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

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February 9, 2017

TO: HONORABLE GIL KEITH AGARAN, CHAIR, HONORABLE KARL RHOADS, VICE CHAIR AND MEMBERS OF THE COMMITTEE ON JUDICIARY AND LABOR

SUBJECT: **COMMENTS AND SUGGESTED AMENDMENTS TO S.B 854 RELATING TO LABOR.** 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.

Committee Hearing

DATE: February 9, 2017
TIME: 9:05 a.m.
PLACE: Room 016

Dear Chair Keith Agaran, Vice Chair Rhoads 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 S.B. 854, Relating to Labor regarding ensuring due process procedures are in place. While GCA appreciates the intent of this legislation and compliance with Section 388, HRS, the payment of wages and compensation, GCA requests that employers are afforded due process if accused of such nonpayment of such wages. Current law already allows for both civil and criminal penalties to be in place for nonpayment of wages.

S.B. 854, 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 388, proper payment of wages. 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. **In regards to payment of wages, evidence including payroll records and proper hours worked would require review and verification prior to a finding of wrongdoing. How does the department intend to gather such information without some type of inquiry of the employer and without subpoenaing payroll records?** Whether such investigation is for non-compliance with workers compensation, temporary disability insurance or non-payment of wages, such evidence must be proven factual before such order to stop work is issued.

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 place of employment for all employees and the public at large *before* issuance of a stop work order.

Thank you for the opportunity to present our views on this matter and for considering our requested language to ensure such enforcement mechanisms include proper safeguards for all parties involved.

LATE TESTIMONY

From: mailinglist@capitol.hawaii.gov
To: [JDL Testimony](#)
Cc:
Subject: *Submitted testimony for SB854 on Feb 9, 2017 09:05AM*
Date: Thursday, February 9, 2017 2:56:32 PM

SB854

Submitted on: 2/9/2017

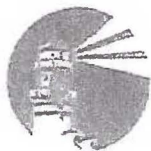
Testimony for JDL on Feb 9, 2017 09:05AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Jeff Strahn	Maui Dive Shop	Oppose	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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Ocean Tourism Coalition

LATE TESTIMONY

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COMMITTEE ON JUDICIARY AND LABOR

Senator Gilbert S.C. Keith-Agaran, Chair

Senator Karl Rhoads, Vice Chair

NOTICE OF HEARING

DATE: Thursday, February 9, 2017

TIME: 9:05 a.m.

PLACE: Conference Room 016

THE OCEAN TOURISM COALITION SPEAKING IN STRONG OPPOSITION SB854

Aloha Chair Senator Keith-Agaran, Vice Chair Rhoads:

My name is James E. Coon, President of the Ocean Tourism Coalition (OTC) Hawaii's State-wide organization. We represent the 300 Small Commercial Passenger Vessels operating out of State Harbor facilities. We speak in **Strong Opposition of SB 854:**

There are already significant penalties in current statute to deal with this issue. It is not reasonable to shut down an enterprise over a labor dispute which can be resolved by other means. This has the potential to either force a business to agree to an unfair settlement in order to keep the doors open or actually put them out of business completely. We could support additional fines for noncompliance but not a business shut down.

This is an overreach by DOL in our opinion and should not happen. Please do not pass SB 854.

Sincerely,

James E. Coon, President, OTC

LATE TESTIMONY

From: mailinglist@capitol.hawaii.gov
To: [JDL Testimony](#)
Cc:
Subject: *Submitted testimony for SB854 on Feb 9, 2017 09:05AM*
Date: Thursday, February 9, 2017 8:47:47 AM

SB854

Submitted on: 2/9/2017

Testimony for JDL on Feb 9, 2017 09:05AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Kersten	Sea Paradise Scuba Inc.	Oppose	No

Comments:

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