



LiUNA! **LATE**

**TESTIMONY OF RYAN K. KOBAYASHI
GOVERNMENT AND COMMUNITY RELATIONS DIRECTOR
HAWAII LABORERS UNION LOCAL 368**

COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

NOTICE OF HEARING

DATE: Tuesday, January 29, 2019
TIME: 9:00 a.m.
PLACE: Room 309

TESTIMONY IN SUPPORT OF HB158 RELATING TO LABOR LAW COMPLIANCE FOR GOVERNMENT CONTRACTS

ALOHA COMMITTEE CHAIR JOHANSON, VICE-CHAIR ELI and Committee Members.

My name is Ryan K. Kobayashi, Government and Community Relations Director for the Laborers' International Union of North America (LiUNA), Local 368 (Hawaii Laborers Union). The Hawaii Laborers Union is made up of over 5000 working and retired members across the State of Hawaii, and we **SUPPORT HB158 RELATING TO LABOR LAW COMPLIANCE FOR GOVERNMENT CONTRACTS.**

Presently, unlike Chapter 104 public works projects, there are no safeguards and no way to efficiently verify if wages and hours are being properly paid for Chapter 103 government service contracts that are outsourced from public sector unions.

Reports from contractors associations are that it is difficult compete on Chapter 103 government service projects that are outsourced due to wage violations that unscrupulous employers may impose upon their workers.

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Feel the Power

Therefore, in order to help ensure a level playing field, the Hawaii Laborers' Union, **SUPPORTS HB158** requiring the submission of Certified Payrolls for Government Service Contracts in excess of \$25,000.



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

January 27, 2019

**HOUSE OF REPRESENTATIVES
COMMITTEE ON LABOR & PUBLIC EMPLOYMENT**

DATE: Tuesday, January 29, 2019
TIME: 9:00 AM
PLACE: Conference Room 309
State Capitol
415 South Beretania Street

RE: STRONG SUPPORT FOR HB158 - RELATING TO LABOR LAW COMPLIANCE FOR GOVERNMENT CONTRACTS

Aloha Chair Johanson, Vice Chair Eli, and members of the Committee on Labor & Public Employment:

The Hawaii Laborers-Employers Cooperation and Education Trust (LECET) is a labor-management partnership between the 5000+ members of the Hawaii Laborers Union and its 250+ unionized contractors.

Hawaii LECET STRONGLY SUPPORTS HB158 which would require contractors for government service projects to submit certified payrolls to demonstrate compliance with wage and hour requirements.

Currently, Chapter 103 Service and Maintenance contracts do not have any requirements to submit certified payroll affidavits. Without this requirement, there is no safeguard to ensure that workers are being paid the proper wages. Unlike Chapter 104 Public Works Projects which require the weekly submission of certified payroll affidavits, Chapter 103 projects are being procured through a government service contract with no safeguards to ensure that wages and hours are being properly paid.

In addition, reports from contractor associations indicate that there is a strong possibility that unscrupulous contractors are not paying the proper wages in order to win the low bid on these contracts. This affects not only the workers who are not being paid properly, but also affects the bidding on Chapter 103 Service and Maintenance contracts. HB158 will ensure that there is fair competition and that workers are protected.

For these reasons, we ask for your consideration and strong support for HB158.

With respect,

Hawaii Laborers-Employers Cooperation
and Education Trust

DAVID Y. IGE
GOVERNOR

JOSH GREEN
LIEUTENANT GOVERNOR



LATE

SCOTT T. MURAKAMI
DIRECTOR

LEONARD HOSHIJO
DEPUTY DIRECTOR

**STATE OF HAWAII
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January 29, 2019

To: The Honorable Aaron Ling Johanson, Chair,
The Honorable Stacelynn K.M. Eli, Vice Chair, and
Members of the House Committee on Labor & Public Employment

Date: Tuesday, January 29, 2019

Time: 9:00 a.m.

Place: Conference Room 309, State Capitol

From: Scott T. Murakami, Director
Department of Labor and Industrial Relations (DLIR)

**Re: H.B. No. 158 RELATING TO LABOR LAW COMPLIANCE
FOR GOVERNMENT CONTRACTS**

I. OVERVIEW OF PROPOSED LEGISLATION

HB158 proposes to amend section 103-55(a), Hawaii Revised Statutes (HRS), to add a requirement that service contracts submit certified payrolls as required by construction contracts of public works under Wages and Hours of Employees on Public Works, Chapter 104, HRS, particularly sections 104-2(d) and (e), 104-3, 104-4, and 104-21 through 104-33. Government service contract work would be required to comply with fifteen sections of law under Chapter 104 government construction law.

This measure appears to be trying to implement aspects of the McNamara-Ohara Service Contract Act enforced under federal law. (see <https://www.dol.gov/whd/govcontracts/sca.htm>).

DLIR has serious concerns regarding the proposal.

II. CURRENT LAW

Section 103-55, HRS, applies to government service contracts and is under the jurisdiction of the governmental contracting agency awarding the contract to perform services. Chapter 104, HRS, applies to government construction contracts. The governmental contracting agency and the DLIR share joint enforcement responsibilities with respect to government construction contracts.

Section 103-55, HRS, requires contractors performing services in excess of \$25,000 for government agencies to pay rates not less than public employees would earn at the same rates and to certify prior to entering into the government contract that the contractor will pay its employees performing those services at wages or salaries not less than the wages paid to public employees for similar work. Section 103-55, HRS, also requires compliance with all applicable federal and state labor laws. The contracting agencies, and not the DLIR, are responsible for enforcing the provisions of their contracts and section 103-55, HRS.

III. COMMENTS ON THE HOUSE BILL

The Department notes that this measure raises several important questions regarding implementation, including significant, additional resources to accomplish the intent. How would the DLIR and contracting agencies determine the classification, salary, and payment rate of individuals working on the service contracts? Furthermore, how would the Department determine the fringe rate that is part of the payment rate in Chapter 104? It is unclear in the bill whether or not reference to sections of Chapter 104 intend certified payrolls to be submitted for public works construction only, as in Chapter 104, or if it means that certified payrolls would be submitted in a similar manner for all service contracts. Is the effect of the measure requiring the deposit of the certified payrolls to the Department for government service contracts?

Chapter 104, HRS, requires the governmental contracting agency and the DLIR to share joint enforcement responsibilities with respect to government construction contracts. These prevailing wages are based on surveys conducted by the DLIR's Research & Statistics Office (R&S) on laborer and mechanic classifications and provide both basic hourly rates and fringe benefit rates. The State does not publish fringe rates of its employees as required under the designated Chapter 104 sections referenced in the bill.

The proposal, if enacted and possible, would create substantial, additional work by R&S, the Wage Standards Division, and the government contracting agencies to determine salary and fringe rates, among other problematic aspects.

LATE

HB-158

Submitted on: 1/28/2019 8:52:21 AM

Testimony for LAB on 1/29/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Oahu County Committee on Legislative Priorities, Democratic Party of Hawai'i	Support	No

Comments:

LANDSCAPE ASSOCIATION OF HAWAII

95-1030 Meheula Parkway #892711 Mililani, HI 96789 (808) 295-7064

LATE

January 28, 2019

TO: Representative Aaron Johanson, Chair
Representative Stacelynn Eli, Vice Chair
House Committee on Labor and Public Employment

RE: Support for HB 158 - Relating to Labor Law Compliance for Government
Contracts

Committee Hearing

Tuesday, January 29, 2019; 9:00 a.m.
Conference Room 309, State Capitol

The Landscape Association of Hawaii represents various landscape and irrigation contractors in Hawaii and has been in existence for over forty years. We represent some of the oldest landscape and irrigation contractors still in operation.

We are writing in SUPPORT of HB 158, which requires contractors for state services, like freeway and roadside landscape maintenance, to submit weekly certified payrolls for laborers working on those contracts.

Services performed by employees on these contracts are required to be paid at wages not less than that paid to state or county employees for similar work. However, there is no means to verify that employees are being paid properly. There are indications that unscrupulous contractors are not paying the proper wages in order to win these contracts with low bids. We need safeguards to ensure employees are being compensated properly and to ensure that the competition for services contracts is on a level playing field. This bill is an excellent step in the right direction.

For these reasons, we support HB 158 and ask for your consideration to pass this bill.

With respect,

Landscape Association of Hawaii

LATE

HB-158

Submitted on: 1/28/2019 10:47:58 AM

Testimony for LAB on 1/29/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Arnold	Ironworkers Stabilization	Support	No

Comments: