



STATE OF HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS  
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February 15, 2022

To: The Honorable Richard H.K. Onishi, Chair,  
The Honorable Jackson D. Sayama, Vice Chair, and  
Members of the Committee on Labor & Tourism

Date: Tuesday, February 15, 2022  
Time: 9:30 a.m.  
Place: Conference Room 312, & Videoconference

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

**Re: H.B. 2440 RELATING TO PUBLIC WORKS**

**I. OVERVIEW OF PROPOSED LEGISLATION**

HB2440 proposes to amend Section 104-24, Hawaii Revised Statutes (HRS), to amend subsections (b) and (c) to impose penalties on both the person and firm upon finding of repeat violations of state law governing wages and hours of employees on public works.

The DLIR offers comments on this measure.

**II. CURRENT LAW**

Section 104-24, HRS, subsection (b) and (c), Section 104-25, imposes penalty on "the person or firm" upon finding of violations of state law governing wages and hours of employees on public works.

**III. COMMENTS ON THE SENATE BILL**

The intent of language in the prevailing wage law was for "person" to mean a sole proprietor and "firm" as all other business entities. The intent of "person" was not meant to be individuals listed as officers or managers of the business entity. Deleting "or" and adding "and" does not affect the law.



# HAWAII REGIONAL COUNCIL OF CARPENTERS

February 15, 2022

House Committee on Labor and Tourism  
Hawaii State Legislature  
Representative Richard H.K. Onishi, Chair  
Representative Jackson D. Sasayama, Vice Chair

**Statement of the Hawaii Regional Council of Carpenters –SUPPORT for HB 2440, 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 Onishi, Vice Chair Sayama, and Members of the Committee,

The Hawaii Regional Council of Carpenters supports HB2440 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.

Currently, in HRS 104, there is a “three strike” policy in place, that gives contractors three opportunities to alter their illegal practices and comply with Chapter 104.

In fact, every contractor on a public works project is required to submit “certified” payrolls, that the wages they have submitted are indeed what was paid to each worker.

If a contractor has been found to have violated the law (multiple times) by submitted falsified payroll records, they are suspended from bidding on public works projects for three years.

We have found some companies that have been cited for their third strike, get suspended, then proceed to move their key leaders and personal to another company and continue their unsavory business practices under a new name.

This “corporate shell game” defeats the purpose and intent of HRS 104.

The Hawaii Regional Council of Carpenters is in support of a measure that will uphold the integrity of public works contracts and will assist DLIR in applying the 5-year suspension to both the person and firm after having been found guilty of a third certified payroll violation.

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We are in support of amendments we believe can strengthen the current bill.

1. The following definitions should be added to HRS 104-24 and 25.
  - a. The definition of "Person" in HRS104-24 and 25 should be added and defined as: an Individual, any officer of a company, responsible managing employee, or contractor's license.
  - b. The definition of "Firm" in HRS104-24 and 25 should be added and defined as a: A sole proprietorship, partnership, joint venture, corporation, association, business, trust, or any organized group of persons or legal entity, or any combination thereof.

Mahalo for your consideration.





Randy Perreira  
President

# HAWAII STATE AFL-CIO

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The Thirty-First Legislature, State of Hawai'i  
Hawai'i State House of Representatives  
Committee on Labor & Tourism

Testimony by  
Hawai'i State AFL-CIO  
February 15, 2022

H.B. 2440 – 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.

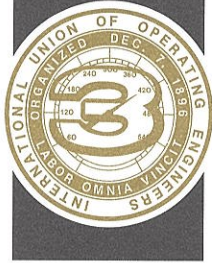
Holding both persons and firms accountable for violations of Chapter 104, Hawaii Revised Statutes, is important to avoid repeat offenses by persons who may continually violate Chapter 104 through new entities. This measure effectively puts unscrupulous persons and firms on notice that repeat offenders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

Respectfully submitted,

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

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February 14, 2022

House Committee on Labor and Tourism

Honorable Richard H.K. Onishi, Chair

Honorable Jackson D. Sasayama, Vice Chair

Honorable Members of the House Committee on Labor and Tourism

**RE: SUPPORT OF H.B. 2440, 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 Onishi, Vice Chair Sasayama, and Members of the Committee,

Hawaii Operating Engineers Local 3 **supports HB2440** 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 and would **like to offer amendments to help strengthen the bill.**

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, in recent years we have seen 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 5-year suspension to both the person and firm that has committed their third HRS 104 violation.



# 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

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To help bring further clarification and help focus the law in its intended purpose we offer the following amendments:

1. The following definitions should be added to HRS 104-24 and 25.
  - a. The definition of "Person" in HRS104-24 and 25 should be added and defined as: an Individual, any officer of a company, responsible managing employee, or contractor's license.
  - b. The definition of "Firm" in HRS104-24 and 25 should be added and defined as: A sole proprietorship, partnership, joint venture, corporation, association, business, trust, or any organized group of persons or legal entity, or any combination thereof.

We understand that more work that needs to be done in the law to address this corporate shell game practice, but we feel that making these change is a vital first step.

Sincerely,

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



**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 Labor and Tourism

Testimony by  
Hawaii Government Employees Association

February 15, 2022

H.B. 2440 – RELATING TO PUBLIC WORKS

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO supports the purpose and intent of H.B. 2440 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.

Respectfully submitted,

Randy Perreira  
Executive Director





*The Voice That Makes The Difference*

**OPEIU LOCAL 50**

**Daniel Ross, RN**  
President

**Gary Nuber**  
Director of Field Services

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The Thirty-First Legislature, State of Hawai'i  
Hawai'i State House  
Committee on Labor & Tourism

Testimony by  
Hawaii Nurses Association  
February 15 , 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