



STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 02/09/2021

Time: 02:00 PM

Location: 309 Via Videoconference

Committee: House Education

Department: Education

Person Testifying: Dr. Christina M. Kishimoto, Superintendent of Education

Title of Bill: HB 1392 RELATING TO PUBLIC WORKS PROJECTS.

Purpose of Bill: Creates an exemption for unpaid interns enrolled in a department of education program from the wages and hours requirements of employees on public works projects.

Department's Position:

The Hawaii State Department of Education (Department) supports HB 1392 but defers to the Department of Labor and Industrial Relations regarding any adverse impacts which could result from the passage of this bill.

The Department acknowledges that HB 1392 proposes to exempt from the wages and hours requirements of employees on public works projects unpaid interns participating in such projects as part of a Department program.

Work-based learning opportunities such as internships are an essential component to a high-quality Career and Technical Education (CTE) program of study. This exemption will increase access to student internships that provide invaluable real world work experience. As public high schools establish or expand their CTE programs of study in their school design, the Department is committed to strengthening and advancing a concerted effort among various partners to prepare students for the career pipeline with the appropriate skills, attributes, certification, and/or college credit to contribute to the vitality of Hawaii's workforce.

Thank you for the opportunity to provide testimony on HB 1392.

The Hawai'i State Department of Education is committed to delivering on our promises to students, providing an equitable, excellent, and innovative learning environment in

every school to engage and elevate our communities. This is achieved through targeted work around three impact strategies: school design, student voice, and teacher collaboration. Detailed information is available at www.hawaiipublicschools.org.

DAVID Y. IGE
GOVERNOR

JOSH GREEN
LIEUTENANT GOVERNOR



STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
www.labor.hawaii.gov

ANNE PERREIRA-
EUSTAQUIO
DIRECTOR

JOANN A. VIDINHAR
DEPUTY

February 9, 2021

To: The Honorable Justin H. Woodson, Chair,
The Honorable Jeanne Kapela, Vice Chair, and
Members of the House Committee on Education

Date: Tuesday, February 9, 2021
Time: 2:00 P.M.
Place: VIA Videoconference
Conference Room 309
State Capitol, 415 South Beretania Street

From: Anne Eustaquio, Director
Department of Labor and Industrial Relations (DLIR)

Re: H.B. No. 1392 RELATING TO PUBLIC WORKS PROJECTS.

I. OVERVIEW OF PROPOSED LEGISLATION

This measure seeks to create an exemption in Chapter 104, Hawaii Revised Statutes (HRS), for student interns enrolled in a department of education program to participate in a public works construction project as part of the program requirements.

The DLIR opposes this measure.

II. CURRENT LAW

Chapter 104, HRS, Wages and Hours of Employees on Public Works Law was created to provide a fair and equitable public bidding process for all contractors and was patterned after the federal Davis-Bacon Act. Chapter 104 provides for the determination of prevailing wage rates and requires contractors to pay the prevailing wages to the laborers and mechanics performing construction work on governmental construction projects.

There are no exemptions to the current law.

III. COMMENTS ON THE HOUSE BILL

Chapter 104, HRS, Wages and Hours of Employees on Public Works Law, (originally Chapter 9A, Revised Laws of Hawaii) was enacted by the 1955 Legislature to create a fair and equitable public bidding process for all contractors. The law was patterned after the federal Davis-Bacon Act and provided for

determination of prevailing wage rates and required contractors to pay prevailing wages to laborers and mechanics.

As declared in the Senate Labor Committee Report:

“This bill like the Federal Davis-Bacon Act has as its guiding principle that bids for construction of public works should be based on the relative skill and efficiency of the contractors concerned and not on a difference in wages paid. To state the principle another way, government money, coming from the taxes of all of us, should not be used to subsidize contractors who are depressing the wages of some of us.”

Sen. Stand. Comm. Rpt. No. 318, 1955 Senate Journal at 551.

The law applies to work performed at the public work job site by any laborer or mechanic. Section 104-2(b), HRS, requires every laborer and mechanic performing work on a public works construction job site be paid no less than prevailing wages. The payment of less than the prevailing wage is only allowed to registered apprentices. There currently is no provision for the employment of minors on governmental construction projects.

The “intern” classification is not recognized under Chapter 104. If a contractor hires any temporary summer help, these workers must be classified and paid according to the work performed, using the closest existing job classification in the wage rate schedule.

Under Hawaii’s Child Labor law, minors under the age of 18 are restricted from performing work deemed to be hazardous. Section 390-2, HRS, prohibits the employment of minors under eighteen years of age from occupations declared by rule to be hazardous. Sections 12-25-41 through 12-25-59, Hawaii Administrative Rules (HAR), currently provide the occupations deemed hazardous and the applicable exemptions allowed for minors in Hawaii.

Under Hawaii’s prohibitions contained in section 12-25-43(c), HAR, minors 16-17 years of age are allowed only on roofing and arguably demolition projects where the minor is a registered apprentice or trainee or a student-learner in a vocational training program approved by the department of education. These Hawaii administrative provisions referenced above, were specifically modeled and promulgated to comply and be in accord with the federal occupational prohibitions provided under the Fair Labor Standards Act of 1938 for the employment of minors. There is no general exemption for general construction work under Hawaii’s and to our understanding the federal provisions for the employment of minors on construction projects.

DLIR opposes this proposal to create an exemption from the requirements of the law, for unpaid interns enrolled in a department of education program. It is our understanding that as part of the department of education program, participants will work alongside a laborer or mechanic on the public works jobsite to learn the skills of the trade. Since these workers will be performing the duties of the trade, they would be a laborer or mechanic on the public works job site and must be classified and paid accordingly.

Testimony of
Pacific Resource Partnership

House Committees on Education
The Honorable Justin H. Woodson, Chair
The Honorable Jeanne Kapela, Vice Chair

HB1392 Relating to Public Works Projects

Tuesday, February 9, 2021
2:00 P.M.
Conference Room 309

Aloha Chair Woodson, Vice Chair Kapela, and Members of the Committee:

Pacific Resource Partnership (PRP) writes in strong support of HB1392 with an amendment. This measure creates an exemption for unpaid interns enrolled in a Department of Education program from wages and hours requirements of employees on public works projects.

PRP supports partnerships between the Department of Education and the construction industry that offer high school students the unique opportunity for hands-on learning experiences on construction projects with contractors. These programs play a critical role in introducing and preparing high school students, who have an interest in construction, to enter into the workforce after graduation. Partnerships between the private and public sectors are excellent ways in which youth obtain real-world experiences, discover their passions, and embark on career paths that could benefit them and their families for a lifetime.

Given the above, we respectfully request your favorable decision on this measure with one small amendment—delete the word “unpaid”. Construction contractors should be given the option to pay interns for their work without having to satisfy the wage and hour requirements of employees on public works projects. Thank you for this opportunity to submit written testimony.





HAWAII CARPENTERS APPRENTICESHIP AND TRAINING FUND

February 9, 2021

House Committee on Education
Hawaii House of Representatives
State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Re: House Bill 1392, Relating to Public Works Projects

Dear Chairman Woodson, Vice-Chair Kapela and members of the committee,

Please allow me to introduce myself: my name is Edmund C. Aczon and I am the Executive Director of the Hawaii Carpenters Apprenticeship & Training Fund (HCATF).

HCATF is a partnership of the Hawaii Regional Council of Carpenters, the General Contractors Labor Association, the Building Industry Labor Association, the Wall and Ceiling Industry Association of Hawaii, and other building contractors who are signatories to the Hawaii carpenters union's collective bargaining agreement.

Our mission is to train the next generation of carpenters, drywallers and millwright workers in Hawaii. We accomplish this by recruiting untrained candidates, almost all of whom are recent high school graduates or men and women seeking new careers. In fact, we are the largest apprenticeship program in the state, with over 1,500 apprentices across all islands.

HCATF strongly supports House Bill No. 1392, which exempts unpaid interns enrolled in a Department of Education program from the wage and hour requirements of employees on public works projects. However, we would like to offer an amendment to the bill: we suggest striking the word "unpaid," in order to extend this exemption to our paid interns also assigned to public works project.

HCATF currently runs a robust internship program as a part of our Career Connections initiative, which was launched in 2017 in partnership with the Hawaii Department of Education's Career and Technical Education (CTE) Office. Currently we have 26 public high schools participating in this program.

Career Connections summer interns are paid a highly competitive rate which is above minimum wage. However, contractors are further required to pay interns the prevailing journeymen wage on public works projects. Any internship program will not succeed if contractors are forced to pay prevailing wages to interns, who are not classified as apprentices and are not yet qualified as journeymen.

Given that both the federal and state initiative of the Career Connections partnership program is to promote career development for high school students, we urge the committee to pass this exemption in order to encourage contractor participation and increase training opportunities.

HCATF is committed to help building our community and future workforce. By identifying and encouraging promising candidates early on and providing them with unique, work-based training such as our Career Connections Summer Internship, we can accomplish this goal. Our recommendation would help ensure the longevity of this program, encourage contractor participation, and ultimately provide increased opportunities for young jobseekers to build fulfilling, lifelong careers.

Mahalo for your time and consideration.


Edmund C. Aczon
Executive Director

1065 Ahua Street
Honolulu, HI 96819
Phone: 808-833-1681 FAX: 839-4167
Email: info@gcawhawaii.org
Website: www.gcawhawaii.org



GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

Uploaded via Capitol Website

February 8, 2021

TO: HONORABLE JUSTIN WOODSON, CHAIR, HONORABLE JEANNE
KAPELA, VICE CHAIR, COMMITTEE ON EDUCATION

SUBJECT: **SUPPORT OF H.B. 1392, RELATING TO PUBLIC WORKS PROJECTS.**
Creates an exemption for unpaid interns enrolled in a Department of Education program from the wages and hours requirements of employees on public works projects.

HEARING

DATE: Tuesday, February 9, 2021
TIME: 2:00 p.m.
PLACE: Capitol Room 309

Dear Chair Woodson, Vice Chair Kapela and Members of the Committee,

The General Contractors Association of Hawaii (GCA) is an organization comprised of approximately five hundred (500) general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is the largest construction association in the State of Hawaii. Our mission is to elevate Hawaii's construction industry and strengthen the foundation of our community.

GCA is in **Support** of H.B. 1392, which creates an exemption for unpaid interns enrolled in a Department of Education program from the wages and hours requirements of employees on public works projects.

The Construction Career Connection program is run at 25 High Schools statewide and allows high school students to intern and gain valuable experience in the construction industry. This exposure potentially opens the students to idea of working in the construction industry. This measure will allow the interns to work at State projects without having them listed on the certified payroll.

GCA asks that the Committee consider striking "unpaid" from line 5 of the measure.

Thank you for this opportunity to testify in support of this measure.



Mailing: Hi'ilei Aloha LLC, 59-864 Kamehameha Hwy.
Haleiwa, Hawai'i 96712
Phone: (808) 275-4322
Site: Hilu St., Waimānalo, Hawai'i 96795
www.youthbuildnalo.org

February 8, 2021

House Committee on Education
Hawai'i House of Representatives
State Capitol
415 South Beretania Street
Honolulu, Hawai'i 96813

Dear Chairman Woodson, Vice-Chair Kapela and members of the committee:

Re: HB 1392 – Strongly Support

We are writing to express our strong support for H.B. 1392, which exempts unpaid interns participating in the Department of Education's educational programs from the wage and hour requirements of employees on public works projects. We strongly support this bill but recommend removing the word "unpaid" so that this exemption can apply to paid interns as well.

Our program, YouthBuild Waimānalo, serves at-risk students, ages 16-24 years old. Our students work on earning a G.E.D. and learning construction skills so they have more opportunities when they graduate. They gain a lot of practical knowledge and experience when they do internships with construction companies in the community. Sometimes the internships are paid and sometimes they are not. In either case, the experience is invaluable.

If employers are required to hire interns at regular wage and hour requirements on public works projects, it will be too expensive for employers to hire interns, and they will not be able to bring our students onsite and give them the irreplaceable experience of working on a real job with experienced journeymen. It is important for their growth as students to have training opportunities such as this.

Thank you for the opportunity to comment.

Sincerely,

Mona Bernardino
Project Director



SHIOI CONSTRUCTION

Building Hawai`i since 1948

February 8, 2021

House Committee on Education
Hawaii House of Representatives
State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Re: House Bill 1392, Relating to Public Works Projects

Dear Chairman Woodson, Vice-Chair Kapela and members of the Committee,

My name is Conrad Murashige and I am Co-Chair of the Hawaii Carpenters Apprenticeship & Training Trust Fund and fully support HB1392.

The Hawaii Carpenters Apprenticeship & Training Trust Fund (HCATF), is a partnership of the Hawaii Carpenters Union, the General Contractors Labor Association, the Building Industry Labor Association, the Wall and Ceiling Industry Association of Hawaii, and other building contractors who are signatories to the Hawaii Carpenters Union's collective bargaining agreement

Our training program supports more than 1,500 carpenters & drywallers throughout the state. Our greatest challenge is to continue to recruit and train enough men and women to maintain our workforce.

HCATF strongly supports House Bill No. 1392, which exempts (unpaid) interns enrolled in a Department of Education program from the wage and hour requirements of employees on public works projects. However, we would like to offer an amendment to the bill: we suggest striking the word "unpaid" in order to extend this exemption to our paid interns also assigned to public works projects.

The Construction Career Connection summer internship program with 26 high schools on Kauai, Oahu, Maui and Hawaii islands that started in 2017. Our summer interns are paid a competitive rate which is well above the minimum wage. However, contractors are further required to pay interns the prevailing journeymen wage on public works projects. Any internship program will not succeed if contractors are forced to pay prevailing wages to interns, who are not classified as apprentices and are not yet qualified as journeyman.

Given that both the federal and state initiative of the Career Connections partnership program is to promote career development for high school students, we urge the committee to pass this exemption in order to encourage contractor participation and increase training opportunities.

I humbly ask for your support on HB1392 and to provide for much needed actual job experiences to our future workforce.

Conrad H Murashige
Co-Chair

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Hawai'i Construction Alliance

P.O. Box 179441
Honolulu, HI 96817
(808) 220-8892

February 9, 2021

The Honorable Justin H. Woodson, Chair
The Honorable Jeanne Kapela, Vice Chair
and members
The House Committee on Education
415 South Beretania Street
Honolulu, Hawai'i 96813

RE: SUPPORT for HB1392, Relating to Public Works Projects

Dear Chair Woodson, Vice Chair Kapela 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 Hawaii Construction Alliance is in support of HB1392 with an amendment.

A strong partnership between the Department of Education and the construction industry would offer high school students a unique opportunity for hands-on-learning and exposure to the trades.

These types of "pre-apprenticeship" programs play a critical role in creating a pipeline of future workers who are interested in the trades, in order to offer them skills BEFORE entering the workforce after graduation.

We believe that by deleting the phrase "unpaid" would allow contractors to pay these construction inters without running afoul of the wage and hour requirements that govern public works projects.

Therefore, we strongly ask for your committee's favorable action and amendment to HB1392.

Mahalo,

A handwritten signature in black ink, appearing to read "Nathaniel Kinney". The signature is fluid and cursive, with a large, stylized initial 'N' and 'K'.

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



LATE
LiUNA!

Testimony of the Hawaii Laborer's Union Local 368
1617 Palama Street
Honolulu, Hawaii 96817

PETER A. GANABAN
*Business Manager/
Secretary-Treasurer*

ALFONSO OLIVER
President

JOBY NORTH II
Vice President

TONI FIGUEROA
Recording Secretary

JAMES DRUMGOLD JR.
Executive Board

ORLANDO PAESTE
Executive Board

JOSEPH YAW
Executive Board

MARTIN ARANAYDO
Auditor

RUSSELL NAPIHA'A
Auditor

MARK TRAVALINO
Auditor

ALFRED HUFANA JR.
Sergeant-At-Arms

Meeting: House Committee on Education
Date: Tuesday, February 9, 2021
Time: 2:00 p.m.
Place: Conference Room 309

RE: Comments on HB1392 Relating to Public Works

Chairs Woodson, Vice Chair Kapela and Committee Members,

The Hawaii Laborers' Union Local 368 and its nearly 5000 working and retired men and women across the state of Hawaii **SUPPORTS THE INTENT of HB1392 Relating to Public Works Projects** and would like to offer comments.

The Hawaii Laborers' Union supports pre-apprenticeship programs in our schools as they play a critical role in providing career pathways for students into construction industry related apprenticeship programs.

However, we respectfully offer commentary and respectfully request the **deletion of the word "unpaid"** from the phraseology "unpaid interns" as written in HB1392.

Thank you very much for the opportunity to comment on HB1392.

Respectfully,
Ryan Kobayashi
Government Affairs

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

Feel the Power

HB-1392

Submitted on: 2/8/2021 1:53:40 PM

Testimony for EDN on 2/9/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Preshess Willets-Vaquilar	Individual	Support	No

Comments:

Aloha!

My name is Preshess Willets-Vaquilar and I serve on the selection committee for the Career Connections Summer Internship program - a partnership between the Hawaii Carpenters Apprenticeship and Training Fund (HCATF) and the Hawaii Department of Education.

This is a great internship program which benefits the participants, construction industry, and ultimately our State as a whole. This program provides participants with the first hand knowledge of what the construction industry is all about - and they get paid for it!

The future success of this summer internship program lies heavily on the outcome of HB1392. In line with the HCATF, I too would like to suggest that this exemption also extend to paid interns assigned to public works projects.

Mahalo for your time and consideration!