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LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA
DIRECTOR

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DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
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February 7, 2017

To: The Honorable Scott Y. Nishimoto, Chair,
The Honorable Joy A. San Buenaventura, Vice Chair, and
Members of the House Committee on Judiciary

Date: Tuesday, February 7, 2017
Time: 2:00 p.m.
Place: Conference Room 325, State Capitol

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

Re: H.B. No. 208 HD1 Relating to Labor

I. OVERVIEW OF PROPOSED LEGISLATION

This proposal seeks to amend chapter 386, Hawaii Revised Statutes (HRS), by adding four new sections relating to stop-work orders to Part IV and by amending section 386-123, HRS. The bill authorizes the Director of Labor & Industrial Relations to issue and serve stop-work orders to employers not in compliance with section 386-121, HRS, and establishes penalties, enforcement, and protest procedures.

The Department supports the intent of HB 208 HD1 to ensure all employers have the required workers' compensation coverage as mandated by law and offer comments below.

II. CURRENT LAW

Section 386-123, HRS, holds the employer liable for penalties for failure to comply with section 386-121, HRS, and allows the Director to seek an injunction against employers who do not have workers' compensation coverage.

III. COMMENTS ON THE HOUSE BILL

The Department supports the intent of HB 208 HD1 to insure all employers have the required coverage as mandated by law. However, as drafted, the proposal has some problematic aspects relating to current statute as well as operations. DLIR is

willing to work with the parties should the measure continue through the legislative process. This measure was largely drafted using California law and DLIR notes that it is aware that at least five other states besides California have similar laws (attached). Making the measure compatible with Hawaii's existing law would require amendments to chapter 386, DLIR offers some amendments and language for the Committee's consideration below.

DLIR would also like further information on California's implementation and whether California's implementation of stop-work orders is dependent on other programs and provisions in California's labor code.

Other considerations include:

A stop-work order issued to an employer without a hearing will raise due process concerns on the part of the employer. Most, if not all, due process concerns could be addressed by amending section 386-99, HRS, to require employers to be responsible for posting policy information. In addition, the department could develop procedure and administrative rules to further address due process considerations. DLIR suggests the following amendment to 386-99 by inserting a new subsection (b):

[§386-99] Posting of information. Each employer shall post and maintain in places readily accessible to individuals in the employer's employ printed statements concerning benefit rights, claims for benefits, insurance policy information, and such other matters relating to the administration of this chapter as the department of labor and industrial relations may by ~~regulation~~ rule prescribe. Each employer shall supply to such individuals copies of such printed statements or other materials relating to claims for benefits when and as the department may by regulation prescribe. ~~[Such printed statements and other materials shall be supplied by the department to each employer without cost to the employer.]~~

(b) Every employer subject to section 386-121(a)(1), shall post a notice in a conspicuous place accessible to employees, where the notice may be easily read during the hours of the workday. Such notice shall include the name of the insurer securing compensation pursuant to section 386-121(a)(1) and other information that the department may require. Every employer who receives a self-insurance authorization pursuant to section 386-121, shall post a valid notice identifying the claims adjuster for claims made pursuant to this chapter. Failure to keep the notice required by this section conspicuously posted in a place accessible to employees shall be prima facie

evidence of a violation of section 386-121.

The California law holds employers in strict liability on both coverage and posting policy information and in this manner avoids due process issues. California's law has operated for seventeen (17) years without a single challenge to stop-work orders, DLIR learned in discussions with California staff responsible for administering the stop-work provisions.

DLIR recommends the following language for the stop-work provision beginning on page 1, line 9:

§386- Stop-work order; failure to observe; penalties.

An employer or employer representative who directs employees to work in violation of the stop-work order issued and served upon the employer pursuant to section 386-123 shall be guilty of a misdemeanor punishable by imprisonment not exceeding sixty days or by a fine not exceeding \$10,000, or both. Both the employer and employer representative who directed employees to work in violation of the stop-work order shall be held in violation of this section. The director may obtain injunctive and other relief from the circuit court to enforce the provisions of this chapter.

DLIR suggests moving the contents of the new section pertaining to the Director remitting penalties (pg 2, lines 4-7) to Section 2 as a proposed amendment to 386-123(c).

The department perceives this proposal as providing another tool to help ensure compliance with chapter 386 and therefore recommends keeping the language struck out in the proposal on pg. 4, lines 10-17. This existing statutory language allows the Director to enjoin the employer from carrying on business in the State after 30 days of non-compliance with the provision of workers' compensation insurance.

Any further provisions that will specify time frames for the employer to request a hearing before the director to protest a stop-work order and for the director to schedule the hearing, notify all parties, hold the hearing and issue a written decision must be reasonable and fair to allow all parties adequate time to prepare and allow the director adequate time to weigh the issues and evidence presented at the hearing and to issue a sound decision. We do not agree with the provision to require the director to orally announce a decision at the conclusion of a hearing and issue a decision within hours of the hearing. Other concerns include no mention of appeal rights and whether Chapter 91 applies to these procedures.

The enforcement provision in section one of the measure is unnecessary as the director already, " shall have original jurisdiction over all controversies and disputes over employment and coverage under this chapter," pursuant to section

386-73.5, HRS.

DLIR notes that if it is required to administer these provisions, as drafted, it would likely need additional staffing and resources.

Hawai'i Construction Alliance

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

February 5, 2017

The Honorable Scott Y. Nishimoto, Chair
The Honorable Joy A. San Buenaventura, Vice Chair
and members
House Committee on Judiciary
415 South Beretania Street
Honolulu, Hawai'i 96813

RE: Strong Support for HB208 HD1, Relating to Labor

Dear Chair Nishimoto, Vice Chair San Buenaventura, and members:

The Hawai'i Construction Alliance is comprised of the Hawai'i Regional Council of Carpenters; the Laborers' International Union of North America, Local 368; the Operative Plasterers' and Cement Masons' Union, Local 630; International Union of Bricklayers & Allied Craftworkers, Local 1; 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 HB208 HD1**, which would authorize the Director of Labor and Industrial Relations or the Director's designee to issue and serve on an employer a stop-work order prohibiting the use of employee labor by the employer until the employer complies with the provisions of Section 386-121, Hawaii Revised Statutes. The bill also establishes penalty, enforcement, and protest procedures related to stop-work orders.

The Hawai'i Construction Alliance has been extremely concerned by the increasing problem of unscrupulous employers not following laws designed to protect the health and safety of Hawai'i workers, in particular, Section 386-121, the Workers' Compensation chapter.

It is far too common for employers in Hawai'i — particularly in the construction industry — to not provide their employees with temporary disability insurance and workers' compensation coverage. Often, this is due to employers fraudulently misclassifying workers as "independent contractors" or willfully neglecting to provide such coverage in an attempt to cut costs and retain profits. This sort of behavior is unacceptable and actively harms Hawai'i workers and families.

Last year, the legislature passed HB2363, which was signed into law as Act 187. This bill, among other things, increased fines for employers who did not have Workers' Compensation coverage. At the time, we believed that increasing fines would serve as a sufficient deterrent to cause unscrupulous contractors to think twice before flouting the law.

Unfortunately, unscrupulous contractors continue to operate – as was discovered at the recent raids at the Maile Sky Court and Polynesian Plaza construction projects in Waikīkī. Thus, we strongly believe that the Department of Labor and Industrial Relations ought to be given another enforcement tool – the issuance of stop-work orders – to further deter bad actors and to prevent workers who aren't provided coverage from being placed into unsafe situations.

