

SB 1105

Measure Title: RELATING TO HOUSING.

Report Title: Rental Housing Projects; Construction; General Excise Tax Exemption; Collective Bargaining Agreement; Prevailing Wages

Description: Expands the types of rental housing projects that can be exempted from general excise taxes. Allows the terms of collective bargaining agreements and associated provisions to be deemed the prevailing wages and terms serving as the basis of compliance with chapter 104, Hawaii Revised Statutes, for the construction of certain rental housing projects.

Companion: HB1179

Package: None

Current Referral: HOU, JDL/WAM

Introducer(s): KOUCHI (Introduced by request of another party)

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
EXECUTIVE DIRECTOR

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

SENATE COMMITTEE ON HOUSING

February 14, 2017 at 3:00 p.m.
State Capitol, Room 225

In consideration of
S.B. 1105
RELATING TO HOUSING.

The HHFDC supports S.B. 1105, which expands the General Excise Tax (GET) exemption for certified or approved housing projects pursuant to sections 201H-36 and 237-29, HRS, to include rental housing projects for households at or below 140 percent of the area median income (AMI), of which at least 20 percent of units are set-aside for households at or below 80 percent AMI, with a collective bargaining agreement described in proposed section 104-2(i)(2), HRS.

HHFDC is willing and able to expand its GET exemptions program to accommodate these types of affordable rental housing projects. We defer to the Departments of Labor and Taxation as to the bill's impact on their respective programs.

Currently, the HHFDC may approve and certify for exemption from GET any qualified person or firm involved with an "eligible project" developed under 1) Chapter 201H, 2) a government assistance program approved by the HHFDC, 3) the sponsorship of a private nonprofit corporation providing homes for qualified families in need of decent, low-cost housing, or 4) by a qualified person or firm providing affordable rental housing where at least 50 percent of the available units are for households with incomes at or below 80 percent of the area median income, as determined by HUD, of which at least 20 percent of the available units are for households with incomes at or below 60 percent of the area median income.

Rental housing projects certified for exemption from GET must either enter into a regulatory agreement with HHFDC setting minimum terms of affordability, as follows:

1. For moderate rehabilitation projects, 5 years;
 2. For substantial rehabilitation projects, 10 years; or
 3. For new construction, 30 years;
- or otherwise demonstrate the existence of a similar restriction on the project.

Thank you for the opportunity to testify.

DAVID Y. IGE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

DAMIEN A. ELEFANTE
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
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To: The Honorable Will Espero, Chair
and Members of the Senate Committee on Housing

Date: Tuesday, February 14, 2017
Time: 3:00 P.M.
Place: Conference Room 225, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: S.B. 1105, Relating to Housing

The Department of Taxation (Department) appreciates the intent of the measure to increase affordable housing and defers to the Hawaii Housing Finance and Development Corporation (HHFDC) on the merits of this bill. The Department provides the following comments regarding S.B. 1105 for your consideration.

Among other things, S.B. 1105 expands the types of rental housing projects that can be exempted from the general excise tax (GET) by allowing projects where all available units are for households with incomes at or below one hundred forty per cent of the area median family income as determined by the United States Department of Housing and Urban Development (HUD), and at least twenty per cent of which are reserved for households with incomes at or below eighty per cent of the area median family income as determined by the HUD. The measure is effective upon approval.

Under section 201H-36, Hawaii Revised Statutes, HHFDC certifies that a housing project is entitled to the GET exemption, and upon such certification, a taxpayer is entitled to claim the GET exemption. As the regulatory agreements and the determination of whether a taxpayer is eligible for the exemption remain with HHFDC, this measure will not have a substantial administrative impact on the Department.

If the Committee wishes to advance this measure, the Department requests that it be made effective for taxable years beginning after December 31, 2017 to allow sufficient time for the necessary form and instruction changes.

Thank you for the opportunity to provide comments.

DAVID Y. IGE
GOVERNOR

SHAN S. TSUTSUI
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA
DIRECTOR

LEONARD HOSHIJO
DEPUTY DIRECTOR

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February 14, 2017

To: The Honorable Will Espero, Chair,
The Honorable Breene Harimoto, Vice Chair, and
Members of the Senate Committee on Housing

Date: Tuesday, February 14, 2017
Time: 3:00 p.m.
Place: Conference Room 225, State Capitol

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

Re: S.B. No. 1105 Relating to Housing

I. OVERVIEW OF PROPOSED LEGISLATION

This proposal amends section 104-2, Hawaii Revised Statutes (HRS), and provides that for projects approved and certified by the Hawaii Housing Finance and Development Corporation (HHFDC) for an exemption from general excise taxes, and where the relevant workforce is subject to a collective bargaining agreement, the terms of that collective bargaining agreement shall be deemed the prevailing wages serving as compliance with chapter 104, HRS.

DLIR supports the provisions of SB1105 pertaining to prevailing wages as an initiative to draw private sector financing, development and operation of workforce rental housing, into addressing the recognized deficit in Hawaii's housing inventory. As in the current 104-2(h), HRS, relating to projects financed with the proceeds of special purpose revenue bonds, the alternative of the terms of collective bargaining agreements provides a means to protect Hawaii industry standards and laborer and mechanic standards. If the workforce is not subject to a collective bargaining agreement, prevailing wages established by the Director shall be required. DLIR also suggests an amendment discussed in the COMMENTS section below.

DLIR support for the measure is predicated on the understanding that it is not a categorical exemption from prevailing wages, but provides one alternative for a specific form of one type of construction. DLIR notes that the thousands of units of government

assisted low-income rental housing, including public housing and private nonprofit or for profit housing, have been successfully developed in compliance with chapter 104, HRS, and/or Davis-Bacon prevailing wages, and SB1105 does not seek to change that.

II. CURRENT LAW

HHFDC certification of a project as meeting affordable housing standards, on a project-by-project basis, establishes eligibility for government assistance, including exemption from general excise taxes. Compliance with chapter 104 prevailing wages as determined by the Director is required. Section 104-2(h), HRS, provides that for a project financed or refinanced with the proceeds of special purpose revenue bonds, when the project party has entered into a collective bargaining agreement governing the workforce and that agreement has been properly submitted to the Director, the terms of the collective bargaining agreement shall be deemed the prevailing wages serving as the basis of compliance with chapter 104.

While deferring to HHFDC, we are informed that HHFDC regulates the certification of projects as providing affordable housing, and enters into agreements with the developers, and that for new construction of rental housing it is required that the units continue as rental housing serving households of specified incomes for a minimum of thirty years.

III. COMMENTS ON THE HOUSE BILL

The Department supports the provisions of SB1105 pertaining to prevailing wages to assist in the building of affordable housing in Hawaii and defers to HHFDC and the Department of Taxation (DoTAX) on the provisions pertaining to them.

DLIR finds no additional cost to the acceptance of collective bargaining agreements, if any, and responding to complaints, if any, of noncompliance of with prevailing wages.

DLIR recommends the following provision to clarify section 104(2)(h) and the proposed 104(2)(i):

Except for the special prevailing wage established by sections 104-2(h) and (i), HRS, the prevailing wages shall be not less than the wages payable under federal law to corresponding classes of laborers and mechanics employed on public works projects in the State that are prosecuted under contract or agreement with the government of the United States.

DLIR would consider a sunset provision as non-disruptive to operations, recognizing that for workforce rental housing financing and development, a substantial period of time would have to be provided, and allowance made for projects deemed to be in the "pipeline" at the time of sunset:

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, Broaden Affordable Housing Exemption

BILL NUMBER: HB 1179; SB 1105 (Identical)

INTRODUCED BY: HB by JOHANSON, BROWER, SAIKI; SB by Kouchi by request

EXECUTIVE SUMMARY: Allows another category of affordable housing project, but only where the contractor uses union labor. This bill shows where two policy initiatives may collide: the policy to encourage the construction of affordable housing, and the policy to mandate that construction workers be paid the prevailing wage on public works projects.

BRIEF SUMMARY: Amends HRS section 104-2, part of Hawaii's "Little Davis-Bacon Act," to provide that a properly submitted collective bargaining agreement with a general contractor or subcontractors that applies to a certified affordable housing project will determine the "prevailing wages and terms" for purposes of compliance with chapter 104.

Amends HRS section 237-29 to add a new eligible category of affordable housing project, namely one developed under a contract described above by a qualified person or firm to provide affordable rental housing where all available units are for households with incomes at or below one hundred forty per cent of the area median family income as determined by the United States Department of Housing and Urban Development (HUD), of which at least twenty per cent of the available units are for households with incomes at or below eighty per cent of the area median family income as determined by HUD.

Makes a conforming amendment to HRS section 201H-36.

EFFECTIVE DATE: Upon approval.

STAFF COMMENTS: Currently, the HHFDC may certify affordable rental housing projects under HRS 201H-36 as qualifying for the exemption under HRS 237-29.

One of the existing categories of affordable housing projects that can be certified is an affordable rental housing project where at least 50% of the available units are for households with incomes at or below 80% of the area median family income, of which at least 20% of the available units are for households with incomes at or below 60% of the area median family income.

The proposed additional category is an affordable rental housing project where all of the available units are for households with incomes at or below 140% of the area median family income, of which at least 20% of the available units are for households with incomes at or below 80% of the area median family income. However, it appears that to qualify for this category the

Re: SB 1105

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developer would need to use a union contractor whose collective bargaining agreement was properly submitted to DLIR under Hawaii's Little Davis-Bacon Act.

If the policy goal is to build more affordable housing, we need to be wary of attaching conditions to the goal that would bog down the process. In 2015, lawmakers authorized \$10 million to cool the sweltering classrooms in our public schools, but added so many requirements that the request for proposals to the industry for school cooling looked more like a novel than a pamphlet. Schools couldn't use the money to go down to the local hardware; the work called for was a lot more complicated. As a result, the \$10 million initiative to cool the schools turned out to be a miserable failure. Nowhere near the 1000 classrooms promised were cooled by the end of 2015.

Digested 2/2/2017



HAWAII COMMUNITY
DEVELOPMENT AUTHORITY



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STATEMENT OF

JESSE K. SOUKI, EXECUTIVE DIRECTOR
HAWAII COMMUNITY DEVELOPMENT AUTHORITY

BEFORE THE
SENATE COMMITTEE ON HOUSING

Tuesday, February 14, 2017
3:00 P.M.

State Capitol, Conference Room 225

in consideration of
SB1105 – RELATING TO HOUSING

Chair Espero, Vice Chair Harimoto and members of the committee.

The Hawaii Community Development Authority (HCDA) offers the following **comments** on SB1105.

This testimony reflects my view alone. The Hawaii Community Development Authority (HCDA) has not acted on this measure. In my capacity as the HCDA Executive Director, I respectfully offer the following **comments** on SB1105.

This bill would make rental housing projects aimed at families in the 80 to 140 percent Area Median Income (AMI) range more affordable to construct and would encourage the private sector to develop units at the lower end of the affordability market. Rental housing for families in the 80 to 140 percent AMI is in strong demand. However, few projects are targeted to those families, in large part due to the cost of construction in Hawaii.

This bill is a private sector effort by the Rental Housing Coalition (that includes labor unions) to address issues of cost-effectiveness for these projects.

The proposal supports HCDA's legislative mandate to create mixed use districts where residential development integrates a mixture of residents with varying incomes, ages, and family groups.

Thank you for the opportunity to provide **comments** on this bill.

Testimony of
Christopher Delaunay
Pacific Resource Partnership

THE SENATE
THE TWENTY-NINTH LEGISLATURE
REGULAR SESSION OF 2017

COMMITTEE ON HOUSING
Senator Will Espero, Chair
Senator Breene Harimoto, Vice Chair

NOTICE OF HEARING

DATE: Tuesday, February 14, 2017
TIME: 3:00 pm
PLACE: Conference Room 225

Aloha Chair Espero, Vice Chair Harimoto, and Members of the Committee:

PRP strongly supports SB 1105, Relating to Housing, which expands the types of rental housing projects that can be exempted from general excise taxes (GET). This measure also allows the terms of collective bargaining agreements and associated provisions to be deemed the prevailing wages and terms serving as the basis of compliance with chapter 104, Hawaii Revised Statutes, for the construction of certain rental housing projects.

