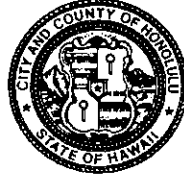


DEPARTMENT OF DESIGN AND CONSTRUCTION
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 11TH FLOOR
HONOLULU, HAWAII 96813
Phone: (808) 768-8480 • Fax: (808) 768-4567
Web site: www.honolulu.gov

KIRK CALDWELL
MAYOR



ROBERT J. KRONING, P.E.
DIRECTOR

MARK YONAMINE, P.E.
DEPUTY DIRECTOR

February 26, 2019

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

House
State Capitol, Room 308
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Luke, Vice Chair Cullen, and Members:

SUBJECT: House Bill No. 158 HD1, Relating to Labor Law Compliance for
Government Contracts

The Department of Design and Construction (DDC) respectfully **opposes** House Bill No. 158 HD1, which requires offerors for government contracts for services in excess of \$25,000 to certify that the services performed shall include submittal of certified payrolls.

The submittal of certified payrolls would be both unnecessary and inappropriate for professional services contracts. DDC has approximately 280 active professional services contracts under management at any given time. Most of these contracts are lump sum contracts in which the contractor is paid for satisfactory delivery of the specified products, such as studies, design reports, plans, specifications, etc. Certified payrolls would be irrelevant for such contracts.

Although some professional services contracts are based on time and materials, the submittal of certified payrolls would be unnecessary and inappropriate, as the requirement for reporting hours worked on a project by specific disciplines is sufficient for project managers to evaluate project invoices.

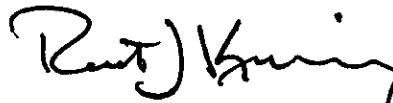
The Honorable Sylvia Luke, Chair
and Members
February 26, 2019
Page 2

Any consideration of requiring submittal of certified payrolls in services contracts should clearly exclude professional services contracts.

Based on the above considerations, DDC respectfully **opposes** House Bill No. 158 HD1.

Thank you for the opportunity to express our opposition to this bill.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert J. Kroning". The signature is fluid and cursive, with a large initial "R" and "K".

Robert J. Kroning, P.E.
Director



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

February 26, 2019

**HAWAII STATE HOUSE OF REPRESENTATIVES
COMMITTEE ON FINANCE**

DATE: Thursday, February 28, 2019
TIME: 2:00 PM
PLACE: Conference Room 308
State Capitol
415 South Beretania Street

RE: SUPPORT FOR HB158 HD1 - RELATING TO LABOR LAW COMPLIANCE FOR GOVERNMENT CONTRACTS

Aloha Chair Luke, Vice Chair Cullen, and members of the Committee on Finance:

The Hawaii Laborers-Employers Cooperation and Education Trust (LECET) is a labor-management partnership between the 5000+ members of the Hawaii Laborers' International Union of North America Local 368 and its 250+ unionized contractors. The Laborers' International Union of North America is the largest construction union in the United States with over 600,000 members.

Hawaii LECET SUPPORTS HB158 HD1 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 HD1 will ensure that there is fair competition and that workers are protected.

Hawaii LECET is open to consider amendments to clarify the definition of wages and enforcement implementation, as well as to limit the requirements for certified payroll only to mechanics and laborers under service contracts. We ask for your consideration and support for HB158 HD1.

With respect,

Hawaii Laborers-Employers Cooperation
and Education Trust



LIUNA!

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

COMMITTEE ON FINANCE

NOTICE OF HEARING

DATE: Thursday, February 28, 2019

TIME: 2:00 p.m.

PLACE: Room 308

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

ALOHA COMMITTEE CHAIR LUKE; VICE-CHAIR CULLEN,

My name is Ryan K. Kobayashi, Government and Community Relations Director for the Hawaii Laborers Union, Local 368. The Hawaii Laborers Union is made up of over 5000 working and retired members across the State of Hawaii. We **SUPPORT** HB158 which would require service providers for government contracts over the amount of \$25,000 to provide certified payrolls to the contracting government entity.

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 under Chapter 103 government service contracts that are outsourced from public sector unions.

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

Therefore, to help ensure a level playing field between fair contractors and those who would seek to abuse the government contracting process as well as their employees, the Hawaii Laborers' Union, **SUPPORTS HB158**, and respectfully requests your committees favorable action on the same.

