PRESENTATION OF THE
ELEVATOR MECHANICS LICENSING BOARD

TO THE HOUSE COMMITTEE ON FINANCE

TWENTY-NINTH LEGISLATURE
Regular Session of 2018

Wednesday, April 4, 2018
1:30 p.m.

TESTIMONY ON SENATE BILL NO. 2494, S.D. 2, H.D. 2, RELATING TO ELEVATOR MECHANICS.

TO THE HONORABLE SYLVIA LUKE, CHAIR, AND MEMBERS OF THE COMMITTEE:

My name is Kedin Kleinhans, and I am the Executive Officer of the Elevator Mechanics Licensing Board ("Board"). Thank you for the opportunity to testify in support of S.B. 2494, S.D. 2, H.D. 2, Relating to Elevator Mechanics, with an effective date of July 1, 2020.

This measure updates the requirements for apprenticeship and licensure of elevator mechanics, including examination, license renewal, continuing education, scope of work, exemptions, remote interaction, and qualifications for licensure. This measure also clarifies the powers and duties of the Board and requirements for temporary permits.

The Board supports the proposed Hawaii Revised Statutes ("HRS") section 448H-D and notes that the exemption addresses the concerns small businesses might have in obtaining licensure, while ensuring they are properly insured and bonded.

H.D. 2 amends the definition of "conveyance" on page 5, lines 20-21 to reference "elevator and kindred equipment" from HRS section 397-3, the Boiler and Elevator Safety Law of the Department of Labor and Industrial Relations. While the Board has not yet met to discuss this amendment, the Board notes that the referenced language in HRS section 397-3 is similar to the definition of "conveyance" in H.D. 1.

Thank you for the opportunity to testify in support of S.B. 2494, S.D. 2, H.D. 2, with an effective date of July 1, 2020.

LOCAL UNION NO. 126
OF THE
International Union of Elevator Constructors
AFFILIATED WITH THE AFL-CIO
SUITE 215, 707 ALAKEA STREET • HONOLULU, HI 96813 • TELEPHONE (808) 536-8653 • FAX (808) 537-3779

The Twenty-Ninth Legislature
Regular Session of 2018
Hawaii State House of Representatives
Committee on Finance

Wednesday, April 4, 2018
1:30 PM, Conference Room 308

SB 2494, SD2, HD2 – Relating to Elevator Mechanics

The Honorable Sylvia Luke, Chair, Ty J. K. Cullen, Vice-Chair, and Esteemed Members of the House Committee on Finance

SB2494, SD2, HD2 proposes to amend HRS 448H. It has been numerous years since the statute has been updated and during this same period technology has advanced exponentially. In order for elevator mechanics to keep pace with this technology they must show and exhibit continued competence in their craft. Not only does this hone the skillset of the elevator mechanic but it will necessitate the elevator mechanic to stay current with the latest codes and technology.

The International Union of Elevator Constructors, Local 126 represents the men and women installing, repairing, and maintaining all elevators, escalators, and other vertical transportation in the State of Hawaii. The Elevator Constructor is a highly skilled craft with some of the most stringent and extensive education within the elevator industry and the construction industry as a whole. However, the current State of Hawaii licensing requirements does not coincide with the standards and the level of technology that are currently being introduced and installed.

The proposed amendments to HRS 448H are meant to strengthen the licensing law and would help to discourage unlicensed activity by adding continued competency, increasing and defining the qualifications to become licensed, adding a 9000 hour on the job training (OJT) requirement which, will remove the task of apprenticeship registration by the DCCA, better defining an elevator mechanic's scope of work, and better defining the powers and duties of the elevator mechanic's licensing board.

One of the most important reasons for the proposed amendments is to take away the loopholes that currently exist in the law. One of the loopholes is requiring a new elevator apprentice to register with both the Department of Commerce and Consumer Affairs (DCCA) and the Department of Labor and Industrial Relations (DLIR). In order to meet minimum qualifications for licensure an apprentice would have to show 4 years of training from the date of registration with the DCCA. The problem arises if an apprentice forgets to register with the DCCA. Should that happen an apprentice can go through their entire apprenticeship, take his journeyperson's exam, and then not be eligible to take their licensing exam because they failed to register. Once the apprentice registers then and only then will the clock start. As unfathomable as this sounds it has actually happened and it continues to happen. To prevent this from ever reoccurring, an hours based OJT system would be implemented.

The National Elevator Industry, Inc. (NEII) and its members asserts that the proposed amendments to HRS 448H are in direct conflict with the current collective bargaining agreement (CBA) with the International Union of Elevator Constructors, is damaging to their member's business models and practices, and also asserts that it will actually compromise the safety of elevators and escalators.

Local 126 has been working with the DCCA regarding these proposed amendments for close to a year and during these meetings the DCCA has always maintained that they apply equally to all potential and current licensees and not to favor one organization over another. The Attorney General and the Executive Officer of the Licensing Board made sure that every amendment was equitable for all individuals who work on elevators and escalators. It was always about what is best for the industry as a whole, not only for the IUEC or NEII. That is why the CBA argument is irrelevant and should have no bearing on the matter at hand. There is no preferential treatment, everyone would have to comply with the updated Licensing Law and it will apply to both Union and Non-Union elevator mechanics.

Granted "Remote Monitoring", which is the ability to remotely diagnose a problem or monitor an elevator, can be beneficial at times. We recognize this and Local 126 is not opposed to it. However, the ability to remotely manipulate, move an elevator, change parameters, or reset faults removes the eyes and ears and more importantly the judgment of a duly licensed elevator mechanic. NEII claims that an engineer 5000 miles away is sufficient to repair an elevator. We disagree and argue that having a licensed mechanic on the job is the last line of defense to prevent something catastrophic from happening. We are not opposed to the licensed elevator mechanic working in conjunction with that same engineer to bring about a resolution to an elevator that may be out of service. NEII and the elevator companies may claim that nothing in the past has happened to warrant this type of scrutiny and limitations, but shouldn't we be looking to the future and at being proactive rather than reactive?

In further response to claims by NEII that these proposed amendments will adversely affect business and safety please let me point the Committee to a circular letter that was administered by the State of California, Department of Industrial Relations, Division of Occupational Safety and Health which I have attached to this testimony. Circular Letter E-10-06 dated May 27, 2011 clearly states that they recognize a clear hazard exists when it comes to "Remote Interaction" and took the appropriate measures to address the same concerns that we have in regard to this very same issue. The "Mechanics Scope of Work" addresses the issues in regard to "Remote Interaction". As you can see this letter is from 2011. Almost seven years have passed since the issuance of this letter and it has not adversely affected the businesses of KONE, Mitsubishi, Otis, Schindler, or ThyssenKrupp Elevator Companies. In fact, there is so much work on the west coast that there are manpower shortages. Nor has it compromised the safety to the riding public. NEII is fully aware of this letter yet they choose to look the other way because it does not conform to their business model.

There is also a precedent setting arbitration when it comes to Remote Interaction. The arbitration involves Otis Elite Service and the ability of Otis Elite Experts having the capability of taking remote control of an elevator and making remote changes in that elevator's operating parameters from a help-desk location hundreds, if not thousands, of miles from the elevator they are controlling. It was determined that all adjustments, manipulations, or changes shall be done in consultation with an elevator mechanic in the field.

In closing, licensing is in place for the safety and protection of the consumer and strengthening the elevator mechanic's licensing laws can only serve to benefit our industry as a whole by raising the bar for elevator mechanics which in turn will provide a better and safer product to the riding public. When it comes to safety there is no compromise and for these reasons the International Union of Elevator Constructors, Local 126 is in **strong support** of SD 2494, SD2, HD2.

Respectfully submitted,

Marc Yamane

Marc Yamane
Business Representative
International Union of Elevator Constructors, Local 126

State of California EDMUND G. BROWN JR., *Governor*
Department of Industrial Relations
Division of Occupational Safety and Health
ELEVATOR UNIT HQS
6980 Santa Teresa Boulevard, Suite 130
San Jose, CA 95119
Phone: 408.362.2120
Fax: 408.362.2131

May 27, 2011

CIRCULAR LETTER E-10-06

TO: Installers, Manufacturers of Conveyances and Related Equipment and, Other Interested Parties

SUBJECT: Devices Which Remotely Interact With Conveyances

It has come to our attention that devices have been installed on conveyances which interact remotely to change parameters, check and reset faults, open and close doors and various other functions.

Section 7311.2(a) of the California Labor Code states in part: "Any person who, without supervision, erects, constructs, installs, alters, tests, maintains, services or repairs, removes, or dismantles any conveyance covered by this chapter, shall be certified as a certified competent conveyance mechanic by the division."

Devices which interact remotely with conveyances are not covered in Title 8 regulations. The California Labor Code Section 7318 allows the Division to promulgate special safety orders in the absence of regulations. The Division believes that a hazard can be created by the installation of these devices. Section 7311.2(a) precludes individuals who are not certified by the Division from interacting with the controls of a conveyance. The Division is issuing this special order to address this issue.

Pursuant to Sections 7305 and 7312 of the California Labor Code, the Division will remove from service any conveyance found operating with a device which can remotely effect a change in its controls.

Devices which monitor the operation of a conveyance remotely have been accepted, and will continue to be accepted.

Devices which monitor or interact with the controls of a conveyance from within the building or complex in conformance with the Elevator Safety Orders will continue to be accepted.

This circular does not preclude remote interactive diagnostics which requires a Certified Competent Conveyance Mechanic to physically grant permission to take control while in his or her presence.

Debra Tudor
Principal Engineer
DOSH-Elevator Unit HQS

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

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April 4, 2018

TO: HONORABLE SYLVIA LUKE, CHAIR, HONORABLE TY CULLEN, VICE CHAIR, AND MEMBERS OF THE HOUSE COMMITTEE ON FINANCE

SUBJECT: **OPPOSITION TO S.B. 2494, SD2, HD2 RELATING TO ELEVATOR MECHANICS.** Updates requirements for apprenticeship and licensure of elevator mechanics, including examination, license renewal, continuing education, scope of work, exemptions, remote interaction, and qualifications for licensure. Clarifies powers and duties of the Elevator Mechanics Licensing Board and requirements for temporary permits. (SB2494 HD2)

HEARING

DATE: April 4, 2018
TIME: 1:30 PM
PLACE: Conference Room 308

Dear Chair Luke, Vice Chair Cullen and Members of the Committee,

The General Contractors Association (GCA) is an organization comprised of over 500 general contractors, subcontractors, and construction related firms. The GCA is the largest construction association in the State of Hawaii and its 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 has grave concerns regarding S.B 2494, SD2, HD2, Relating to Elevator Mechanics as it is proposing significant changes to the contractor licensing laws affecting elevator operators that may be unnecessary and may be in conflict with recently negotiated collective bargaining agreements. The proposed changes to Section 448H amends and adds to the state licensing requirements and purports to strengthen regulatory oversight of the elevator mechanic profession with additional apprenticeship and licensing requirements, particularly remote interaction requirements. The GCA is opposed to licensing regulations that appear to promote public safety but where the true intent may be to protect one's turf. Furthermore, the following questions are still unanswered – as there does not appear to be a showing of unique safety problems in Hawaii that justify a need for State over-regulation that have been addressed and continue to be addressed nationally with national standards of the industry; how are the additional 1,000 more hours of work (from 8,000 to 9,000 hours) reflect a necessity that would improve safety; why is the 20% increase necessary which appears contrary to national standards. Also, there could be the fear that elevator companies would shy away from doing business in Hawaii with such arbitrary over-regulations when all other states comply with the national standards?

The proposed Section 448H-E is proposing to prohibit remote interaction of the conveyance without the physical presence of an elevator mechanic – which appears to represent that any advancement of technology in the future in the remote ability to test an elevator's mechanical function would be precluded. The advancement of technology appears to be at the helm of a dispute that should be an area that the elevator industry should settle, particularly when it comes to technological advancements, as the elevator experts may be better equipped to establish such guidelines.

Thank you for this opportunity to share our concerns regarding S.B. 2494, SD2, HD2 and we respectfully request that you defer this measure.

Honolulu Branch Office

KONE Elevators Escalators

April 4, 2018

Representative Sylvia Luke, Chair
Representative Ty J.K. Cullen, Vice Chair
Committee on Finance Room 308
Honolulu, HI 96813

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Re: Opposition to S.B. 2494

Dear Chairwoman Luke, Vice Chairman Cullen and Members of the Committee:

KONE Inc. (KONE) appreciates the opportunity to submit comments and convey our company's strong opposition to S.B. 2494, a bill labeled to be related to elevator mechanic licensing, but really going far beyond licensure and minimum requirements. We urge your committee to oppose S.B. 2494 and avoid the legal, financial and business interruption issues that result if this bill is passed.

First and foremost, KONE is an active and integral member of the National Elevator Industry, Inc. (NEII) and fully supports the attached written statement submitted to your committee by NEII. These detailed comments outline the key concerns with S.B. 2494 and are consistent with our company position on these critical issues.

More specifically, KONE wants to be on the record opposing S.B. 2494 as it would be in conflict with and/or impose additional requirements than industry standards, the model elevator law developed by NEII and the International Union of Elevator Constructors (IUEC), the Collective Bargaining Agreement (CBA) between the companies and the IUEC, and the National Elevator Industry Education Program (NEIEP). As a result, the bill will negatively impact elevator industry business operations in Hawaii.

- Scope of Work – The language regarding elevator mechanics' scope of work is inconsistent with the industry's collective bargaining agreement (CBA), industry practices and the Model Elevator Law rev3 on which the Hawaii Elevator Act is based.

- Remote Interaction – The definition in S.B. 2494 (even as amended) is overly broad and would prevent the use of remote technologies that have been used safely for decades. And the requirement that an elevator mechanic be physically present at the conveyance and expressly permit the use of remote interaction technologies is unrealistic, costly, beyond the scope of our CBA and completely unjustified.

- Qualifications – NEIEP, which is a nationally recognized program and approved for use in Hawaii, already set the industry requirement to qualify for an elevator mechanics' license at 8,000 hours of on-the-job training (OJT). There is no reason, safety or otherwise, for Hawaii to require 1,000 hours of OJT above and beyond the industry standard. Not only will workers be delayed from sitting for the mechanics' exam, but they face six months or more of being paid 20% less than what they could earn as a mechanic.

KONE unites with NEII and our industry counterparts to oppose the requirements set forth in S.B. 2494. KONE is available to answer any questions or provide any assistance. We request that the Hawaii House Committee on Finance reject this bill.

Thank you for your time and attention to this important industry issue.

Sincerely,

KONE Inc.

Michael A. Nagao
Branch Manager

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April 4, 2018

Chair Sylvia Luke
Vice Chair Ty J.K. Cullen
House Committee on Finance
State Capitol, Room 308
Honolulu, Hawaii 96813

Re: Opposition to S.B. 2494

Aloha Chair Luke, Vice Chair Cullen and members of the committee:

On behalf of Otis Elevator, I would like to provide the House Committee on Finance with comments opposing S.B. 2494, a bill relating to elevator mechanics. If enacted, S.B. 2494 will make the state's elevators less safe, raise costs for all businesses and building owners, and stifle future development projects in Hawaii.

First and foremost, safety is the number one priority of Otis Elevator. For that reason, we collaborated with labor, and several other industry partners, to establish the licensing requirements that are currently in place in Hawaii. Since their implementation, Hawaii has had a positive track record of safe and reliable equipment. We believe that there is no demonstrated need to overhaul the State's licensing requirements as prescribed in S.B. 2494.

Specifically, below are our three primary concerns with the bill:

S.B. 2494 Interferes with Collective Bargaining Law

By expanding the scope of work outlined in Sections 448H-D and 448H-E and by raising minimum requirements outlined in 448H-6, which are all issues specifically enumerated in the industry's collective bargaining agreement (CBA), S.B. 2494 encroaches on the area of law left solely to federal labor policy and the parties' collective bargaining rights. Moreover, there is a grievance process to handle unresolved issues in the CBA and unless there is a compelling state interest, of which there is none in this circumstance, the Supreme Court has expressly disallowed states from interfering with bargaining agreements.

Remote Interactions Should Not Be Limited

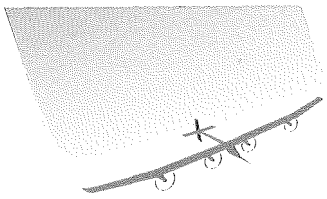
S.B. 2494 makes it impossible to use longstanding remote safety technology, which for over 30 years has made conveyances safer for passengers and workers. Standard in most elevators sold today, remote technology serves several important functions that make elevators run more efficiently and protect passengers. If this valuable safety technology is abandoned, building owners would need to find new ways to operate their buildings without it and reverse longstanding industry practices.

Increasing Qualifications for Elevator Mechanics Should Not Exceed National Standard

Both labor and industry agree, through provisions in the CBA, that 8,000 hours "on-the-job-hours" is both substantial and adequate to prepare apprentices for their work as an elevator industry mechanic and to ensure their safety as well as the safety of the riding public. By requiring an additional 1,000 hours, S.B. 2494 negatively impacts the state's workforce in several ways. First, until mechanics can reach the extra hours of training, their pay scale is decreased. Second, it further delays apprentice mechanics from entering into the work force, which puts a massive strain on projecting future development. Third, higher requirements dissuade able workers in Hawaii from joining the industry or force them to seek work in other states where they can elevate to mechanic sooner.

Due to the potential safety risks, high costs and the enormous impact on the state's business environment, the House Committee on Finance should reject S.B. 2494. Please do not hesitate to contact us with any questions or to provide additional information.

Jason D. Barnes



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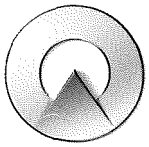

Schindler

Schindler Elevator Corporation

Landon Mizuguchi
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April 4, 2017

Representative Sylvia Luke, Chair
Representative Ty J.K. Cullen, Vice Chair
House Committee on Finance
State Capitol, Room 308
Honolulu, HI 96813

Re: Schindler Elevator Corporation Comments in Opposition to Hawaii S.B. 2494

Dear Chairwoman Luke, Vice Chairman Cullen and members of the Committee:

Schindler is one of the world's leading providers of elevators, escalators, and moving walks, as well as maintenance and modernization services. Schindler manufactures, installs, services and modernizes elevators, escalators and moving walks for almost every type of building requirement worldwide, including Hawaii. Schindler strongly encourages the Committee to disapprove S.B. 2494 for the reasons outlined below.

Safety for the riding public and industry workers is very important to Schindler. We believe the best way to ensure safety of the public and industry workers is to maintain the current requirements and disapprove the changes proposed by S.B. 2494. Schindler supports the licensing requirements that are currently utilized by the state of Hawaii which set minimum requirements for training and continuing education of elevator mechanics. These current requirements are consistent with those used in other states and with the requirements outlined in the industry's collective bargaining agreement ("CBA") with the International Union of Elevator Constructors ("IUEC"). No substantiation has been provided to support any increase in safety or other benefit from the proposed rule. Schindler encourages the Committee to disapprove the changes and retain the current requirements.

This bill also attempts to legislate requirements that are already part of the CBA. This could adversely impact the collective bargaining rights of both the workers and signatory companies. These issues should be dealt with in the bargaining process and not the legislature.

The proposal, S.B. 2494, would establish new requirements that would significantly impact the elevator industry in Hawaii without any support for this proposal. Increasing the minimum training requirement from 8,000 to 9,000 hours is unnecessary and there is no evidence that it will provide any benefit. The current requirement of 8,000 hours has been utilized for many

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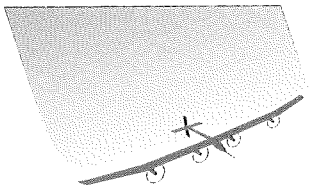

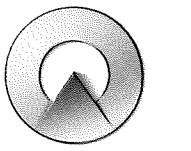

years and is consistent with the requirements in other states and in the CBA with the IUEC. Changing the requirement will negatively impact industry workers in Hawaii who have recently completed or are currently participating in the industry training programs. It could also discourage workers from seeking positions in Hawaii. This could have significant effects on the availability of a trained workforce in the state.

The bill also includes requirements that would require licensed mechanics to perform work currently performed safely and more economically by other personnel. This is specific to the requirement for an elevator mechanic to be onsite for "remote interaction" to occur. Remote monitoring of equipment has been around for approximately 35 years and is a means to identify potential issues and alert companies before a problem occurs. This can protect the equipment, reduce the costs of maintenance and repairs, and correct issues that may otherwise result in equipment being taken out of service. Remote monitoring occurs 24/7 and having a mechanic on site to monitor the equipment is not feasible.

In summary, Schindler strongly encourages the Committee to disapprove the proposed bill and retain the current requirements. No substantiation has been provided for the proposed rule and it unnecessarily expands the requirements beyond those found in other states and in the CBA. In addition, Schindler is a member of the National Elevator Industry, Inc. (NEII) and supports the comments provided by NEII regarding the bill.

Thank you for the opportunity to provide our comments on this matter. Please feel free to contact me via phone at 808-265-7872 or email at landon.mizuguchi@schindler.com if you have any questions or would like more information.

Sincerely,

Landon Mizuguchi
District Manager

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Statement of
thyssenkrupp Elevator Corporation
in
OPPOSITION to S.B. 2494
House Committee on Finance

Representative Sylvia Luke, Chair
Representative Ty J.K. Cullen, Vice Chair
April 4, 2018

thyssenkrupp Elevator Corporation is one of the world's leading elevator companies. We design, build, install, upgrade and maintain smart and innovative mobility systems for a wide variety of applications in Hawaii and around the world.

Our company shares the Committee's goal to ensure that the elevator industry continues to exceed its high safety standards. However, we have grave concerns over S.B. 2494 and feel that, if enacted, it will set the state of Hawaii back several decades in terms of innovation, with no commensurate gain in safety, and raise the cost of elevator service and maintenance for Hawaii's business owners, including the state's vast tourism industry. Also, the legislation addresses training and workplace issues that have already been negotiated through the industry's Collective Bargaining Agreement (CBA) with the International Union of Elevator Constructors (IUEC), of which thyssenkrupp is a signatory.

Thank you for the opportunity to provide our expertise on elevator safety issues. We look forward to working with you to ensure the continued safety of our mechanics and the riding public.

Increase of Training Hours Unnecessary and Penalizes Assistant Mechanics

Safety has always been one of thyssenkrupp Elevator's primary goals. As such, we actively support stringent safety standards and licensing requirements to ensure our mechanics are able to meet the needs of Hawaii's building owners and the riding public. Currently, the IUEC program, administered through the National Elevator Industry Education Program (NEIEP), provides a minimum of 8,000 hours of on-the-job training (in addition to classroom training) through an apprenticeship program. By the time an individual has completed the requirements and passed the exam, they are highly skilled mechanics. There is no indication that our current mechanics are under-trained or that the requirement of an additional 1,000 hours would correlate to improved safety.

thyssenkrupp Elevator Corporation
2880 Ualena St., Honolulu, Hawaii 96819

Once an apprentice completes the minimum training requirements (established through the CBA), he/she is able to sit for the exam. By requiring an additional 1,000 hours of on-the-job training, you would impede them from becoming fully licensed mechanics and delay their 20 percent salary raise. You would also delay entry into the workforce of qualified mechanics, further exacerbating Hawaii's workforce shortage.

Remote Interaction Requirements Impede Innovation and Safety and Raise Costs

For the past several decades, thyssenkrupp Elevator - and our competitors - have been working to develop and improve technology to monitor and assess all of the elevator equipment we put into service. These technologies allow us to perform much more preventive and predictive maintenance. By learning from machine data as to when adjustments or replacements of parts are needed before their end of life, our elevators are more reliable with less down time and less emergency calls.

There are clearly a wide array of tasks and qualifications to complete each task. Some of these are jobs for licensed mechanics, while others may be jobs for professional engineers or software developers, none of whom needs to be on site to collect and analyze the data. The over-simplified approach outlined in S.B. 2494 is misguided and dangerous. With no safety data to indicate that this would benefit the industry and the state's businesses, it is irresponsible to dictate these complex issues through the legislative process. This bill would set innovation back by twenty years to "fix" a nonexistent problem. Also, consumers would see higher costs if licensed mechanics were required in all instances.

Thank you again for the opportunity to submit our comments on S.B. 2494. Leif Kjonegaard is available to answer any questions you may have as the Committee works to address these important issues. He can be reached at 808-839-8122.

Best regards,

Leif Kjonegaard
Branch Manager, Honolulu Hawaii

thyssenkrupp Elevator Corporation
2880 Ualena St., Honolulu, Hawaii 96819

National Elevator Industry, Inc.

Government Affairs Office
5537 SW Urish Road • Topeka Kansas 66610 • Office: 785.286.7599 • Cell: 785.580.5070

Statement of the National Elevator Industry, Inc. in OPPOSITION to S.B. 2494

Hawaii House Committee on Finance

April 4, 2018

The National Elevator Industry Inc ("NEII") is the premier trade association representing the interests of elevator manufacturers across the United States. NEII member companies, which include KONE, Mitsubishi, Otis, Schindler and thyssenkrupp, have significant operations across Hawaii and represent approximately 85 percent of the total industry work hours. NEII implores the Committee to reject S.B. 2492 due to its potentially crippling impact on the state of Hawaii, building owners and managers, Hawaii's tourism industry and the elevator industry itself. In addition, this bill legislates issues already negotiated through the industry's collective bargaining agreement with the International Union of Elevator Constructors ("IUEC") and creates legal issues best addressed outside of the legislative process.

Safety for the riding public and industry personnel is the top priority for NEII and member companies. In pursuit of that goal, NEII supports licensing requirements, which set minimum standards for the training, education and proficiency of elevator mechanics. Around the country, NEII collaborates with labor to secure the adoption of standards that ensure elevator mechanics have the appropriate education and training required for complicated and technical equipment. In fact, the current law in Hawaii was developed with input from an industry coalition of NEII member companies, labor representatives and others, and is based on nationally developed industry standards and model legislation supported by both management and labor.

S.B. 2494, however, goes beyond the industry standards and circumvents well-established labor management law and the industry's collective bargaining agreement. Without a clear validation and empirical data, there is no need to modify current law as proposed and risk negative impacts on Hawaii, its economy, businesses and consumers. In fact, industry data confirms that the current regulations are working as the OSHA Lost Time Incident Rate has decreased by 75 percent and the OSHA Recordable Incident Rate has decreased by 66 percent for NEII member companies since 2005.

S.B. 2494 Will Have a Negative Impact on Safety

The proposed legislation, as drafted, threatens to severely impede our members' ability to use longstanding remote monitoring, diagnosing and interaction technology designed specifically to improve reliability and enhance safety for the people of Hawaii and industry workers. Remote interaction can protect the equipment, reduce the costs of maintenance and repairs, correct issues that may otherwise result in equipment being taken out of service and arm the mechanics with better knowledge to address issues sooner and more efficiently and ensure safer operating elevators at all times.

Specifically, remote technology can detect and diagnose issues in advance of a problem, often allowing the repair of equipment before an accident or breakdown occurs. It can pinpoint the exact problem, so mechanics can perform the necessary maintenance or repairs directly rather than spending time trouble-shooting or having to make a return trip. The system provides information related to intermittent issues, so mechanics can address problems that may not be evident when they are observing the equipment.

Remote technologies can also assist in real time to emergencies and dispatch mechanics and/or first responders even before a building owner may be aware that there is an issue. In some cases, a speedier response to an entrapment or other emergency, made possible through the remote interaction feature, can be the difference between life and death.

By directly impeding the use of this technology through this legislation, Hawaii is rejecting innovative technology and an important safety tool that has been in use – *without incident* – for decades. Indeed, as it relates to accidents and injuries, it is irresponsible for anyone to claim that there have been any accidents due to remote interaction over its decades of safe operation. Such statements, while drawing the most attention, are patently false.

Safety Claims Made Against Remote Interaction are Inaccurate

The safety of remote interaction technologies has been called into question. It is important for NEII to address these assertions directly so that the Committee can hear the facts and understand that design components, construction codes, procedures, training and other safety protocols are in place to provide for the safety of our workers and riders.

The accusation that this important safety tool can override the elevator system and injure workers and passengers by moving an elevator car unexpectedly is untrue and not supported by any objective data. To follow are a few examples of how various scenarios put forth against remote interaction technology are inaccurate.

- Once a mechanic is on site, he or she is required under company safety policies and federal OSHA mandates to take complete control of the elevator so that it cannot move unexpectedly, either remotely or otherwise.

- In the unlikely event that a mechanic is working on equipment without knowledge about the specific remote capabilities of a system, he or she will have control of the car as stated previously and in doing so, eliminates the concern that the car can be moved unexpectedly.

- There should not be any circumstance, even without this legislation, when a mechanic is on site and the elevator car is under the mechanic's control that it can be moved remotely without his or her express permission or knowledge.

- Emergency personnel (i.e., first responders) are also supposed to remove power to the elevator and adhere to strict lockout/tag out procedures to preclude the car from moving when assisting passengers from a stalled elevator car.

- Elevator systems are designed so that passengers are safe inside the elevator car and the doors should not open unless the elevator is at a floor landing.

- Door locking devices are required on all elevator cars and are designed to prevent a passenger from opening the elevator car doors in cases where a car may be stuck in between landings.

- Safety switches also prevent remote movement when doors are open.

Recent Amendments Do NOT "fix" S.B.2494

The bill was modified during consideration in the Senate to remove references to "monitoring" and "diagnosing" as it related to the definition of remote interaction. Removing these terms may appear to address industry concerns raised previously but is a misleading action. S.B. 2494 would still prevent many forms of remote functionality that have been used since the 1980s.

The terms "interact" and "interaction" are still so overly broad, they restrict the use of a remote interface technology such as simple monitoring and diagnosing currently used on conveyances throughout Hawaii. This service is provided to customers 24/7 and delivers valuable data to ensure the safe operation of equipment and address issues in real time. S.B. 2494 not only impedes the application and use of this important safety tool in Hawaii, but directly conflicts with the fundamental right of the employer to manage its workforce, negotiate customer contracts and service equipment for its clients.

Elevator Industry has a Unique Labor-Management Agreement

The elevator industry is one of only a few unions to negotiate a national contract. The National Elevator Bargaining Association ("NEBA") and the International Union of Elevator Constructors enter into a collective bargaining agreement ("CBA") every five years on behalf of all signatory companies and a list of local unions, including Local #126 Honolulu Hawaii. As a result, the CBA applies nationwide. Unlike most unions, our industry does not negotiate with each local to set individual parameters for scope of work, wages, benefits, etc. The most recent CBA went into effect on July 9, 2017 and expires on July 8, 2022.

The CBA explicitly states that no local union listed as a party to the CBA (i.e., Local #126 Honolulu Hawaii) shall, through its by-laws, constitution, or otherwise, change any of the articles of the CBA or its intent unless a separate agreement is negotiated under specific parameters delineated in the CBA as well. NEII supports this process and encourages the legislature not to interfere by legislating the work of elevator mechanics.

Collective Bargaining Rights Need to be Maintained

S.B. 2494 intrudes on the area of law left solely to federal labor policy and the parties' collective bargaining rights. The CBA specifically enumerates the details of the work to be performed exclusively by elevator mechanics, elevator helpers and elevator apprentices. Any change or expansion of worker duties in this bill regarding scope of work related to "electrical work or adjustments" and "remote interaction" should be left to the collective bargaining and arbitral processes pursuant to the CBA and not be the subject of state regulation.

Further, the CBA explicitly states that any difference or dispute regarding the application and construction of the agreement shall be referred to as a "grievance" and shall be resolved under specific arbitration procedures. The scope and duties of elevator mechanics, apprentices and helpers can be and has been the subject of collective bargaining negotiations between the IUEC (union) and NEBA (employer group) over many decades.

Although NEII recognizes the State of Hawaii's role in licensing, S.B. 2494 goes well beyond its stated purpose of establishing minimum standards and licensure requirements by determining work jurisdiction, required job duties and the scope of work of elevator mechanics. The intended restrictions to remote interaction are unrelated to the regulatory oversight of a licensed mechanic and have already been fully delineated between the parties in their collective bargaining agreement.

The National Labor Relations Act, 29 U.S.C. §151 et seq. ("NLRA") preempts state regulation that conflicts with the federal system of collective bargaining between private sector unions and employers. Since collective bargaining is a protected right under Section 7 of the NLRA, the State's jurisdiction to act on S.B. 2494 as outlined is displaced.

The reason preemption is necessary in this instance is that Congress envisioned the NLRA regulating a uniform national labor policy. There is no compelling state interest in the regulation of the job duties and work jurisdiction of elevator mechanics in Hawaii that are expressly provided for in the parties' existing national collective bargaining agreement. The Supreme Court in Building Trades Council (San Diego) v. Garmon, 359 U.S. 236, 246 (1959) held:

> *The governing consideration is that to allow the State to control activities that are potentially subject to federal regulation involves too great a danger of conflict with national labor policy.*

This Supreme Court holding has specific application to the attempts in S.B. 2494 to modify scope of work, work jurisdiction, and the proposed direct involvement of mechanics in remote elevator "interaction."

S.B. 2494 Will Disrupt the Workforce and Have Significant Cost Impacts

The National Elevator Industry Education Program ("NEIEP") is recognized in the CBA as the industry authority on training and education. The NEIEP program has been collectively developed since 2002 and is supported by industry stakeholders, including the IUEC. Local representatives administer the NEIEP apprenticeship program, but do not have the unilateral

authority to change it. Changes can be considered, negotiated and approved by the NEIEP Trustees (comprised of union and company representatives) and staff, and then disseminated to the Joint Apprenticeship Committee (again including union and company officials) across the country, including Hawaii.

NEIEP, through its Trustees, set 8,000 hours, which includes the initial 6-month probationary period, as the necessary amount of on-the-job training needed to be an elevator mechanic. All parties agree that a training program based on 8,000 hours is both substantial and adequate to prepare apprentices for their work as an elevator industry mechanic and to ensure their safety as well as the safety of the riding public. The NEIEP program, curriculum and materials have been approved by the U.S. Department of Labor or its state equivalent using this number. Currently, 33 states have elevator mechanic licensing programs based on the 8,000 training hours and at least four more are considering legislation to create a program using this standard. No justification has been put forth to demonstrate that an additional 1,000 hours of training is needed or supports any state, industry or business objective.

Personnel currently working in Hawaii who have completed the requisite program and are deemed qualified by NEIEP standards will be prevented from sitting for the mechanics' exam until an additional 1,000 OJT hours are obtained (see Article X of CBA). As a result, these workers will not be in the "correct" job and will delay the addition of full mechanics into the workforce. Hawaii is a remote market and already faces workforce challenges – additional strain on the number of mechanics could also delay construction, modernization and repair projects and impact development and tourism.

The costs associated with this bill will have a significant negative impact on both workers and businesses in Hawaii. Workers who are delayed in sitting for the mechanic's exam and moving up to the position of mechanic will not be paid the appropriate wage for their skills. Specifically, the salary for these workers will be 20 percent less than what they could earn as a mechanic.

For the business community, increased costs will be realized when licensed mechanics are required for work currently performed safely and more economically by a variety of personnel including engineers, building security or facility staff and/or other operational employees. In addition, Section 448H-E requires an elevator mechanic to be onsite for "remote interaction" to occur. Remote interaction can be utilized at any time, but it is unlikely businesses will opt to have a mechanic onsite 24 hours every day to give permission for its use.

Additional Concerns with S.B. 2494

- Expands the scope of work for mechanics beyond what is prescribed in any other state.
- Regulates "work done by others" that may not be under the elevator company contract.
- Reverses 35 years of industry practices and standards.
- Is not supported by safety data or other justification for the proposed changes to current law.
- Impedes workforce and contract management.

I am available to address any questions or provide additional information as needed. Please do not hesitate to contact me at 785-286-7599 or via e-mail at ajblankenbiller@neii.org. We also have local representatives from the NEII member companies and Capitol Consultants of Hawaii (CCH) available to assist the Committee as they work through these important issues. Ross Yamasaki (CCH) is our local point of contact and can be reached at 808-227-3650 or via email at ryamasaki808@gmail.com.

NEII is confident that once the House Committee on Finance reviews the information provided in this testimony and carefully considers the broad and potentially damaging impacts S.B. 2494 may have on the State of Hawaii, business owners, tourism, and the elevator industry, it can reach no other conclusion than to defeat S.B. 2494.

Respectfully submitted,

Amy J. Blankenbiller
Vice President, Government Affairs

The Twenty-Ninth Legislature
Regular Session of 2018
Hawaii State House of Representatives
Committee on Finance

Wednesday, April 4, 2018
1:30 PM, Conference Room 308

SB 2494, SD2, HD2 – Relating to Elevator Mechanics

The Honorable Sylvia Luke, Chair, Ty J. K. Cullen, Vice-Chair, and Esteemed Members of the House Committee on Finance

My name is Steve Tsunemoto and I am currently a member of the Elevator Mechanic's Licensing Board as well as a member of the International Union of Elevator Constructors, Local 126. I am also a past Chairperson of the Board. During my past and current tenure, I have witnessed multiple situations where the current law has unfairly impeded individuals from becoming licensed elevator mechanics. I have also seen non-elevator personnel registered as apprentices.

SB2494, SD2, HD1 proposes to amend the current statutes that govern the licensing of elevator mechanics within the State of Hawaii. We, the members of the Licensing Board, have been working on these proposed amendments for a little over a year and the Board feels that these amendments are necessary for the following reasons.

1. It closes loopholes in the current statute by doing away with the registration of apprentices with the Department of Commerce and Consumer Affairs (DCCA) and mandates a minimum number of OJT hours to qualify for the licensing exam. The OJT hours component is similar to the other licensed crafts like the Plumbers and Electricians.
2. This bill prevents non-elevator personnel from registering with the DCCA and moves all apprenticeship concerns to the Department of Labor and Industrial Relations, where it belongs.
3. Better defining an Elevator Mechanic's scope of work will help in the curtailing of unlicensed activity.
4. It introduces Continuing Education and outlines the necessary requirements and minimum standards. Again, this is similar to the other licensed crafts like the Plumbers and Electricians.
5. It allows "Remote Monitoring", which is the ability to monitor the status of an elevator at any given time.
6. It does not allow "Remote Interaction", which is the ability to manipulate or move the elevator from a remote location. This activity should be under the jurisdiction of a Licensed Elevator Mechanic present on the jobsite for obvious safety reasons. The State of California has already addressed this issue back in 2011 and has found that Remote Interaction should not be allowed.

The Board looked at multiple jurisdictions across the nation and came to what we feel is a fair and equitable update to our current licensing situation. In spite of what NEII and its members may claim there will be no adverse effect to their businesses. One need only look at California as a prime example of this.

Therefore, I am in **strong support** of SB 2494, SD2, HD2.

Sincerely,

Steve Tsunemoto

The Twenty-Ninth Legislature
Regular Session of 2018
Hawaii State House of Representatives
Committee on Finance

Wednesday, April 4, 2018
1:30 PM, Conference Room 308

SB 2494, SD2, HD2 – Relating to Elevator Mechanics

The Honorable Sylvia Luke, Chair, Ty J. K. Cullen, Vice-Chair, and Esteemed Members of the House Committee on Finance

My name is Jim Wilburn and I am currently a member of the Elevator Mechanic's Licensing Board as well as a member of the International Union of Elevator Constructors, Local 126. HRS 448H had served us well up until 2003 at which point an apprenticeship program was implemented by the IUEC and was adopted by the Department of Labor and Industrial Relations (DLIR).

There have been concerns raised by the Board over loopholes in the law which adversely affect apprentices who fail to register with the Department of Commerce and Consumer Affairs (DCCA). Apprenticeship registration should be with the DLIR and having two registrations is redundant so the removal of the apprenticeship registration with the DCCA would seem to be the most reasonable thing to do. The licensing law may have been suitable at the time it was enacted but it has not evolved. Closing these two loopholes should help immensely in righting an old and outdated law.

In summation, the proposed amendments to HRS 448H are meant to strengthen the licensing law and would help to discourage unlicensed activity by adding continued competency, increasing and defining the qualifications to become licensed, adding a 9000 hour on the job training requirement which, will remove the task of apprenticeship registration by the DCCA, better defining an elevator mechanic's scope of work, and better defining the powers and duties of the elevator mechanic's licensing board.

As a Board and with guidance from the Attorney General and our Executive Officer we feel that the proposed amendments are a move in the right direction in strengthening HRS 448H.

For these reasons I am in **strong support** of SB 2494, SD2, HD2.

Sincerely,

Jim Wilburn

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STATEMENT OF THE
INTERNATIONAL UNION OF ELEVATOR CONSTRUCTORS, AFL-CIO
In
SUPPORT OF S.B. 2494

April 2, 2018

SUMMARY: The doctrine of federal labor "preemption" is *not* applicable in this instance and does not bar the State of Hawaii from enacting licensing legislation deemed necessary to protect the health and safety of its citizens. The United States Supreme Court has long recognized that the states have always had the authority under their police powers to legislate to regulate the employment relationship within their borders and to protect health and safety. What private parties might negotiate is not binding on the State, as numerous other states have recognized in enacting licensing and other legislation that exceeds or varies from terms and conditions contained in negotiated collective bargaining agreements.

****

The International Union of Elevator Constructors, AFL-CIO ("IUEC") is the international union chartered by the AFL-CIO to represent the elevator mechanics, assistant mechanics, helpers and apprentices who install, repair, modernize and maintain elevators, escalators and related equipment throughout the United States. These elevator constructors, as they are known, work for numerous companies engaged in such work, including the largest and most prominent employers in the industry, such as Otis, ThyssenKrupp, Schindler, KONE, and Mitsubishi. Local 126 of Honolulu is a chartered affiliate local union of the IUEC that represents these employees in the State of Hawaii.

For nearly a century, the IUEC has executed a series of national collective bargaining agreements either directly with these employers or employer associations representing them, establishing the terms of employment of their elevator constructor employees. For at least the last ten years, the employer association with which the IUEC has negotiated and bargained is the National Elevator Bargaining Association ("NEBA"). The National Elevator Industry, Inc. ("NEII") at one time was the association that represented industry employers in bargaining with the IUEC, but NEII ceased that role prior to 2002. NEII now includes within its employer-member ranks a number of companies that are not signatory to any agreements with the

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IUEC and whose employees, in turn, do not enjoy the same wages, benefits, and working conditions of IUEC-represented employees.

The IUEC, along with its Local 126, support S.B. 2494. While elevators prove to be a highly safe and reliable means of transporting millions of passengers countless times every day, the potentially serious consequences of accidents, as well as technological and other changes in the industry, demand that the employees who install, repair, modernize and maintain such equipment continue to meet the more demanding and highest possible standards of training and education available today. S.B. 2494, in spelling out required standards for obtaining and retaining an elevator mechanic's licenses in the State, as well as in specifying the type of work in the industry which must be performed by a licensed elevator mechanic, goes far in implementing those standards and meeting that need.

In a February 13, 2018 Statement in Opposition to S.B. 2494, NEII has made a number of assertions which the IUEC believes are legally and factually incorrect, and which the IUEC believes require further explanation and clarification. First, and perhaps foremost, the IUEC wishes to emphasize that NEII is flatly wrong when it asserts that the State of Hawaii's "jurisdiction to act on S.B. 2494...is displaced...," or is in any fashion or to any extent "preempted" by the federal National Labor Relations Act ("NLRA"). NEII's "preemption" argument is based on its erroneous contention that the bill "legislates issues already negotiated through the industry's collective bargaining agreement..." and that, somehow, the terms of that agreement are not only *binding* on the State, but that the State is precluded from enacting different standards of its own in the interest of protecting its citizens. This is not what the doctrine of "NLRA preemption" provides for or dictates.

As described in its opinion in *Metropolitan Life Insurance Co. v. Massachusetts*, 471 U.S. 724 (1985), the United States Supreme Court "...has articulated two distinct NLRA preemption principles. The so-called Garmon rule...protects the primary jurisdiction of the NLRB to determine in the first instance what kind of conduct is either prohibited or protected by the NLRA....A second preemption doctrine protects against state interference with policies implicated by the structure of the Act itself, by preempting state law and state causes of action concerning conduct that Congress intended to be unregulated." 471 U.S. 748-49. Neither principle is at stake here. First, there is no claim that S.B. 2494 attempts to displace the NLRB and establish a separate enforcement procedure for adjudicating rights and responsibilities under the NLRA, i.e., for litigating unfair labor practices. Second, the Supreme Court itself, in its *Metropolitan Life Insurance* opinion, made clear that there is no suggestion in the legislative history of the NLRA that Congress

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> "...intended to disturb the myriad state laws then in existence that set minimum labor standards, but were unrelated in any way to the processes of bargaining or self-organization. To the contrary, we believe that Congress developed the framework for self-organizing and collective bargaining of the NLRA within the larger body of state law promoting public health and safety. The states traditionally have had great latitude under their police powers to legislate as 'to the protection of the lives, limbs, health, comfort, and quiet of all persons...." 471 U.S. 756, citations omitted.

The Court went on to cite a number of other earlier pronouncements in the same vein, for example that "States possess broad authority under their police powers to regulate the employment relationship to protect workers within the State. Child labor laws, minimum and other wage laws, *laws affecting occupational health and safety*...are only a few examples." 471 U.S. 756, emphasis supplied.

In view of these controlling principles, it is clear that NEII's "preemption" argument is totally without basis. Whatever private parties such as the IUEC and NEBA may agree to in the give-and-take of their collective bargaining negotiations is in no way binding on the State of Hawaii; nor does it remove the ability of the State to adopt stricter standards of its own through legislative activity which it may determine are in the best interests of its citizens. The fact that there are numerous state licensing laws around the country that differ in certain respects from the IUEC-NEBA collective bargaining agreement, or what NEII and the IUEC may jointly have agreed to in earlier "Model" licensing laws (e.g., California, Illinois, Massachusetts), makes that clear. Indeed, NEII itself, as well as some of the companies it may speak for, have previously advocated for state licensing laws or policies that differ from the terms of the negotiated agreement.

Moreover, separate and apart from the legal doctrine of "preemption," there is no other reason, practical or otherwise, why the State must defer to what the IUEC and employers have negotiated, to the extent there really is any "conflict" between S.B. 2494 and the terms of the IUEC-NEBA agreement or any Model bills previously developed with NEII. For example, the bill's proposed training requirement of 9,000 hours does not really "conflict" with the industry's apprenticeship program's prescription of 8,000 hours, which can be seen as a minimum floor, and not a ceiling. As another example, a number of other states have recognized that certain other negotiated provisions of the agreement and the Model bill are insufficient to protect both workers and the riding public in the area of remote interaction with elevators by untrained, unlicensed workers not present on the site. Interestingly, in an arbitration proceeding under the IUEC-NEBA collective bargaining agreement

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over such remote interaction and to what extent it is permissible under the terms of the agreement itself (the only issue the arbitrator made clear he had authority to consider), counsel for the employers recognized that states could enact, and have enacted, stricter standards in licensing laws. [1]

We will not take any more of your valuable time to rebut every contention made by NEII in its statement in opposition to S.B. 2494. Suffice it to say at this point that the IUEC and Local 126 believe the bill is a well thought-out piece of legislation that will protect the safety and other interests of the State and its citizens. While the industry's negotiated collective bargaining agreements and earlier Model licensing bills may set certain minimum industry standards, their provisions are in no way binding on the State of Hawaii and should not be viewed as prohibiting the State from doing even more to protect its citizens.

Thank you for consideration of these views.

