

Honolulu, Hawaii

FEB 18 2022

RE: S.B. No. 3223
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2022
State of Hawaii

Sir:

Your Committee on Labor, Culture and the Arts, to which was referred S.B. No. 3223 entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC WORKS,"

begs leave to report as follows:

The purpose and intent of this measure is to impose penalty on both the person and firm upon a finding of repeat violations of chapter 104, Hawaii Revised Statutes, which governs the wages and hours of employees on public works.

Your Committee received testimony in support of this measure from the Hawai'i State AFL-CIO, Hawaii Regional Council of Carpenters, Operating Engineers Local Union No. 3, Pride at Work - Hawai'i; IATSE Local 665, Hawai'i Nurses' Association - OPEIU Local 50, Hawaii Ports Maritime Council, and Western Conference of Operating Engineers. Your Committee received comments on this measure from the Department of Labor and Industrial Relations.

Your Committee finds that the state law governing wages and hours of employees on public works has a "three strikes" policy, by which contractors are given two opportunities to alter their practices in violation of the law and become compliant. Upon citation of the third violation, the contractor is suspended from doing work on any public work for a three-year period. Your Committee finds that this suspension has been an effective deterrent for many years; however, in recent years, there have



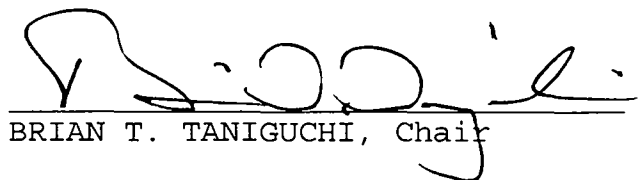
been contractors who have been suspended after being cited for their third violation that transfer their key personnel to a separate company and continue business under a new name. Your Committee finds that such practice defeats the purpose of the existing law. This measure closes the loophole by holding both the firm and key employees accountable.

Your Committee has amended this measure by:

- (1) Clarifying that "firm" includes a contractor, corporation, limited liability company, partnership, and limited partnership;
- (2) Clarifying that "person" includes the officers and directors of a corporation, managers and members of a limited liability company, partners, and limited partners; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Labor, Culture and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3223, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3223, S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Labor, Culture and
the Arts,

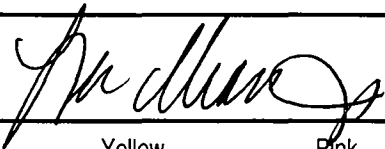


BRIAN T. TANIGUCHI, Chair



The Senate
Thirty-First Legislature
State of Hawai'i

Record of Votes
Committee on Labor, Culture and the Arts
LCA

Bill / Resolution No.:* SB 3223	Committee Referral: LCA, JDC	Date: 2-2-22		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
TANIGUCHI, Brian T. (C)	✓			
IHARA, Jr., Les (VC)	✓			
CHANG, Stanley				✓
KEOHOKALOLE, Jarrett	✓			
FEVELLA, Kurt	✓			
TOTAL	4	0	0	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes