



STATE OF HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS  
[www.labor.hawaii.gov](http://www.labor.hawaii.gov)

February 23, 2022

To: The Honorable Mark M. Nakashima, Chair,  
The Honorable Scot Z. Matayoshi, Vice Chair, and  
Members of the House Committee on Judiciary & Hawaiian Affairs

Date: Wednesday, February 23, 2022  
Time: 2:00 p.m.  
Place: Conference Room 325 & Videoconference

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

**Re: H.B. 2440, H.D.1 RELATING TO PUBLIC WORKS**

**I. OVERVIEW OF PROPOSED LEGISLATION**

HB2440 HD1 proposes to amend Sections 104-24 and 104-25, Hawaii Revised Statutes (HRS). Sections 104-24(b) and (c) and 104-25(a) and (c) are amended to impose progressively increasing penalties on both the person and firm upon finding of repeat violations of Hawaii's Wages and Hours of Employees on Public Works Law. Subsection (e) defines the term "Firm" to include the contractor, corporation, limited liability company, partnership, and limited partnership. The term "Person" is defined to include the officers and directors of a corporation, managers and members of a limited liability company, and partners, and limited partners of a partnership.

Section 104-25(d), HRS, is amended by defining the term "Firm" to include the contractor, corporation, limited liability company, partnership, and limited partnership. Further the term "Person" is amended to include the officers and directors of a corporation, managers and members of a limited liability company, partners, and limited partners of a partnership.

The DLIR offers comments on this measure.

**II. CURRENT LAW**

Sections 104-24(b) and (c), and Section 104-25, HRS, imposes progressively increasing penalties on "the person or firm" upon finding repeat violations of Hawaii's Wages and Hours of Employees on Public Works Law.

### **III. COMMENTS ON THE HOUSE BILL**

The intent of the language in Hawaii's Prevailing Wage Law was for "person" to mean a sole proprietor and "firm" as all other business entities. The original intent of "person" was not meant to be all individuals listed as officers, managers, or partners of a business entity.

We suggest deletion of the proposed definition of "Firm" to allow the current flexibility in the type of business entities the chapter applies to and to substitute but not limit the definition of "Person" to include a sole proprietor and the Responsible Managing Employee and holder of the construction license as provided within Chapter 444, HRS, Hawaii's Law governing contractors as they are generally the ones responsible for what transpires on the construction job site.



**HAWAII GOVERNMENT EMPLOYEES ASSOCIATION**  
AFSCME Local 152, AFL-CIO

**RANDY PERREIRA**, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Thirty-First Legislature, State of Hawaii  
House of Representatives  
Committee on Judiciary and Hawaiian Affairs

Testimony by  
Hawaii Government Employees Association

February 23, 2022

H.B. 2440, H.D. 1 – RELATING  
TO PUBLIC WORKS

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO supports the purpose and intent of H.B. 2440, H.D. 1 which imposes penalties on both the individual and the firm that repeatedly violate wage and hours law.

It's entirely unacceptable when firms violate wage and hour law, let alone become repeat offenders. These actions harm not only the workers who perform their duties but also the public's trust. We are hopeful that this amendment to Ch. 104, Hawaii Revised Statutes will decrease the amount and frequency of violations as individuals will be held accountable for both their own and their firm's actions.

Thank you for the opportunity to testify in support of H.B. 2440, H.D. 1.

Respectfully submitted,

Randy Perreira  
Executive Director



Randy Perreira  
President

# HAWAII STATE AFL-CIO

888 Mililani Street, Suite 501 • Honolulu, Hawaii 96813

Telephone: (808) 597-1441  
Fax: (808) 593-2149

The Thirty-First Legislature, State of Hawai'i  
Hawai'i State House of Representatives  
Committee on Judiciary & Hawaiian Affairs

Testimony by  
Hawai'i State AFL-CIO  
February 23, 2022

H.B. 2440 H.D. 1 – RELATING TO PUBLIC  
WORKS

The Hawai'i State AFL-CIO is a state federation of 74 affiliate local unions and councils with over 68,000 members across both public and private sectors. We appreciate the opportunity to testify in **strong support** of H.B. 2440 H.D. 1.

Holding both persons *and* firms accountable for violations of Chapter 104, Hawaii Revised Statutes, is important to avoid repeat offenses by persons who may continually violate Chapter 104 through new entities. This measure effectively puts unscrupulous persons and firms on notice that repeat offenders will lose the privilege of working on public works projects.

Also important, this protects workers from having to recover unpaid wages.

We appreciate your consideration of our testimony and strongly urge passage of H.B. 2440 H.D. 1.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Randy Perreira".

Randy Perreira  
President



# OPERATING ENGINEERS LOCAL UNION No. 3

2181 LAUWILIWILI STREET, KAPOLEI, HI 96707 • (808) 845-7871 • FAX (808) 682-0906  
Jurisdiction: Northern California, Northern Nevada, Utah, Hawaii, and the Mid-Pacific Islands

---

February 22, 2022

House Committee on Judiciary & Hawaiian Affairs

Honorable Mark M. Nakashima, Chair

Honorable Scot Z. Matayoshi, Vice Chair

Honorable Members of the House Committee on Judiciary & Hawaiian Affairs

**RE: SUPPORT OF H.B. 2440 HD1, WHICH IMPOSES PENALTY ON BOTH THE PERSON AND FIRM UPON FINDING OF REPEAT VIOLATIONS OF STATE LAW GOVERNING WAGES AND HOURS OF EMPLOYEES ON PUBLIC WORKS.**

Dear Chair Nakashima, Vice Chair Matayoshi, and Members of the Committee,

Hawaii Operating Engineers Local 3 **supports HB2440 HD1** which imposes penalty on both the person and firm upon finding of repeat violations of state law governing wages and hours of employees on public works.

Hawaii has the best prevailing wage laws in the nation. For years, Hawaii Revised Statutes 104 has been the gold standard for prevailing wage laws in the United States.

Yet, despite HRS 104 being a law in Hawaii for decades, there are still contractors who violate this law, and do not pay their workers the wages they are entitled to on public works projects. In HRS 104, there is a "three strike" policy in place, that gives contractors three opportunities to alter their illegal practices and comply with HRS 104. In fact, a violating contractor is required to sign a document recognizing their violation and state that they will not violate the law. If a contractor does commit their third and final violation of HRS 104, they are suspended from bidding on public works projects for three years.

This three-year suspension from bidding on public works projects has been a strong deterrent for many years and generally works well. However, we still see companies that have been cited for their third strike, get suspended, and then proceed to move their key leaders and personal to another company and continue their business under a new name. This type of corporate shell game defeats the purpose and intent of HRS 104.

It is the position of Operating Engineers Local 3, that adjusting the wording in HRS 104-24 and HRS 104-25 will assist DLIR in applying the three-year suspension to **both the person and firm** that has committed their third HRS 104 violation. The amended language will also bring clarity on what person within a company will be suspended as well as the type of firms to be suspended. We look forward to more discussion as the bill makes its way through the process.



# OPERATING ENGINEERS LOCAL UNION No. 3

2181 LAUWILIWILI STREET, KAPOLEI, HI 96707 • (808) 845-7871 • FAX (808) 682-0906  
Jurisdiction: Northern California, Northern Nevada, Utah, Hawaii, and the Mid-Pacific Islands

---

Sincerely,

Analeseanoa Tuiasosopo  
District Representative – Hawaii  
Operating Engineers Local Union No. 3



**Daniel Ross, RN**  
President

**Gary Nuber**  
Director of Field Services

1600 Ala Moana Blvd Suite 100  
Honolulu, HI 96815

Tel: (808) 531-1628  
Fax: (808) 524-2760

**LATE**

HOUSE OF REPRESENTATIVES  
THE THIRTY-FIRST LEGISLATURE  
REGULAR SESSION OF 2022

COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Rep. Mark M. Nakashima, Chair  
Rep. Scot Z. Matayoshi, Vice Chair

Rep. Linda Ichiyama	Rep. Nadine K. Nakamura
Rep. Dale T. Kobayashi	Rep. Roy M. Takumi
Rep. Matthew S. LoPresti	Rep. James Kunane Tokioka
Rep. Nicole E. Lowen	Rep. Gene Ward
Rep. Angus L.K. McKelvey	

Testimony by  
Hawaii Nurses Association  
February 23 , 2022

H. B. 2440 – RELATING TO PUBLIC WORKS

The Hawaii Nurses Association -OPEIU Local 50 is affiliated with the AFL-CIO and was founded in 1917 and represents 4,000 nurses in the State of Hawaii. We are grateful to testify in **SUPPORT** of H.B. 2440

Holding both person and firms accountable for violations of Chapter 104, Hawaii Revised Statutes, is important to avoid repeat offenses by person who may continually violate Chapter 104 through new entities. This measure effectively puts the unscrupulous persons and firms on notice that repeat offenders will lose the privilege of working on public works projects.

Thank you for your consideration and we urge you to vote in support of H.B. 2440

Respectfully,

Daniel Ross  
President

**LATE**

**HB-2440-HD-1**

Submitted on: 2/22/2022 5:21:49 PM

Testimony for JHA on 2/23/2022 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Pride at Work - Hawaii	Pride @ Work - Hawaii	Support	No

Comments:

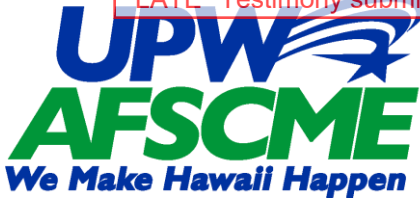
Aloha Representatives,

Pride at Work - Hawai'i, the state-wide chapter of Pride At Work (a constituency group of the national AFL-CIO) and an affiliate of the Hawai'i State AFL-CIO, supports HB 2440 HD 1.

Mahalo nui loa for your time and consideration,

Pride at Work - Hawai'i





**LATE**

**HOUSE OF REPRESENTATIVES  
THE THIRTY-FIRST LEGISLATURE  
REGULAR SESSION OF 2022**

**Committee on Judiciary and Hawaiian Affairs**  
Representative Mark M. Nakashima, Chair  
Representative Scot Z. Matayoshi, Vice Chair

Wednesday, February 23, 2022, 2:00PM  
Conference Room 325 and via Videoconference

**Re: Testimony in support of HB2240, HD1 - RELATING TO PUBLIC WORKS**

Chair Nakashima, Vice Chair Matayoshi, and Members of the Committee:

The United Public Workers, AFSCME Local 646, AFL-CIO (“UPW”) is the exclusive bargaining representative for approximately 14,000 public employees, which includes blue collar, non-supervisory employees in Bargaining Unit 1 and institutional, health, and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties. The UPW also represents 1,500 members in the private sector.

UPW **supports** HB2440, HD1, which imposes a penalty on both the person and firm upon finding of certain violations of state law governing wages and hours of employees on public works.

Safeguarding and holding a person or firm accountable for any violations of Chapter 104, Hawaii Revised Statute, are important to avoid offenses and ensure that there are no repeat offenders. These violations not only harm the workers performing these jobs, but also diminishes the public’s trust. Ensuring that these offenders are appropriately punished for their actions will help to ensure that repeat offenders will not have the privilege of working on public works projects in the future.

Thank you for the opportunity to provide testimony.

Sincerely,

Liz Ho  
Administrator