Respectfully submitted,

Frank J. Christensen
General President

[1] The IUEC successfully brought a contractual challenge to most aspects of a remote interaction program known as Otis Elite Service, which attempted to remotely perform such operations as changing parameters and resetting faults, in an arbitration proceeding under the IUEC-NEBA agreement. During those proceedings, the company's attorney stated that "If the Union is seriously interested in the licensing issue controlling this case and they want to withdraw this grievance and come to us and say we'll allow you to use Elite *except in those states where it's not permitted by code or licensing*, we will be glad to negotiate some arrangement with you." Tr. of hearing, *In the Matter of the Arbitration Between Otis, Inc. and International Union of Elevator Constructors, AFL-CIO,* p. 123, emphasis supplied.

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In
SUPPORT OF S.B. 2494

April 2, 2018

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> "...intended to disturb the myriad state laws then in existence that set minimum labor standards, but were unrelated in any way to the processes of bargaining or self-organization. To the contrary, we believe that Congress developed the framework for self-organizing and collective bargaining of the NLRA within the larger body of state law promoting public health and safety. The states traditionally have had great latitude under their police powers to legislate as 'to the protection of the lives, limbs, health, comfort, and quiet of all persons...." 471 U.S. 756, citations omitted.

The Court went on to cite a number of other earlier pronouncements in the same vein, for example that "States possess broad authority under their police powers to regulate the employment relationship to protect workers within the State. Child labor laws, minimum and other wage laws, *laws affecting occupational health and safety*...are only a few examples." 471 U.S. 756, emphasis supplied.

In view of these controlling principles, it is clear that NEII's "preemption" argument is totally without basis. Whatever private parties such as the IUEC and NEBA may agree to in the give-and-take of their collective bargaining negotiations is in no way binding on the State of Hawaii; nor does it remove the ability of the State to adopt stricter standards of its own through legislative activity which it may determine are in the best interests of its citizens. The fact that there are numerous state licensing laws around the country that differ in certain respects from the IUEC-NEBA collective bargaining agreement, or what NEII and the IUEC may jointly have agreed to in earlier "Model" licensing laws (e.g., California, Illinois, Massachusetts), makes that clear. Indeed, NEII itself, as well as some of the companies it may speak for, have previously advocated for state licensing laws or policies that differ from the terms of the negotiated agreement.

Moreover, separate and apart from the legal doctrine of "preemption," there is no other reason, practical or otherwise, why the State must defer to what the IUEC and employers have negotiated, to the extent there really is any "conflict" between S.B. 2494 and the terms of the IUEC-NEBA agreement or any Model bills previously developed with NEII. For example, the bill's proposed training requirement of 9,000 hours does not really "conflict" with the industry's apprenticeship program's prescription of 8,000 hours, which can be seen as a minimum floor, and not a ceiling. As another example, a number of other states have recognized that certain other negotiated provisions of the agreement and the Model bill are insufficient to protect both workers and the riding public in the area of remote interaction with elevators by untrained, unlicensed workers not present on the site. Interestingly, in an arbitration proceeding under the IUEC-NEBA collective bargaining agreement

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over such remote interaction and to what extent it is permissible under the terms of the agreement itself (the only issue the arbitrator made clear he had authority to consider), counsel for the employers recognized that states could enact, and have enacted, stricter standards in licensing laws. [1]

We will not take any more of your valuable time to rebut every contention made by NEII in its statement in opposition to S.B. 2494. Suffice it to say at this point that the IUEC and Local 126 believe the bill is a well thought-out piece of legislation that will protect the safety and other interests of the State and its citizens. While the industry's negotiated collective bargaining agreements and earlier Model licensing bills may set certain minimum industry standards, their provisions are in no way binding on the State of Hawaii and should not be viewed as prohibiting the State from doing even more to protect its citizens.

Thank you for consideration of these views.

Respectfully submitted,

Frank J. Christensen
General President

[1] The IUEC successfully brought a contractual challenge to most aspects of a remote interaction program known as Otis Elite Service, which attempted to remotely perform such operations as changing parameters and resetting faults, in an arbitration proceeding under the IUEC-NEBA agreement. During those proceedings, the company's attorney stated that "If the Union is seriously interested in the licensing issue controlling this case and they want to withdraw this grievance and come to us and say we'll allow you to use Elite *except in those states where it's not permitted by code or licensing*, we will be glad to negotiate some arrangement with you." Tr. of hearing, *In the Matter of the Arbitration Between Otis, Inc. and International Union of Elevator Constructors, AFL-CIO,* p. 123, emphasis supplied.

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Quality in Motion

LATE

April 4, 2018

Representative Sylvia Luke, Chair
Representative Ty J.K. Cullen, Vice Chair
Hawaii House Committee on Finance
State Capitol, Room 308
Honolulu, HI 96813

Re: Opposition to S.B. 2494

Dear Chairwoman Luke, Vice Chairman Cullen and members of the committee:

Mitsubishi Electric US, INC Elevator and Escalator (Mitsubishi) appreciates the opportunity to submit comments related to our position on S.B. 2494. Our company is committed to exceeding the rigorous requirements of the building transportation industry, and as such, Mitsubishi finds S.B. 2494 to be problematic on several levels.

As a member of the National Elevator Industry, Inc. (NEII), Mitsubishi fully supports the comments submitted by NEII on behalf of the industry. It cannot be overstated that while Mitsubishi strongly supports licensing requirements, those listed in S.B. 2494 unnecessarily exceed the industry standard and deviate from the carefully negotiated collective bargaining agreement (CBA) between the elevator manufacturers and the International Union of Elevator Constructors (IUEC). We urge the Committee to honor the parameters in the nationally recognized CBA without changes to worker duties; this process has been in place for many decades.

With a significant business presence in Hawaii, Mitsubishi has strong concerns about the consequences of S.B. 2494 related to our operations in the state. The elevator industry relies on a highly trained and skilled workforce to maintain and repair our equipment and has trusted the National Elevator Industry Education Program (NEIEP) with providing the substantial training required to ensure safety in the field.

By adding requirements to the already comprehensive NEIEP training program recognized as the industry standard, S.B. 2494 will set the already strained elevator mechanic workforce further behind in Hawaii. If our industry is forced to complete an additional 1,000 hours of on the job training, companies like ours will be challenged to complete new construction and modernization projects, and this says nothing of the hardships the industry will face in getting repairs performed.

Finally, the technology that S.B. 2494 seeks to eliminate has become standard in modern elevators to enhance the safety of the riding public as well as elevator workers for a generation. Remote technology is critical to the continued innovation of the industry, and if banned will create a wide number of problems in elevator safety and design for the state of Hawaii.

Mitsubishi stands united with NEII and our industry colleagues to oppose the licensing requirements set forth in S.B. 2494 in Hawaii. This bill will negatively impact the state's workforce, business environment and the safety of its citizens.

Our Mitsubishi representatives are available to answer questions or provide assistance.

We request that the Hawaii House Committee on Finance defeat this bill. Thank you for your time and attention to this important industry issue.

Kyle Dong
Sales Manager