



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

March 15, 2022

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

Date: Tuesday, March 15, 2022
Time: 9:30 a.m.
Place: Conference Room 312, State Capitol

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

Re: S.B. 3126 SD2 RELATING TO THE BOILER AND ELEVATOR SAFETY LAW

I. OVERVIEW OF PROPOSED LEGISLATION

SB3126 SD2 proposes to amend Chapter 397, Hawaii Revised Statutes (HRS), to allow the Director of Labor and Industrial Relations to permit owner-user inspectors in the exclusive employment of owner-user inspection organizations to perform inspections on pressure retaining items and to extend the time from ten to thirteen years for the Director to reimburse the general fund from the Boiler and Elevator Revolving Fund.

The DLIR strongly supports this Governor's Package measure and requests three amendments.

II. CURRENT LAW

§397-6 Safety inspection by qualified inspectors subsections (a) & (b) permit inspections of pressure retaining items (boilers & pressure vessels) by deputy inspectors employed by the department as well as special inspectors who are qualified boiler inspectors in the employ of insurance companies insuring pressure retaining items in Hawaii.

A qualified boiler inspector must meet three criteria:

1. Is a person eligible for or in possession of a valid commission issued by the National Board of Boiler and Pressure Vessel Inspectors,
2. Has satisfied the requirements established by the department, and
3. Has received briefings and instructions regarding the rules (Hawaii Administrative Rules) pertaining to pressure retaining items in Hawaii.

§397-13(d) requires the DLIR to reimburse the general fund for the \$1,000,000 loan from Act 103 (SLH, 2012) by June 30, 2022.

III. COMMENTS ON THE SENATE BILL

The DLIR strongly supports this measure as it allows an additional type of pressure retaining item inspection, which will augment the ability of the department to inspect and assure the safe operation and use of boilers, pressure vessels, and pressure systems in Hawaii.

The DLIR requests three amendments as follows:

- 1) Inserting the following as a new paragraph into §397-4(a) Administration instead of creating the new section as in SECTION 1 of the SD2, which also obviates the need for a definition for the chief boiler inspector:

The director shall appoint a chief boiler and pressure vessel inspector, who shall be a department employee, who represents the State as a voting member of the National Board and serves as an American Society of Mechanical Engineers Conference Committee member.

- 2) Replace the exclusive employment definition to comport with the national consensus standards (National Board of Boiler and Pressure Vessel Inspectors) as follows:

"Exclusive employment" means a qualified boiler inspector who is employed on a full time or part-time basis to provide inspection services within the scope of their National Board commission exclusively for only one authorized inspection agency or owner-user inspection organization.

- 3) Replace the owner-user inspection organization definition to read:

"Owner-user inspection organization" means an owner or user of pressure retaining items, whose organization and inspection procedures meet the requirements of the National Board, and is approved by the director.

BACKGROUND: The National Board of Boiler and Pressure Vessel Inspectors permits an owner-user inspection organization (OUIO) to establish and maintain an inspection program as long as the organization and inspection procedures meet the requirements of NB-371, Accreditation of Owner-User Inspection Organizations, NB-381, Quality Program for Inspection Organizations, NB-263, National Board Rules for Commissioned Inspectors, and the jurisdiction's approval.

This proposal also extends the time for the Director to reimburse the general fund from the Boiler and Elevator revolving fund from ten to thirteen years, which will help ensure that safety operations can continue while maintaining a feasible repayment schedule. To date, the DLIR has deposited \$750,000 to reimburse the \$1,000,000 loan from the general fund.



**Hawaiian
Electric**

**TESTIMONY BEFORE THE HOUSE COMMITTEE ON
LABOR AND TOURISM**

SB3126 SD2

Relating to the Boiler and Elevator Safety Law

Tuesday, March 15, 2022

9:30am, Agenda Item 2

State Capitol, Conference Room 312 and Videoconference

Simeon D. Powell

Superintendent of Technical Services Department
Hawaiian Electric Company, Inc.

Chair Onishi, Vice Chair Sayama, and members of the Committee:

My name is Simeon Powell, and I am testifying on behalf of Hawaiian Electric Company **in strong support** of SB3126. One purpose of this bill, which affects Hawaiian Electric and our customers directly, is to clarify by Statute that the Director of Labor and Industrial Relations may authorize owner-user inspectors exclusively employed by owner-user inspection organizations to perform inspections of pressure retaining items. An additional purpose of this bill, which affects Hawaiian Electric and our customers indirectly, is to extend the time from ten to thirteen years for the Director to reimburse the general fund from the Boiler and Elevator Revolving Fund.