Stop-work orders would be a “last-resort” option for DLIR, but we believe that this type of tool will be effective in preventing workers from being made to work without proper coverage. We note that several other states have the ability to issue stop-work orders to employers who do not have proper workers’ compensation coverage, including:

- California (Cal. Labor Code §3710);
- Connecticut (Conn. Gen. Stat §31-76a);
- Florida (Fla. Stat. §440.107);
- Massachusetts (Mass. Gen. Laws. Ch. 152, §25C);
- New Jersey (N.J. Rev. Stat. §34:20-1);
- New York (N.Y. Work Comp Law §141-A); and
- Washington State (Wash. Rev. Code §51.48.022).

By virtue of these states’ abilities to issue stop-work orders, their workers enjoy more protections and, by extension, safer job sites. We believe Hawai‘i workers deserve the same.

We note that various industry stakeholders have been working together among themselves and with DLIR to develop amendments to address concerns which have been raised. We support these efforts and hope that all concerns will be adequately addressed through the legislative process.

In closing, we strongly ask for your committee’s favorable action on HB208 HD1.

Mahalo,



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

SAH - Subcontractors Association of Hawaii

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

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

February 7, 2017

Testimony To: House Committee on Judiciary
Representative Scott Y. Nishimoto, Chair

Presented By: Tim Lyons, President

Subject: H.B. 208, HD 1 - RELATING TO LABOR.

Chair Nishimoto and Members of the Committee:

I am Tim Lyons, President of the Subcontractors Association of Hawaii and we do not support this bill as written. The SAH represents the following nine separate and distinct contracting trade organizations.

HAWAII FLOORING ASSOCIATION

ROOFING CONTRACTORS ASSOCIATION OF HAWAII

HAWAII WALL AND CEILING INDUSTRIES ASSOCIATION

TILE CONTRACTORS PROMOTIONAL PROGRAM

PLUMBING AND MECHANICAL CONTRACTORS ASSOCIATION OF HAWAII

SHEETMETAL CONTRACTORS ASSOCIATION OF HAWAII

PAINTING AND DECORATING CONTRACTORS ASSOCIATION

PACIFIC INSULATION CONTRACTORS ASSOCIATION

We do however, support the intent of the bill and recognize that there are situations that a stop work order might in fact be needed. We are concerned however with the lack of any criteria or any procedure that would occur prior to the issuance of a stop work order. In other words, after a violation, are there any steps that DLIR must take prior to the issuance of a stop work order or can they immediately go forward to the stop work order?

We are particularly concerned with Section 386-123 (a) regarding the payment of time lost and we are not quite sure how that would be calculated. The work order becomes effective immediately upon service and then the employer has to pay for any time lost not to exceed ten (10) days however, if work schedules for the following week have not yet been made up, how then does anybody know what the time lost will be?

We recognize that the stop work order could be an effective tool in curbing non-compliance with the workers compensation statute however, we also are fearful that a stop work order that was erroneously issued needs to have a cure process that can happen as quickly as it was issued. Therefore, some type of notification to the employer would seem to need to occur.

Based on the above, we cannot support this bill as it is written although we do believe that it may have some merit if it can be modified.

Thank you.



ALLIED BUILDERS SYSTEM

Testimony of
RAM Corporation dba
Allied Builders System
Justin Izumi, Vice President

HOUSE OF
REPRESENTATIVES
THE TWENTY-NINTH
LEGISLATURE REGULAR
SESSION OF 2017

COMMITTEE ON JUDICIARY
Rep. Scott Y. Nishimoto, Chair
Rep. Joy A. San Buenaventura, Vice Chair

NOTICE OF HEARING
DATE: Tuesday, February 7, 2017
TIME: 2:00 pm
PLACE: Conference Room 325

TESTIMONY ON HB 208 RELATING TO LABOR

Aloha Chair Nishimoto, Vice Chair San Buenaventura, and Members of the Committee,

Founded in 1970, RAM Corporation dba Allied Builders System is a locally owned and operated general contracting firm. Fundamental to our corporate philosophy is a deep-rooted commitment to act responsibly and provide exceptional value in service to our clients, their design teams and industry partners.

Allied Builders System supports HB 208, Relating to Labor, which authorizes the Director of Labor and Industrial Relations or the Director's designee to issue and serve on an employer a stop-work order prohibiting the use of employee labor by the employer until the employer complies with the provisions of section 386-121, Hawaii Revised Statutes. This measure establishes penalties, enforcement, and protest procedure related to stop-work orders.

Failure to stop employers from evading workers' compensation laws and paying appropriate wages only rewards unscrupulous employers over employers who follow the law. Stop-work order provisions in HB 208 will incentivize employers to follow the law and make cheating an unprofitable business model in Hawaii.

For these reasons, we support HB 208. Thank you for allowing us to testify.



Alan Shintani Inc.
GENERAL CONTRACTOR BC 13068

Testimony of
ALAN SHINTANI, INC.
Alan Shintani, Owner

HOUSE OF
REPRESENTATIVES
THE TWENTY-NINTH
LEGISLATURE REGULAR
SESSION OF 2017

COMMITTEE ON JUDICIARY
Representative Scott Y. Nishimoto, Chair
Representative Joy A. San Buenaventura, Vice

NOTICE OF HEARING

DATE: Tuesday, February 7, 2017
TIME: 2:00 pm
PLACE: Conference Room 325

TESTIMONY ON HB 208 RELATING TO LABOR

Aloha Chair Nishimoto, Vice Chair San Buenaventura, and Members of the Committee,

Alan Shintani, Inc. supports HB 208 Relating to Labor, which authorizes the Director of Labor and Industrial Relations or the Director's designee to issue and serve on an employer a stop-work order prohibiting the use of employee labor by the employer until the employer complies with the provisions of section 386-121, Hawaii Revised Statutes. This measure establishes penalties, enforcement, and protest procedure related to stop-work orders.

Failure to stop employers from evading workers' compensation laws and paying appropriate wages only rewards unscrupulous employers over employers who follow the law. Stop-work order provisions in HB 208 will incentivize employers to follow the law and make cheating an unprofitable business model in Hawaii.

For these reasons, we support HB 208. Thank you for allowing us to testify.

Sincerely,

Alan Shintani
President



TESTIMONY OF
BKA BUILDERS INC.
BRIAN ADACHI, PRESIDENT

HOUSE OF REPRESENTATIVES
THE TWENTY-NINTH LEGISLATURE
REGULAR SESSION OF 2017

COMMITTEE ON JUDICIARY

Representative Scott Y. Nishimoto, Chair
Representative Joy A. San Buenaventura, Vice

NOTICE OF HEARING

DATE: Tuesday, February 7, 2017
TIME: 2:00 p.m.
PLACE: Conference Room 325

TESTIMONY ON HB 208, RELATING TO LABOR

Aloha Chair Nishimoto, Vice Chair San Buenaventura, and Members of the Committee,

My name is Brian Adachi, president of BKA Builders, Inc.; a General Contracting firm on Oahu, Hawaii for the last 26 years.

BKA Builders Inc. supports HB 208, Relating to Labor, which authorizes the Director of Labor and Industrial Relations or the Director's designee to issue a stop-work order to an employer, until the employer complies with Chapter 388, Hawaii Revised Statutes, relating to the payment of wages and other compensation.

Failure to stop employers from evading workers' compensation laws and paying appropriate wages only rewards unscrupulous employers over employers who follow the law. Stop-work order provisions in HB 208 will incentivize employers to follow the law and make cheating an unprofitable business model in Hawaii.

For these reasons, we support HB 208. Thank you for allowing us to testify.

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Website: www.gcahawaii.org



GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

Uploaded via Capitol Website

February 7, 2017

TO: HONORABLE SCOTT NISHIMOTO, CHAIR HONORABLE JOY SAN BUENAVENTURA, VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON JUDICIARY

SUBJECT: **COMMENTS AND SUGGESTED AMENDMENTS TO H.B. 208, HD1 RELATING TO LABOR.** Authorizes the Director of Labor and Industrial Relations or the Director's designee to issue and serve on an employer a stop-work order prohibiting the use of employee labor by the employer until the employer complies with the provisions of section 386-121, Hawaii Revised Statutes. Establishes penalties, enforcement, and protest procedure related to stop-work orders. (HB208 HD1)

House Judiciary Committee Hearing

DATE: Tuesday, February 7, 2017
TIME: 2:00 p.m.
PLACE: Room 325

Dear Chair Nishimoto, Vice Chair San Buenaventura and Members of the Committee,

The General Contractors Association of Hawaii (GCA) is an organization comprised of over five hundred 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 GCA's 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 has comments regarding H.B. 208, HD1 Relating to Labor and will continue to work with proponents of this measure to ensure proper safeguards are put in place to protect all parties involved. While GCA appreciates the intent of this legislation and the requirement that all employers comply with the law to provide a safe work environment and to protect from a work related injury, GCA requests that employers are afforded due process if accused of such non-compliance.

H.B. 208, HD1, Relating to Labor, proposes to allow the Department of Labor and Industrial Relations (DLIR) to issue and serve on any employer, whether it be in construction or any other industry, an immediate order to stop work due to non-compliance with Section 386-121, compliance with Workers Compensation. The proposal lacks specifics on how DLIR would investigate such non-compliance or what burdens the DLIR may have to prove prior to issuing an order to stop work. This bill also indicates that the failure to observe a stop work order is a misdemeanor punishable by sixty days in jail in jail or a fine not exceeding \$10,000, or both. Furthermore, among other things, the Stop Work Order would be immediate upon service and an employee affected shall be paid for time lost not to exceed 10 days.

Under current law, the DLIR has the ability to request that the Attorney General petition the Court to enjoin a business from carrying on its business if an employer is in default of their workers compensation for a period of thirty days. See HRS Section 386-123. In addition, the Department of Commerce and Consumer Affairs through its Regulated Industries Complaint Office, known as RICO, has the ability to cite for unlicensed activity, including non-compliance with workers compensation insurance and order a project to cease and desist its operation. The City and County of Honolulu also has a similar ordinance which allows them to order a project to be stopped if it endangers public health and safety. See Revised Ordinances of Honolulu, Article 7, Section 18-7.5.

GCA respectfully requests the Committee consider including procedural due process safeguards for the protection of all parties involved to ensure any attempt to stop work is fully investigated and is supported by factual information. Such factual information should be as a result of a complete investigation supported by evidence of such an alleged violation, whether such investigation is for non-compliance with workers compensation, temporary disability insurance or non-payment of wages. In construction an order to stop work is an extreme mechanism that should not be taken lightly, given that a construction project's immediate stoppage may put employees and the general public at risk.

For these reasons, we respectfully request the Committee consider adding language that clearly articulates the standard the DLIR must satisfy *before* issuance of an order to stop work; provide an employer adequate notice or advance warning of such an allegation *before* an order to stop work is issued; allow an employer the ability to adequately respond and defend against such allegation *before* a stop work order is issued; and most importantly allow the employer to secure the workplace to ensure all employees and the public at large will be safe *before* issuance of a stop work order.

GCA will continue to work with proponents of this measure to include such safeguards. Thank you for the opportunity to present our views on this matter.

PRESIDENT
EVAN FUJIMOTO
GRAHAM BUILDERS, INC.

PRESIDENT-ELECT
DEAN UCHIDA
SSFM INTERNATIONAL, INC.

VICE PRESIDENT
MARSHALL HICKOX
HOMEWORKS CONSTRUCTION, INC.

SECRETARY
DWIGHT MITSUNAGA
DM PACIFIC, INC.

TREASURER
MICHAEL WATANABE
JW, INC.

SPECIAL APPOINTEE-BUILDER
CURT KIRIU
CK INDEPENDENT LIVING BUILDERS

SPECIAL APPOINTEE-BUILDER
MARK KENNEDY
HASEKO CONSTRUCTION MANAGEMENT
GROUP, INC.

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RAYNOR OVERHEAD DOORS & GATES

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PHYSICAL:
94-487 AKOKI STREET
WAIPAHU, HAWAII 96797

LATE

**Testimony to the House Committee on Judiciary
Tuesday, February 7, 2017
2:00 pm
Conference Room 325**

RE: HB 208 HD1 – Relating to Labor

Chair Nishimoto, Vice-Chair San Buenaventura, and members of the committee:

My name is Gladys Quinto-Marrone, CEO of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-Hawaii offers the following comments on HB 208 HD1, Relating to Labor.

This bill would authorize the Director of Labor and Industrial Relations or the Director's designee to issue and serve on an employer a stop-work order prohibiting the use of employee labor by the employer until the employer complies with the provisions of section 386-121 (workers' compensation rules).

Instead of an immediate stop-work order issued by the Department, there should be a grace period in which the the company is given to cure the situation after being notified in writing. Otherwise, if a stop-work order is just immediately issued without any notice, it could seriously harm a company, especially if the situation is a simple mistake or involves exigent circumstances.

We appreciate the opportunity to provide comments on HB 208 HD1.



HAWAII LABORERS-EMPLOYERS COOPERATION AND EDUCATION TRUST
650 Iwilei Road, Suite 285 · Honolulu, HI 96817 · Phone: 808-845-3238 · Fax: 808-845-8300

TESTIMONY OF HAWAII LECET
CLYDE T. HAYASHI - DIRECTOR

LATE

COMMITTEE ON JUDICIARY

Rep. Scott Y. Nishimoto, Chair
Rep. Joy A. San Buenaventura, Vice Chair

AMENDED NOTICE OF HEARING

DATE: Tuesday, February 7, 2017
TIME: 2:00 pm
PLACE: Conference Room 325

TESTIMONY ON HOUSE BILL NO. 208 HD1, RELATING TO LABOR.

ALOHA COMMITTEE CHAIR SCOTT NISHIMOTO, COMMITTEE VICE CHAIR JOY SAN BUENAVENTURA, AND MEMBERS OF THE COMMITTEE ON JUDICIARY:

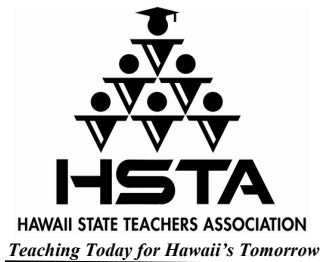
My name is Clyde T. Hayashi and I am the Director of Hawaii LECET. Hawaii LECET is a labor-management partnership between the Hawaii Laborers Union, Local 368, and its unionized contractors.

Mahalo for the opportunity to testify on House Bill No. 208 HD1. This bill proposes to authorize the Director of Labor and Industrial Relations or the Director's designee, to issue and serve an employer a stop-work order prohibiting the use of employee labor by the employer until the employer complies with the provisions of section 386-121, Hawaii Revised Statutes. It also establishes penalties, enforcement, and protest procedure related to stop-work orders.

We believe every employer has a legal responsibility to their employees to ensure their workplace is safe. A workers' compensation policy compensates employees injured on the job for any medical care, rehabilitation and/or lost wages due to their injury. Additionally, workers' compensation protects a business from lawsuits stemming from workplace accidents.

Unfortunately in the construction industry, there are some contractors (with employees) that classify their workers as 1099 independent subcontractors or pay them in cash only. This is done to dodge paying for workers' compensation, Federal or State withholdings and unemployment tax, which also results in a clear bidding advantage over law-abiding contractors.

For these reasons, we support the intent of House Bill No. 208 HD1.



LATE

1200 Ala Kapuna Street ♦ Honolulu, Hawaii 96819
Tel: (808) 833-2711 ♦ Fax: (808) 839-7106 ♦ Web: www.hsta.org

Corey Rosenlee
President
Justin Hughey
Vice President
Amy Perruso
Secretary-Treasurer
Wilbert Holck
Executive Director

TESTIMONY BEFORE THE HOUSE COMMITTEE ON
JUDICIARY

RE: HB 1582 – PROPOSING AN AMENDMENT TO ARTICLE I, SECTION 2, OF THE CONSTITUTION OF THE STATE OF HAWAII TO INCLUDE ACCESS TO CLEAN DRINKING WATER, EDUCATION AND HEALTH CARE AMONG THE INHERENT AND INALIENABLE RIGHTS OF INDIVIDUALS.

TUESDAY, FEBRUARY 7, 2017

COREY ROSENLEE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Nishimoto and Members of the Committee:

The Hawaii State Teachers Association **supports HB 1582**, proposing an amendment to Article I, Section 2, of the Constitution of the State of Hawai'i to include access to clean drinking water, education, and health care among the inherent and inalienable rights of individuals.

Education is a human right. Other rights, including access to clean water and health care, can only be achieved and protected by an informed citizenry. More than 100 million children are out of school worldwide. Discrimination of marginalized groups, long distances to school, and the absence of inclusive education, per Human Rights Watch, are among the main causes for a lack of learning.

In Hawai'i, 56 percent of public school graduates attend college, according to Hawai'i P-20. Yet, only 40 percent of Native Hawaiian and Pacific Islander students attend college, while only 44 percent of economically disadvantaged students do. Even in the islands, then, we must work to ensure that our most vulnerable children receive their right to a bright future.

To give every child a chance to reach for their dreams, the Hawaii State Teachers Association asks your committee to **support** this bill.

LATE



46-063 Emepela Pl. #U101 Kaneohe, HI 96744 · (808) 679-7454 · Kris Coffield · Co-founder/Executive Director

TESTIMONY FOR HOUSE BILL 1582, PROPOSING AN AMENDMENT TO ARTICLE I, SECTION 2, OF THE CONSTITUTION OF THE STATE OF HAWAII TO INCLUDE ACCESS TO CLEAN DRINKING WATER, EDUCATION AND HEALTH CARE AMONG THE INHERENT AND INALIENABLE RIGHTS OF INDIVIDUALS

**House Committee on Judiciary
Hon. Scott Y. Nishimoto, Chair
Hon. Joy A. San Buenaventura, Vice Chair**

**Tuesday, February 7, 2017, 2:00 PM
State Capitol, Conference Room 325**

Honorable Chair Nishimoto and committee members:

I am Kris Coffield, representing IMUAlliance, a nonpartisan political advocacy organization that currently boasts over 350 members. On behalf of our members, we offer this testimony in support of House Bill 1582, proposing an amendment to Article I, Section 2, of the Constitution of the State of Hawai'i to include access to clean drinking water, education, and health care among the inherent and inalienable rights of individuals.

Education is recognized as a fundamental human right in the most foundational human rights documents of international law. Article 26 of the Universal Declaration of Human Rights states:

- (1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
- (2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
- (3) Parents have a prior right to choose the kind of education that shall be given to their children.

Similarly, the International Covenant on Economic, Social, and Cultural Rights, Convention on the rights of the Child, Convention on the Elimination of All Forms of Discrimination Against Women, and Convention on the Elimination of All Forms of Racial Discrimination enshrine

education as a fundamental right for all humankind, without which the enactment and protection of other rights, whether natural or legal, are impossible.

In Hawai'i, our education system is improving, but fails to meet the basic needs of all children. Only 36 percent of special education students spend 80 percent of their time in a regular education setting, for example, well below the national average of 62 percent. Similarly, only 40 percent of Native Hawaiian students attend college, in part because of our continued failure to understand and address the cultural needs of Hawai'i's indigenous and continually occupied people. Establishing education as an inalienable right, along with access to clean drinking water and basic health care, guarantees that public policy will be directed toward the furtherance and protection of a well-informed and healthy citizenry, upon which the success of our democratic systems of governance and public legal instruments depend.

Mahalo for the opportunity to testify in support of this bill.

Sincerely,
Kris Coffield
Executive Director
IMUAlliance



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TESTIMONY OF HAWAII LECET
CLYDE T. HAYASHI - DIRECTOR

LATE

COMMITTEE ON JUDICIARY

Rep. Scott Y. Nishimoto, Chair
Rep. Joy A. San Buenaventura, Vice Chair

AMENDED NOTICE OF HEARING

DATE: Tuesday, February 7, 2017
TIME: 2:00 pm
PLACE: Conference Room 325

TESTIMONY ON HOUSE BILL NO. 208 HD1, RELATING TO LABOR.

ALOHA COMMITTEE CHAIR SCOTT NISHIMOTO, COMMITTEE VICE CHAIR JOY SAN BUENAVENTURA, AND MEMBERS OF THE COMMITTEE ON JUDICIARY:

My name is Clyde T. Hayashi and I am the Director of Hawaii LECET. Hawaii LECET is a labor-management partnership between the Hawaii Laborers Union, Local 368, and its unionized contractors.

Mahalo for the opportunity to testify on House Bill No. 208 HD1. This bill proposes to authorize the Director of Labor and Industrial Relations or the Director's designee, to issue and serve an employer a stop-work order prohibiting the use of employee labor by the employer until the employer complies with the provisions of section 386-121, Hawaii Revised Statutes. It also establishes penalties, enforcement, and protest procedure related to stop-work orders.

We believe every employer has a legal responsibility to their employees to ensure their workplace is safe. A workers' compensation policy compensates employees injured on the job for any medical care, rehabilitation and/or lost wages due to their injury. Additionally, workers' compensation protects a business from lawsuits stemming from workplace accidents.

Unfortunately in the construction industry, there are some contractors (with employees) that classify their workers as 1099 independent subcontractors or pay them in cash only. This is done to dodge paying for workers' compensation, Federal or State withholdings and unemployment tax, which also results in a clear bidding advantage over law-abiding contractors.

For these reasons, we support the intent of House Bill No. 208 HD1.

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 3, 2017 3:19 PM
To: JUDtestimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HB208 on Feb 7, 2017 14:00PM*

HB208

Submitted on: 2/3/2017

Testimony for JUD on Feb 7, 2017 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
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.

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Chamber of Commerce HAWAII

The Voice of Business

LATE

**Testimony to the House Committee on Judiciary
Tuesday, February 7, 2017 at 2:00 P.M.
Conference Room 325, State Capitol**

RE: HOUSE BILL 208 HD1 RELATING TO LABOR

Chair Johanson, Vice Chair Holt, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") would like to provide **comments** regarding HB 208, which authorizes the Director of Labor and Industrial Relations or the Director's designee to issue and serve on an employer a stop-work order prohibiting the use of employee labor by the employer until the employer complies with the provisions of section 386-121, Hawaii Revised Statutes; establishes penalties, enforcement, and protest procedure related to stop-work orders.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,600+ 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.

We appreciate the intent of the bill to ensure that all companies are on the same playing field in abiding by the laws and rules of the state. At the same time, we have some concerns on the lack of specificity on how investigations would take place, and what is the burden of proof on the department on issuing the stop-work order. A clear due process structure needs to be clarified as the penalties are both monetary and imprisonment. We also would ask that the Director or their designee be given latitude to issue a stop-work order rather than the law mandating them to do so.

Please keep in mind that the Department of Commerce and Consumer Affairs, through its Regulated Industries Complaint Office (RICO) has the ability to cite for unlicensed activity, including non-compliance with workers compensation insurance and order a project to cease and desist. The City and County of Honolulu also has a similar ordinance which allows them to order a project to be stopped if it is based on public health and safety.

Lastly, we have concerns while this bill has genesis in the construction industry; it applies to all business and could adversely affect many other companies and industries.

Thank you for the opportunity to testify.