



**STATE OF HAWAII**  
**DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES**

P.O. BOX 119, HONOLULU, HAWAII 96810-0119

WRITTEN TESTIMONY  
OF  
DOUGLAS MURDOCK, COMPTROLLER  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
TO THE  
SENATE COMMITTEE  
ON  
WAYS AND MEANS  
ON  
FEBRUARY 27, 2015

S.B. 728, S.D. 1

RELATING TO GOVERNMENT CONTRACTS

Chair Tokuda and members of the Committee, thank you for the opportunity to submit written testimony on S.B. 728, S.D. 1.

The Department of Accounting and General Services (DAGS) supports the intent of S.B. 728, S.D. 1, but opposes the means for implementation.

In order to effectively carry out the purpose of this legislation, changes need to be made to both Chapter 103 and 104, Hawaii Revised Statutes.

In accordance with Chapter 104, Hawaii Revised Statutes, Wages and Hours of Employees on Public Works Law, the wage rate schedule for public works construction projects is regulated and overseen by the State Department of Labor and Industrial Relations (DLIR) Wage Standards Division. Oversight and enforcement of this law requires that certified payroll affidavits for all worker classifications, regardless of gender, be submitted by all contractors, including their respective subcontractors, on all public works projects.

The requirement for the Comptroller to adopt rules for the enforcement, administration, and effectuation of wage equity would result in the following:

1. Redundant oversight by two State agencies (DLIR and DAGS), which may create confusion for contractors and subcontractors to ensure compliance with both DLIR and DAGS regulations.
2. Requirement for DAGS to establish additional employee positions and funding to manage the implementation of new processes.
3. Lag time between the effective date of the proposed Act and formal regulation, as DAGS would need to develop new certified payroll affidavit forms and processes separate from those issued by DLIR.
4. Higher contractor supervision of overhead costs, and therefore higher bid costs for State public works construction projects, due to the increased/redundant contractor submittal requirements to satisfy both DLIR and DAGS regulations.
5. Additional work requirements for all State construction contracting agencies and its employees to enforce compliance with both DLIR regulations and DAGS regulations.

Thank you for the opportunity to submit written testimony on this matter.

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 27, 2015

TO: HONORABLE JILL TOKUDA, CHAIR, HONORABLE RON KOUCHI, VICE CHAIR, AND MEMBERS OF THE SENATE COMMITTEE ON WAYS AND MEANS

SUBJECT: **CONCERNS REGARDING S.B. 728, SD1, RELATING TO GOVERNMENT CONTRACTS.** Requires equal pay for similar work for any employee performing services under certain government contracts. Establishes a requirement for government contractors to report wages paid to employees, by gender. Provides penalties for contractors found to be in violation of these practices, including liquidated damages and suspension from government contract work. Also prohibits contractors on certain government contracts from retaliating against employees who disclose wage information. (SD1)

#### HEARING

DATE: Friday, February 27, 2015  
TIME: 1:00 p.m.  
PLACE: Capitol Room 211

Dear Chair Tokuda, Vice Chair Kouchi and Members of the Committee,

The GCA is an organization comprised of over approximately 580 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.

The GCA is concerned regarding the language in S.B. 728, SD1, Relating to Government Contracts, as it would unnecessarily apply to construction workers subject to prevailing wage, commonly referred to as "Little Davis Bacon" for public works construction. The prevailing wage requirement on all government public works contracts already ensures that wages paid are gender neutral. The additional requirement to report payment by gender is unnecessary in the public works construction and will impose more paper work and cost on construction contracts.

The construction firms that currently bid on public works contracts submit competitive sealed bids for state construction projects based on specifications developed by the state, under the provisions of Chapter 103D. Wages and working hours are regulated under Chapter 103-55.5, HRS, and all contractors must pay prevailing wages as determined by the State Department of Labor. Union contractors may also pay more than the state's prevailing wage if the terms of collective bargaining contract provide for greater benefits. Currently contractor already file payroll affidavits with the Department of Labor to certify compliance with Chapter 103D. We believe that the requirements for public works contracts under Chapter 103D ensure that wages paid to our workers are fair and exceed what is paid to government employees, regardless of gender.

Under the provisions of Chapter 103-55, HRS, bidders are already required to certify that wages paid are comparable or greater than that paid to government employees for similar work. The requirement to submit a report prior to completion of the contract of a summary of work identifying gender imposes another additional requirement that will add time and cost to bids on government contracts for public works construction projects.

The GCA believes that the current laws are adequate to ensure compliance with Chapter 103 and 103D and therefore this bill is not necessary in its applicability to public works construction projects.



**Testimony to the Senate Committee on Ways and Means  
Friday, February 27, 2015 at 1:00 P.M.  
Conference Room 211, State Capitol**

**RE: SENATE BILL 728 SD1 RELATING TO GOVERNMENT CONTRACTS**

Chair Tokuda, Vice Chair Kouchi, and Members of the Committee:

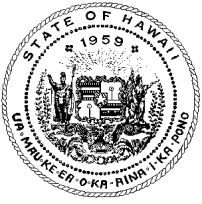
The Chamber of Commerce of Hawaii ("The Chamber") **supports the intent of SB 728 SD1**, which requires equal pay for similar work for any employee performing services under certain government contracts and establishes a requirement for government contractors to report wages paid to employees, by gender. Further provides penalties for contractors found to be in violation of these practices, including liquidated damages and suspension from government contract work. Also prohibits contractors on certain government contracts from retaliating against employees who disclose wage information.

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

The Chamber supports the intent of this bill to establish equal pay for government contracts. At the same time, we do have a concern regarding the employer's need for latitude in compensation. There are many cases where latitude is necessary. For example, where an employee with a higher level of experience enters the company at the same time that an employee with a lower level of experience is hired for the same position type, there may be a need for the compensation to the first employee to be slightly more than that of the second employee. Another possibility is an employee who has better performance at the company over another employee in the same position may be penalized under this bill.

While the bill allows for differential in pay other than gender, in the practice it will end up with employers having more administrative burden and possibly legal costs.

Thank you for the opportunity to testify.



# HAWAI‘I CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 HONOLULU, HI 96813 · PHONE: 586-8636 FAX: 586-8655 TDD: 568-8692

February 27, 2015  
Rm. 211, 1:00 p.m.

To: The Honorable Jill Tokuda, Chair  
Members of the Senate Committee on Ways and Means

From: Linda Hamilton Krieger, Chair  
and Commissioners of the Hawai‘i Civil Rights Commission

## S.B. No. 728, S.D.1

The Hawai‘i Civil Rights Commission (HCRC) has enforcement jurisdiction over Hawai‘i’s laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state funded services. The HCRC carries out the Hawai‘i constitutional mandate that no person shall be discriminated against in the exercise of their civil rights. Art. I, Sec. 5.

S.B. No. 728, S.D.1, if enacted, will require gender pay equity, equal pay for similar work, for employees working for state government contracts. The S.B. No. 728, S.D.1, amendment to HRS Chapter 103 will require state government agencies to include equal pay provisions in contracts, and state government contractors to report wages paid to employees by gender; and will also provide for penalties for violations of these equal pay requirements.

### **The HCRC supports S.B. No. 728, S.D.1.**

Hawai‘i currently does not have a state law corollary to the federal E.O. 11246, which charges the U.S. Secretary of Labor with responsibility for ensuring equal opportunity in federal contractors’ recruitment, hiring, training and other employment practices. E.O. 11246 requires non-discrimination provisions in all federal contracts and mandates the filing of equal opportunity reports. The U.S. Department of Labor (USDOL) Office of Federal Contract Compliance (OFCCP) enforces E.O. 11246. Noncompliance with nondiscrimination clauses, rules, regulations, or orders can be cause for cancellation, termination, or

suspension of contracts, debarment from federal contracts, and other forms of relief to victims of discrimination.

S.B. No. 728, S.D.1, creates a state enforcement scheme similar to the federal model, in which the U.S. Equal Employment Opportunity Commission (EEOC) has jurisdiction over complaints of discrimination under Title VII of the Civil Rights Act of 1964 and the Equal Pay Act, which apply to all employers as defined under those laws, and OFCCP has jurisdiction over federal contractors for compliance with nondiscrimination reporting requirements of every federal contract. S.B. No. 728, S.D.1, sets up a state enforcement scheme, in which state contractors are required under HRS Chapter 103 to comply with equal pay and reporting requirements, subject to suspension from doing work on state contracts for noncompliance, and the HCRC continues to have jurisdiction over claims of gender-based pay discrimination under HRS Chapter 378, Part I, and the equal pay requirements of HRS § 378-2.3

The HCRC supports passage of S.B. No. 728, S.D.1.



Planned Parenthood of Hawaii

To: Hawaii State Senate Committee on Ways and Means  
Hearing Date/Time: Friday, February 27, 2015, 1:00 p.m.  
Place: Hawaii State Capitol, Rm. 211  
Re: Testimony of Planned Parenthood of Hawaii in support of S.B. 728, SD1

Dear Chair Tokuda and Members of the Committee on Ways and Means,

Planned Parenthood of Hawaii (“PPHI”) writes in support of S.B. 728, SD1, which seeks to require equal pay for similar work for any employee performing services under certain government contracts.

Planned Parenthood of Hawaii is dedicated to providing Hawaii’s people with high quality, affordable and confidential sexual and reproductive health care, education, and advocacy and we know that equal pay for equal work is a social justice issue that directly impacts many of the women and men of all income levels who come through our doors seeking health care. S.B. 728 will take a step towards remedying this long-time injustice and ensuring that women in state government –contracted workplaces will be treated equally.

Back in the early 1960s, American women working full-time, year-round got paid only 60 percent of what men earned. By 2012, the gender pay gap had shrunk by a little less than half. Full-time, year-round working women’s earnings are 78.6 percent of their male counterparts. That means that a woman in Hawaii – a daughter, a niece, a single mother struggling to provide for her children – may very well get paid less than a man doing the same job. This pay gap affects women and their families from all backgrounds, ages, and at all levels of education — and it’s unacceptable.

You might assume that any woman who’s getting paid less than a man in the same job will either get her employer to fix the problem or got to court and win a lawsuit. Under Hawaii law, that’s easier said than done. Fear of retaliation – getting fired – may prompt the woman to stay silent, especially when good jobs are still scarce. Employers may be able to justify the lesser pay for women by citing education and experience requirements that are not related to the needs of the job. And savvy employers can keep the whole problem under wraps by imposing a gag rule, prohibiting workers from talking to each other about their pay. S.B. 728 seeks to close unfair loopholes and ensure that women are provided an equal playing field from the start. Thank you for this opportunity to testify in support of S.B. 728.

Sincerely,

Laurie Field  
Director of Public Affairs & Government Relations

**HONOLULU**  
1350 S. King Street, Suite 310  
Honolulu, HI 96814  
808-589-1149

**KAUAI**  
Education & Outreach  
808-482-2756

**KONA**  
Education & Outreach  
808-442-4243

**MAUI**  
Kahului Office Center  
140 Ho’ohana Street, Suite 303  
Kahului, HI 96732  
808-871-1176





**SB728**

Submitted on: 2/25/2015

Testimony for WAM on Feb 27, 2015 13:00PM in Conference Room 211

| <b>Submitted By</b>   | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|-----------------------|---------------------|---------------------------|---------------------------|
| Javier Mendez-Alvarez | Individual          | Support                   | No                        |

Comments:

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)