The shortage of units for working moderate-and lower-income household is at a crisis level negatively affecting families throughout the community, including many of our members in the 80-140% AMI range.

SB 1105 would expand the existing general excise tax exemptions for allowable construction, development, and financing costs for projects wherein at least 20% of available units are for households whose incomes are at or below 80% AMI, and wherein all remaining units are households whose incomes are at or below 140% AMI. GET reduction along with wage reductions will provide developers with incentives to produce critically needed affordable rental housing projects.

Thank you for allowing us to express our strong support on SB 1105 and we respectfully request your favorable consideration.



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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.

Hawai'i Construction Alliance

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

February 11, 2017

The Honorable Will Espero, Chair
The Honorable Breene Harimoto, Vice Chair
and members
Senate Committee on Housing
415 South Beretania Street
Honolulu, Hawai'i 96813

RE: Strong Support for SB1105, Relating to Housing

Dear Chair Espero, Vice Chair Harimoto, 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 SB1105**, which would expand the types of rental housing projects that can be exempted from general excise taxes and allow the terms of collective bargaining agreements and associated provisions to be deemed the prevailing wages and terms serving as the basis of compliance with Chapter 104, Hawaii Revised Statutes, for the construction of certain rental housing projects.

The Hawai'i Construction Alliance is extremely concerned about the chronic deficiency of rental apartment housing across the state. Simply put: the shortage of units for working moderate- and lower-income households is at a crisis level. Said shortage is negatively affecting families throughout the entire community, including our members, many of whom fall within the 80-140% AMI "middle income range."

Along with our partners in the banking, development, landowning, contracting, architecture, and engineering communities, we have formed the "Hawai'i Rental Housing Coalition," with the aim of identifying and carrying out concrete private-sector steps to make a meaningful impact on the economics of building and operating rental housing for families in the 80-140% AMI range. Through SB1105, we are seeking the State's assistance in this effort as well.

SB1105 would expand the existing general excise tax exemptions for allowable construction, development, and financing costs for projects wherein at least twenty percent of available units are for households whose incomes are at or below 80%AMI, and wherein all remaining units are households whose incomes are at or below 140%AMI. Compliance with these affordability requirements would be governed by HHFDC through the existing regulatory agreement process found in HRS §201H-36(b).

We believe that relief from general excise tax would immediately improve the economics of constructing, developing, and financing these types of rental housing projects.

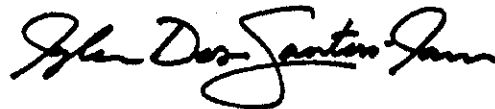
Among the many concrete steps from the private sector is a commitment from the Hawai'i Construction Alliance unions to work to negotiate a special wage rate and benefits package to build rental housing projects meeting the same qualifications as described above.

In order to ensure that the Hawai'i Construction Alliance unions – or other unions who wish to participate – can negotiate a special wage rate and benefits package to build such rental housing projects, we are seeking an amendment to HRS Chapter 104 as part of SB1105. Specifically, the amendment would clarify that if a developer has entered into a contract with a general contractor or subcontractors whose workforce is subject to a collective bargaining agreement with a bona fide labor union for the construction of the project, then the terms of the collective bargaining agreement and associated provisions shall be deemed the prevailing wages and terms serving as the basis of compliance with this chapter for work on the project.

On the companion House vehicle, HB1179, Department of Labor and Industrial Relations proposed an amendment to clarify that except for the special prevailing wage established by HRS §104-2(h) and (i), the prevailing wages shall be not less than the wages payable under federal law to corresponding classes of laborers and mechanics employed on public works projects in the State that are prosecuted under contract or agreement with the government of the United States. If your committee desires to make a similar amendment, we would have no objection.

The Hawai'i Construction Alliance is excited to take a leadership role in encouraging the production of rental housing across our state. We ask your committee to join us in this effort by taking favorable action today on SB1105.

Mahalo,

A handwritten signature in black ink, reading "Tyler Dos Santos-Tam". The signature is fluid and cursive, with the first name "Tyler" being the most prominent.

Tyler Dos Santos-Tam
Executive Director
Hawai'i Construction Alliance
execdir@hawaiiiconstructionalliance.org