for enforcement of wage and hour requirements.

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.

Pursuant to Chapter 171-2 HRS the following are not considered as "public lands:"

- Lands designated in section 203 of the Hawaiian Homes Commission Act, 1920, as amended;
- Lands set aside pursuant to law for the use of the United States;
- Lands being used for roads and streets;
- Lands to which the United States relinquished the absolute fee and ownership under section 91 of the Hawaiian Organic Act prior to the admission of Hawaii as a state of the United States unless subsequently placed under the control of the board of land and natural resources and given the status of public lands in accordance with the state constitution, the Hawaiian Homes Commission Act, 1920, as amended, or other laws;
- Lands to which the University of Hawaii holds title;
- Lands to which the Hawaii housing finance and development corporation in its corporate capacity holds title;
- Lands to which the Hawaii community development authority in its corporate capacity holds title;
- Lands to which the department of agriculture holds title by way of foreclosure, voluntary surrender, or otherwise, to recover moneys loaned or to recover debts otherwise owed the department under chapter 167;
- Lands that are set aside by the governor to the Aloha Tower development corporation; lands leased to the Aloha Tower development corporation by any department or agency



# Chamber of Commerce HAWAII

*The Voice of Business*

of the State; or lands to which the Aloha Tower development corporation holds title in its corporate capacity;

- Lands that are set aside by the governor to the agribusiness development corporation; lands leased to the agribusiness development corporation by any department or agency of the State; or lands to which the agribusiness development corporation in its corporate capacity holds title; and
- Lands to which the high technology development corporation in its corporate capacity holds title.

The proposed bill would impose vastly different requirements on any entity leasing lands from DLNR, DOT (Airports, Harbors, Highways), and the Department of Agriculture as opposed to entities leasing lands from any of the agencies listed in Chapter 171-2 HRS.

The statute apparently recognizes the difference between the use of state or county funds versus the use of state or county lands. Imposing the 104 requirement on lessees of “public lands” would render these leases “less attractive” to potential lessees and could result in lower returns and lease rents than comparable properties in a similar market.

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



**Testimony by:**  
FORD N. FUCHIGAMI  
DIRECTOR

Deputy Directors  
JADE T. BUTAY  
ROSS M. HIGASHI  
EDWIN H. SNIFFEN  
DARRELL T. YOUNG

IN REPLY REFER TO:

**LATE**

**STATE OF HAWAII**  
**DEPARTMENT OF TRANSPORTATION**  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

April 1, 2016  
1:00 p.m.  
State Capitol, Room 308

**S.B. 2724, S.D. 2, H.D. 1**  
**RELATING TO PREVAILING WAGES**

House Committee on Finance

---

The Department of Transportation (DOT) **opposes** S.B. 2724, S.D. 2 which seeks to expand the current provisions of Hawaii's prevailing wage law, in particular the provisions of Chapter 104 of the Hawaii Revised Statutes, to private businesses who lease land or building space for their businesses on public lands.

While the DOT seeks to follow the provisions of Chapter 104, this proposed amendment would effectively increase the operating costs of businesses who lease lands from DOT or any other government agency. The requirement of private lessees to adhere to prevailing wages detracts interested parties from leasing lands from DOT which in turn impacts DOT's ability to generate revenue from its properties. DOT works to maximize revenues from its Harbors and Airports lands to support funding Harbors and Airports infrastructure.

As an example, in the case of our Airports Division, Federal grant-funding provisions for our airports mandate that the DOT not only effectively meet the needs of our travelers but the DOT must also maximize our public airport revenues through our leases of lands and/or building spaces. To do otherwise threatens the loss of federal grants that support our public airports which are special funded.

Since most of the airport concessions providing services at our airports are typically only 5 to 10 year leases, it would add an extra and possibly impossible cost burden for some of these small-business leases to be required to follow the provisions of Chapter 104 requiring the payment of higher labor wages and benefits. It would be difficult to amortize such higher costs over the short-term of the leases.

Further, if such requirements are imposed and thus higher lease-rental costs to the businesses, our DOT will receive less in the way of rental income. Or rather than operate on airport property and face such requirements one or more of these businesses could chose to operate on private lands off airport which don't have such

restrictions. In either case, should this occur, the Airports Division will not be meeting its FAA-grant requirements of maximizing revenues from airport property and providing services meeting the needs of our travelers.

Some of our airport properties as well as other properties managed by the DOT are set aside for future public purposes and at times in competition with other land owners for purposes of generating revenues. Such restrictions as to leasing such lands or buildings will put the DOT at a competitive disadvantage with private land owners. Rather than be at a disadvantage and not generate revenues the DOT could sell such lands and buildings and avoid vacancies and losses of any income. But then selling such lands and buildings are often not in the long-term best interest of the DOT or our State.

While we understand and appreciate the intent and purpose of the bill, for the reasons stated and given the competing public interests and federal-grant requirements, we respectfully ask that the bill not pass seeking to expand the present law.

If the sense of the committee is to pass the bill as currently written, the DOT requests that the language be amended to exempt projects conducted on DOT airports and harbors property by private entities that are tenants of the DOT airports or harbors in order to assure that revenue sources for operations and maintenance of facilities at the airports and harbors are not adversely impacted.

Thank you for the opportunity to provide testimony.

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.

Upload

**LATE**

April 1, 2016

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

SUBJECT: **STRONG OPPOSITION REGARDING S.B. 2724, SD2, HD1 RELATING TO PREVAILING WAGE.** Specifies that development, construction, renovation, and maintenance on public land or financed based on public land are public works subject to state prevailing wage and hour requirements regardless of the contracting parties or funding source, with limited exemptions for certain housing construction. Appropriates funds for enforcement of wage and hour requirements.

HEARING

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

Dear Chair Luke and Vice Chair Nishimoto and Members,

The General Contractors Association of Hawaii (GCA) is an organization comprised of over 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.

GCA is **strongly opposed to S.B. 2724, SD2, HD1** because it proposes to expand the reach of Chapter 104 wages to lessees to with long term leases on state lands. There are a number of questions that must be asked: How will current lessees feel about this measure - do they even know how this bill will affect them? What contracting agency will collect the weekly submissions of certified payroll and whether such expansion of the law comports with the intent of the original for enactment of this statute . The requirements of Chapter 104 compliance include penalties for non-compliance. This law would require that any construction improvement over \$2,000 would be subject to these Chapter 104 requirements. See attached Hawaii Department of Labor and Industrial Relations Chapter 104 weekly certified payroll requirements. Furthermore, in March 2014 the U.S. District Court for the District of Columbia rejected a determination by the U.S. Department of Labor (DOL) applying the Davis-Bacon Act (DBA) to a privately-funded construction project. In [\*District of Columbia v. Department of Labor et al.\*<sup>1</sup>](#), 1:13-cv-00730, **the court held that development of CityCenter DC, a large-scale urban redevelopment project in downtown Washington, DC owned by the District of Columbia, did not involve construction of a “public building or public work” and therefore was not subject to DBA coverage.**

<sup>1</sup> <http://image.exct.net/lib/fefd167774640c/d/1/4.7 Govt K DDC DoL DBA Opinion.pdf>

S.B. 2724, SD2, HD1 will unfairly expand the application of prevailing wage rates for laborers and mechanics, also known as “Little Davis Bacon” to include construction projects on public lands regardless of whether the work is paid from public funds, and projects for which public lands are used as security for financing. While there are some exemptions, it will still have a significant impact on current leaseholders on public state lands.

Under federal law the Davis Bacon Act requires that “each contract over \$2,000 to which the United States or the District of Columbia is a party for construction, alteration, and/or repair of **public buildings or public works shall contain a clause setting forth the minimum wages to be paid to various classification of laborers and mechanics employed under contract.**” 21 *U.S.C. 113*. Hawaii’s law defines “public work” in Section 104-1, Hawaii Revised Statute similar to federal law as:

any project, including development of any housing pursuant to section 46-15 or chapter 201H and development, construction, renovation, and maintenance related to refurbishment of any real or personal property, **where the funds or resources required to undertake the project are to any extent derived, either directly or indirectly, from public revenues of the State or any county**, or from the sale of securities and bonds whose interest or dividends are exempt from state or federal taxes.

This measure has a far reaching impact and could escalate costs for State lease holders, many of whom are small businesses. 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?