LIUNA Local 368
1617 Palama Street
Honolulu, HI 96817
Phone: (808) 841-5877
Fax: (808) 847-7829
www.local368.org

Feel the Power

Testimony of
Christopher Delaunay, Government Relations Manager
Pacific Resource Partnership

House Committee on Finance
The Honorable Sylvia Luke, Chair
The Honorable Ty J.K. Cullen, Vice Chair

HB 158 HD1 - Relating to Labor Law Compliance for Government Contracts

Thursday, February 28, 2019
2:00 P.M.
Conference Room 308

Aloha Chair Luke, Vice Chair Cullen, and Members of the Committee:

Pacific Resource Partnership (PRP) **supports** HB 158 HD1, which requires that contractors for public works projects submit certified payrolls to demonstrate compliance with wage and hour requirements.

Currently, there are no safeguards to ensure that workers on Chapter 103 government service contracts are being paid correctly. Without appropriate safeguards in place, unscrupulous contractors bidding on government service contracts can use unfair labor practices to reduce their bid price, such as not paying appropriate wages and benefits to workers.

By implementing a certified payroll process for government service contracts, we can ensure that there is fair competition and that local workers are being paid fairly.

Therefore, we respectfully ask for your favorable passage of HB 158 HD1. Thank you for this opportunity to testify.





HAWAII REGIONAL COUNCIL OF CARPENTERS

House Committee on Finance
The Honorable Sylvia Luke, Chair
The Honorable Ty J.K. Cullen, Vice Chair

Thursday, February 28, 2019, 2:00PM
State Capitol Room 308

HB158, HD1 – Relating to Labor

Statement of the Hawaii Regional Council of Carpenters – Support for HB158, HD1

Aloha Chair Luke, Vice Chair Cullen, and Members of the Committee:

The Hawaii Regional Council of Carpenters supports HB158, HD1, which would require that a contractor contracting for services with a civil servant submit certified payrolls and comply with certain wages and hours laws.

HB158, HD1 seeks to provide a clear and effective enforcement mechanism for the existing provisions in HRS 103-55(a), which already require that for government contracts, “services to be rendered shall be performed by employees paid at wages or salaries not less than the wages paid to public officers and employees for similar work,” and that “all applicable laws of the federal and state governments relating to workers' compensation, unemployment compensation, payment of wages, and safety will be fully complied with.”

In contrast to government-sponsored public works projects, where construction wages can be clearly verified through certified payrolls submitted in compliance with HRS 104, there is currently no way to ensure that workers on government service contracts are indeed being paid correctly. In the absence of such a mechanism, contractors bidding on government service contracts can unfairly reduce their bid price by skimming out on appropriate wages and benefits.

By implementing a certified payroll process for government service contracts, we can ensure a level playing field for all bidders and that local workers are being paid fairly.

Mahalo for the opportunity to provide these comments in support of HB158, HD1.

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DAVID Y. IGE
GOVERNOR

JOSH GREEN
LIEUTENANT GOVERNOR



SCOTT T. MURAKAMI
DIRECTOR

LEONARD HOSHIJO
DEPUTY DIRECTOR

**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

830 PUNCHBOWL STREET, ROOM 321

HONOLULU, HAWAII 96813

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LATE

February 27, 2019

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

Date: Thursday, February 28, 2019

Time: 2:00 p.m.

Place: Conference Room 309, State Capitol

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

**Re: H.B. No. 158 H.D. 1 RELATING TO LABOR LAW COMPLIANCE
FOR GOVERNMENT CONTRACTS**

I. OVERVIEW OF PROPOSED LEGISLATION

HB158HD1 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.

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. Section 103-55(b), HRS states, "It shall be the duty of the governmental contracting agency awarding the contract to perform services in excess of \$25,000 to enforce this section."

Section 103-55(c), HRS states that this section shall apply to service contracts, including contracts to supply ambulance service and janitorial service, but shall not apply to managerial, supervisory, or clerical personnel; contracts for supplies;

contracts for utility services; contracts to perform personal services; contracts for professional services; contracts to operate refreshment concessions in public parks or to provide food services to educational institutions; contracts to provide transportation services for school children; or contracts with nonprofit institutions.

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.

Section 104(2), HRS, states in part, “(a) This chapter shall apply to every contract in excess of \$2,000 for construction of a public work project to which a governmental contracting agency is a party...”

III. COMMENTS ON THE HOUSE BILL

The Department is concerned about how this measure will be implemented. The DLIR has established administrative rules and proper staffing for public works construction.

If the intent of the measure is to require certified payrolls on certain service contracts, the Department suggests submission of the certified payrolls to the contracting agency in order to ensure that the contracting agency is able to enforce contract provisions and Section 103-55, HRS. Section 103-55(b) also provides enforcement authority “(b) No contract to perform services for any governmental contracting agency in excess of \$25,000 shall be granted unless all the conditions of this section are met. Failure to comply with the conditions of this section during the period of contract to perform services shall result in cancellation of the contract, unless such noncompliance is corrected within a reasonable period as determined by the procurement officer. Final payment of a contract or release of bonds or both shall not be made unless the procurement officer has determined that the noncompliance has been corrected.”

The Department suggests that if the intent of the proposal is to mirror some of the enforcement provisions in Chapter 104, that putting those provisions into Chapter 103 may be statutorily more appropriate.

February 28, 2019

The Honorable Sylvia Luke, Chair
The Honorable Ty Cullen, Vice Chair
and members
House Committee on Finance
415 South Beretania Street
Honolulu, Hawai'i 96813

**RE: Strong Support for HB158 HD1, RELATING TO LABOR LAW COMPLIANCE
FOR GOVERNMENT CONTRACTS**

Dear Chair Luke, Vice Chair Cullen, 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.

The Alliance is in support of this bill as it gives much needed transparency to wages that are paid to workers on large government contracts. Many of these contracts are in excess of \$500,000, and some range in the millions of dollars. With virtually no oversight, workers can easily be taken advantage of and forced to work at below minimum wage, or without overtime.

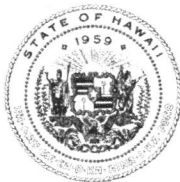
Certified payrolls are an important step toward ensuring that workers are paid the correct wages and receive adequate compensation for what can be hazardous and difficult work.

Therefore, we strongly ask for your committee's favorable action on HB158 HD1.

Mahalo,



Nathaniel Kinney
Executive Director
Hawai'i Construction Alliance
execdir@hawaiiconstructionalliance.org



TESTIMONY BY:

JADE T. BUTAY
DIRECTOR

Deputy Directors
LYNN A.S. ARAKI-REGAN
DEREK J. CHOW
ROSS M. HIGASHI
EDWIN H. SNIFFEN

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

Thursday, February 28, 2019
2:00 P.M.
State Capitol, Room 308

H.B. 402, H.D. 1
RELATING TO RELATING TO INCREASING THE OFFICE OF HAWAIIAN AFFAIRS'
PRO RATA SHARE OF PUBLIC LAND TRUST FUNDS.

House Committee on Finance

Similar to other departments, the State of Hawaii Department of Transportation (DOT) recognizes the importance of the betterment of the Native Hawaiian community and has a deep respect for the Office of Hawaiian Affairs (OHA) which supports efforts to improve the well-being of Native Hawaiians. Nevertheless, we have deep concerns with H.B. 402, H.D. 1, which proposes to: (1) establish the Office of Hawaiian Affairs' (OHA) pro rata share of the public land trust, (2) transfer funds to OHA for underpayment of the public land trust funds from July 1, 2012 to June 30, 2019, and (3) require DOT to provide an annual accounting of receipts from public land trust lands.

The DOT offers the following **comments** with the bill because of its potential severe financial impact to our department.

As a result of a settlement, OHA has received an annual amount fixed at \$15.1 million; however, in recent years, payments of 20% ceded land revenues to OHA have well exceeded the fixed amount of \$15.1 million. According to the Department of Budget & Finance, the annual payment in fiscal year 2018 totaled \$17,391,958.38, of which DOT contributed 57.5% of said amount solely by funds of the Department's Harbors Division. In years past, DOT's contributions were as high as 89.66% of the total funds to OHA.

While a clear and definitive criteria on what would be subject to a pro rata calculation is needed in order to make the reporting envisioned in H.B. No. 402, H.D.1, useful and meaningful, any increase beyond such amounts contributed by DOT in recent years will cause undo detriment and cause significant financial strain to the operations and self-sufficiency of the Harbors Division.

The DOT offers the following amendment to Section 8 because there is no legislative appropriation required to transfer the funds to the Office of Hawaiian Affairs - such