GCA is **strongly opposed** to this proposal and objects to the potentially detrimental and far reaching effect this measure will have, particularly to those leaseholders, including Hawaii’s small businesses and farmers that may be on state leased lands.

**While GCA agrees that the prevailing wage should be paid when applicable, GCA cannot support this proposal as it exceeds the reach of what the prevailing wage law was intended to cover.** For these reasons, we respectfully request this measure be held.



HEARING BEFORE THE HOUSE COMMITTEE ON FINANCE

**LATE**

Senate Bill 2724, S.D. 2, H.D. 1  
Relating To Prevailing Wages

Chair Luke and members of the Finance Committee:

Thank you for this opportunity to submit testimony on behalf of the Painting Industry of Hawaii Labor Management Cooperation Trust Fund; Hawaii Tapers Market Recovery Trust Fund; Hawaii Glaziers, Architectural Metal Glassworkers Local Union 1889 AFL-CIO Stabilization Trust Fund; and the Carpet, Linoleum and Soft Tile Local Union 1926 Market Recovery Trust Fund in strong support of Senate Bill 2724, S.D. 2., H.D. 1.

This bill clarifies that Hawaii Revised Statutes, Chapter 104 applies to construction projects on state and county owned lands that are leased but privately developed. This measure will help prevent the depression of construction industry wages and benefits, support the development of skilled workers in the construction trades, and ensure high quality work on construction projects. In short, this measure will protect Hawaii's middle class. Finally, this measure will also protect the competitiveness of our signatory contractors.

Thank you for this opportunity to testify in strong support of this measure.

# Hawai'i Construction Alliance



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  
415 South Beretania Street  
Honolulu, Hawai'i 96813

## **RE: Strong Support for SB2724 SD2 HD1, Relating to Prevailing Wages**

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 SB2724 SD2 HD1, relating to prevailing wages.** SB2724 SD2 HD1 would:

- Clarify that for the purposes of Chapter 104, all development, construction, renovation, and maintenance upon state land or the use of state land to secure financing for development, construction, renovation, or maintenance shall constitute a "public work" for which prevailing wages would apply;
- Create exemptions for work on certain projects involving the development, construction, renovation, or maintenance of family dwellings to single family dwellings;
- Clarify that projects caused, initiated, or contracted for by lessees of the State for the development, construction, renovation, or maintenance of any real or personal property located on public lands are subject to Chapter 104;
- Clarify that the Director of DLIR, and the governmental contracting agency (if applicable), has enforcement powers for Chapter 104; and
- Appropriate additional funds for the effectuation of the bill and enforcement of Chapter 104.

This bill is necessary, as it would provide more clarity for an unresolved question of how to treat state lands that are leased to private developers with regard to Chapter 104.

Because there has been a lack of uniform implementation of Chapter 104 on state lands that are leased to private developers, private developers have underpaid and exploited Hawai'i workers by not providing them with wages commensurate to their skills and labor.

SB2724 SD2 HD1 seeks to ensure uniform implementation of Chapter 104 and seeks to strengthen Hawai'i's prevailing wage or "Little Davis-Bacon" standards. Prevailing wages are important, as they ensure that local construction workers are paid properly, at living wages, for their skills and labor.

Because of the reporting requirements in Chapter 104, it is more difficult for unscrupulous contractors to cheat on worker protections like licensing, insurance, and workers compensation coverage. Additionally, local contractors benefit when it comes to bidding on jobs, because they can't be undercut by mainland contractors and their out-of-state workers who are paid at a lower rate.

We thank you for the opportunity to provide this testimony, and **respectfully request that your committee pass SB2724 SD2 HD1, relating to prevailing wages.**

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](mailto:execdir@hawaiiconstructionalliance.org)



**LATE**

Sent Via E-mail to [FINtestimony@capitol.hawaii.gov](mailto: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. 2724, SD2, HD1 RELATING TO PREVAILING WAGE.**

Specifies that development, construction, renovation, and maintenance on public land or financed based on public land are public works subject to state prevailing wage and hour requirements regardless of the contracting parties or funding source, with limited exemptions for certain housing construction. Appropriates funds for enforcement of wage and hour requirements.

HEARING

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

Dear Chair Luke and 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. 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?

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.

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

**LATE**

**BIA-HAWAII**  
BUILDING INDUSTRY ASSOCIATION

THE VOICE OF THE CONSTRUCTION INDUSTRY

2016 OFFICERS

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CRAIG WASHOFSKY  
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IMMEDIATE PAST PRESIDENT  
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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

**RE: S.B. 2724 S.D. 2 H.D. 1: Relating to Prevailing Wage**

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 strong **opposition** to S.B. 2724 S.D. 2 H.D. 1, which expands the types of projects that must comply with wage and hour requirements under HRS Chapter 104, including construction projects on public lands regardless of whether the work is paid from public funds, and projects for which public lands are used as security for financing. The bill also exempts certain projects from HRS Chapter 104, establishes requirements that apply in situations involving private lessees of public land who contract for certain projects on public land, and appropriates funds for enforcement of HRS Chapter 104.

Pursuant to HRS Chapter 171-2, the following are not considered "public lands:"

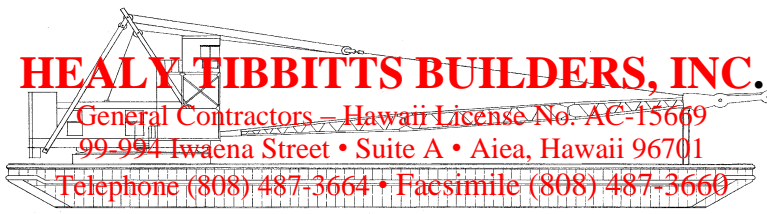
- Lands designated in section 203 of the Hawaiian Homes Commission Act, 1920, as amended;
- Lands set aside pursuant to law for the use of the United States;
- Lands being used for roads and streets;
- Lands to which the United States relinquished the absolute fee and ownership under section 91 of the Hawaiian Organic Act prior to the admission of Hawaii as a state of the United States unless subsequently placed under the control of the board of land and natural resources and given the status of public lands in accordance with the state constitution, the Hawaiian Homes Commission Act, 1920, as amended, or other laws;
- Lands to which the University of Hawaii holds title;
- Lands to which the Hawaii housing finance and development corporation in its corporate capacity holds title;
- Lands to which the Hawaii community development authority in its corporate capacity holds title;
- Lands to which the department of agriculture holds title by way of foreclosure, voluntary surrender, or otherwise, to recover moneys loaned or to recover debts otherwise owed the department under chapter 167;
- Lands that are set aside by the governor to the Aloha Tower development corporation; lands leased to the Aloha Tower development corporation by any department or agency of the State; or lands to which the Aloha Tower development corporation holds title in its corporate capacity;
- Lands that are set aside by the governor to the agribusiness development corporation; lands leased to the agribusiness development corporation by any department or agency of the State; or lands to which the agribusiness development corporation in its corporate capacity holds title; and
- Lands to which the high technology development corporation in its corporate capacity holds title.

The proposed bill would impose vastly different requirements on any entity leasing lands from DLNR, DOT (Airports, Harbors, Highways), and the Department of Agriculture, as opposed to entities leasing lands from any of the agencies listed in HRS Chapter 171-2.

Honorable Sylvia Luke, Chair  
House Committee on Finance  
April 1, 2016  
Testimony of BIA-Hawaii

The statute apparently recognizes the difference between the use of state or county funds versus the use of state or county lands. Imposing the Chapter 104 requirement on lessees of "public lands" would render these leases "less attractive" to potential lessees and could result in lower returns and lease rents than comparable properties in a similar market.

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](mailto:FINtestimony@capitol.hawaii.gov)

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

SUBJECT: **OPPOSITION TO S.B. 2724, SD2, HD1 RELATING TO PREVAILING WAGE.** Specifies that development, construction, renovation, and maintenance on public land or financed based on public land are public works subject to state prevailing wage and hour requirements regardless of the contracting parties or funding source, with limited exemptions for certain housing construction. Appropriates funds for enforcement of wage and hour requirements.

**HEARING**

DATE: Friday, April 1, 2016  
TIME: 1:00 p.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** 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.

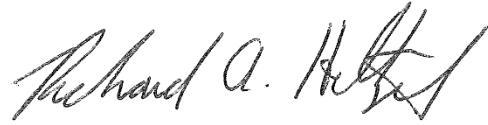
This measure has a far reaching impact and could escalate costs for State lease holders, many of whom are small businesses and therefore could be passed on to the everyday consumer too. Currently, those that are required to comply with Chapter 104, Hawaii Revised Statute are required to submit weekly 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?

**Healy Tibbitts Builders, Inc.**

---

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.

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 initial "R" and "H".

Richard A. Heltzel  
President





**LATE**

1599 ALA MOANA BLVD • HONOLULU, HI 96814 • 808-955-4405

March 31, 2016

To: The Honorable Sylvia Luke, Chair & Scott Nishimoto, Vice-Chair of the House Committee on Finance

Subject: SB2724 SD2 HD1, Relating to Prevailing Wages  
House Finance Committee Hearing on April 1, 2016, 1:00 PM, Conference Room 308

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

The Waikiki Yacht Club (WYC) **opposes** SB2724 SD2 HD1. This bill would expand the applicability of HRS 104, Hawaii's prevailing wage law, to lessees of public lands. The WYC clubhouse and marina are located on lands leased from the Department of Land and Natural Resources (DLNR), and would therefore be affected by this bill as it is currently written.

WYC is a 501(c)(7) nonprofit organization with more than 1000 members, whose mission is to promote and foster interest in the knowledge of sailing, boating, navigation, and other maritime activities. The Club operates numerous ocean-related programs, including a junior sailing program, the Ikaika Waterman's program for youth paddling, an adult paddling team, and boating safety courses. WYC members represent Hawaii to compete in national and international events in sailing and paddling, at both the youth and adult levels. WYC hosts numerous offshore sailing regattas, including the biennial Transpac Race from Long Beach, CA to Honolulu.

Although SB2724 would expand the applicability of HRS 104 to construction projects on public lands that are privately financed, it's unclear how HRS 104 would be administered for privately funded projects. The underlying structure of HRS 104 is based on the notion of a contractual relationship between a contractor and a government agency, in which the contractor submits certified payroll to the governmental contracting agency for review. The government agency acts as the administrative and enforcement body for the prevailing wage law. SB2724 does not provide for a scenario in which a private lessee of public lands, such as WYC, hires a contractor to do repairs and maintenance of its facility. Would the contractor submit certified payroll to the lessee? What would the lessee's requirements be with respect to administration and enforcement of the prevailing wage law? Would there be a requirement for the lessee and/or the contractor to submit certified payroll to a government agency? If so, which agency? Would that agency have to be a party to the contract? These questions are not addressed by SB2724.

In addition to the administrative issues outlined above, the imposition of additional requirements associated with this bill to existing lessees would be a substantial change to the lease terms. This raises the question of constitutionality with respect to the commerce clause of the U.S. Constitution.

For these reasons, WYC respectfully requests that this bill be deferred.



**LATE**

**STATE OF HAWAII**

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM  
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION  
677 QUEEN STREET, SUITE 300  
Honolulu, Hawaii 96813  
FAX: (808) 587-0600

IN REPLY REFER TO:

Statement of  
**Craig K. Hirai**  
Hawaii Housing Finance and Development Corporation  
Before the

**HOUSE COMMITTEE ON FINANCE**

April 1, 2016 at 1:00 p.m.  
State Capitol, Room 308

In consideration of  
**S.B. 2724, S.D. 2, H.D. 1**  
**RELATING TO PREVAILING WAGES.**

S.B. 2724, S.D. 2, H.D. 1 broadens Chapter 104 (wages and hours of employees on public works), Hawaii Revised Statutes, to include private entities and single family owners that lease state or county lands. The Hawaii Housing Finance and Development Corporation (HHFDC) **opposes** this bill.

The current law applies to the development of housing on state or county land or funded by the state or county. S.B. 2724, S.D. 2, H.D. 1 expands the law to include private housing projects located on leases of public lands under the jurisdiction of the HHFDC. The HHFDC currently has leases issued to private non-profit housing entities that own/manage affordable rental housing projects and group homes for persons with severe mental illnesses. The HHFDC also has leases issued to over 600 individual single family owners, as well as agricultural leases in Waiahole Valley.

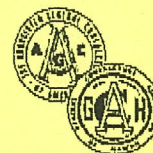
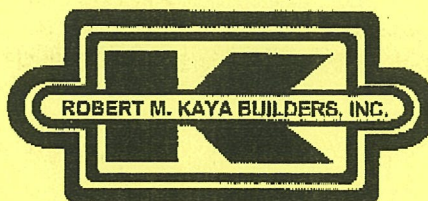
This measure provides an exemption for "de minimis" work or maintenance not exceeding \$100,000 per single family unit that is contracted by a private lessee. However, single family lessees with major renovations or wanting to re-build their homes would be subject to the legislation. No exemption is provided for private lessees of multi-family housing projects, such as the Senior Residence at Iwilei, Ko'oloa'ula in East Kapolei, Hale Mohalu in Pearl City, and Halekauwila Place in Kaka'ako, which have been built on state land.

Moreover, maintenance done on public lands regardless of whether or not the work is paid from funds or resources derived from public revenues of the State or any county, or from the sale of securities or bonds whose interest or dividends are exempt from state or federal taxes is subject to the legislation. As such, the maintenance of affordable rental housing units on state land would be subject to the legislation.

Because of the significant impact on housing affordability, as well as legal and implementation issues, HHFDC respectfully requests that this bill be deferred. Thank you for the opportunity to testify.



**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) 535-3659

March 31, 2016

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

SUBJECT: **OPPOSITION TO S.B. 2724, SD2, HD1 RELATING TO PREVAILING WAGE.**

Specifies that development, construction, renovation, and maintenance on public land or financed based on public land are public works subject to state prevailing wage and hour requirements regardless of the contracting parties or funding source, with limited exemptions for certain housing construction. Appropriates funds for enforcement of wage and hour requirements.

HEARING

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

Dear Chair Luke and Vice Chair Nishimoto and Members,

ROBERT M. KAYA BUILDERS, INC. **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



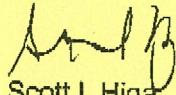
House Committee on Finance  
RE: OPPOSITION TO S.B. 2724, SD2, HD1  
March 31, 2016  
Page Two

prevailing wage rates due to the passage of Act 165 (2015) passed last year. Will these leaseholders be subject to same?

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.

Yours truly,

ROBERT M. KAYA BUILDERS, INC.



Scott I. Higa  
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](mailto:FINtestimony@capitol.hawaii.gov)  
Via Fax to 1(800) 535-3058

April 1, 2016

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

SUBJECT: **OPPOSITION TO S.B. 2724, SD2, HD1 RELATING TO PREVAILING WAGE.**

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### HEARING

DATE: Friday, April 1, 2016  
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PLACE: Conference Room 308

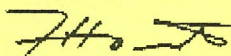
Dear Chair Luke and Vice Chair Nishimoto and Members,

Nan, Inc. **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?

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.

Sincerely,



Frank Okimoto  
Vice President  
Nan, Inc.

**LATE**

# 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](mailto: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. 2724, SD2, HD1 RELATING TO PREVAILING WAGE.**  
Specifies that development, construction, renovation, and maintenance on public land or financed based on public land are public works subject to state prevailing wage and hour requirements regardless of the contracting parties or funding source, with limited exemptions for certain housing construction. Appropriates funds for enforcement of wage and hour requirements.

## HEARING

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

Dear Chair Luke and Vice Chair Nishimoto and Members,

INSERT COMPANY NAME **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.

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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.

**LATE**

From: mailinglist@capitol.hawaii.gov  
Sent: Friday, April 01, 2016 1:01 PM  
To: FINTestimony  
Cc: jerry@kauainursery.com  
Subject: Submitted testimony for SB2724 on Apr 1, 2016 13:00PM

**SB2724**

Submitted on: 4/1/2016

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jerry Nishek	Individual	Oppose	No

Comments: I strongly oppose this bill. Many State leaseholders are farmers and ranchers who can barely afford the lease much less have to pay certified payroll rates for any improvements to the property. Most have other jobs and must do their work on weekends with friends and family. They can't afford to shoulder this additional burden. One more step to try and put farmers and ranchers out of business and other small businesses.

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](mailto:webmaster@capitol.hawaii.gov)