In addition, Hawaiian Electric strongly supports the two amendments proposed by the Department of Labor and Industrial Relations. The appointment of a Chief Boiler Inspector helps ensure the jurisdictional authority remains up to date and has influence on any changes to the regulatory codes from the National Board and American Society of Mechanical Engineers. The proposed definitions of “exclusive employment” and

“owner-user inspection organization” align with the existing definitions used by the Nation Board.

Clarifying the ability of the Director to authorize owner-user organization inspections will provide consistency between the Hawaii Revised Statutes and the current Hawaii Administrative Rules, which allow for owner-user organization inspections.

Hawaiian Electric, in accordance with the current Hawaii Administrative Rules, has been a National Board of Boiler and Pressure Vessel Inspectors Accredited and State of Hawaii Authorized Owner-User Inspection Organization employing National Board Commissioned Boiler and Pressure Vessel Inspectors since 1998.

Owner User Inspectors employed by Hawaiian Electric are certified by the National Board of Boiler and Pressure Vessel Inspectors to the same standards as Insurance Company Special Inspectors and State of Hawaii Jurisdictional Inspectors. The Owner-User Inspection Organization provides consistent inspection personnel who are intimately familiar with the boilers and pressure vessels being inspected (including past operating and repair history). As company employees, the inspectors are readily available for inspections and consultations, improving Hawaiian Electric’s ability to serve our customers. The inspectors maintain a professional relationship with the State of Hawaii Boiler and Elevator Safety Branch which results in clear expectations, better communication, and problem resolution.

Loss of Hawaiian Electric’s authorization to operate as an Owner-User Inspection Organization would result in increased costs to the company to comply with state rules and regulations as well as increased workload for the Hawaii State Boiler and Elevator Inspection Branch.

Hawaiian Electric supports the extension of time to reimburse the general fund from ten years to thirteen years since failure to do so could necessitate fee increases for all Boiler and Elevator Branch customers to make up for the budget shortfall. These fee increases would then be passed on to the end-user through product price increases.

Accordingly, Hawaiian Electric strongly supports SB3126 and the proposed amendments from the Department of Labor and Industrial Relations. Thank you for this opportunity to testify.



March 15, 2022

**TESTIMONY IN SUPPORT OF SENATE BILL 3126, SD 2
RELATING TO THE BOILER AND ELEVATOR SAFETY LAW**

House Committee on Labor and Tourism
The Honorable Richard H.K. Onishi, Chair
The Honorable Jackson D. Sayama, Vice Chair

Tuesday, March 15, 2022

9:30 A.M.

VIA VIDEOCONFERENCE

Conference Room 312

State Capitol

415 South Beretania Street

Chair Onishi, Vice Chair Sayama and members of the Committee,

Thank you for this opportunity to submit written testimony in strong support of SB 3126, SD 2, Relating to the Boiler and Elevator Law. My name is Eric Wright, President at Par Hawaii, responsible for the safety and operational integrity of our refining and logistics operations.

This bill clarifies by statute that the Director of Labor and Industrial Relations (DLIR) may authorize owner-user inspectors exclusively employed by a company's Owner-User Inspection Organization (OUIO) to perform inspections of pressure-retaining items.

Hawaii depends on Par Hawaii's refinery to meet the energy demands in our state. Operating our refinery in Kapolei safely and reliably is critical for energy security. For these reasons, we fully support the amendments to Section 397-3, Hawaii Revised Statutes to clarify the definitions used by the Director of Labor and Industrial Relations (DLIR) to strengthen the intention of the existing law.

Although Hawaii Administrative Rules currently allow the creation of OUIOs, Hawaii Revised Statutes do not define specific terms regarding OUIOs. The addition of the language in Section 397-6 aligns Hawaii Administrative Rules and Hawaii Revised Statutes by making it clear that the DLIR Director is authorized to create OUIOs provided all qualifications set forth by the Director's office and the National Board of Boiler and Pressure Vessel Inspectors are fully met. Specifically, the bill defines "Exclusive Employment" and "Owner-User Inspection Organization" to designate the person or persons that DLIR may authorize to perform safety inspections in the State of Hawaii.

Our refinery has operated an Owner-User Inspection Organization since 1998 after meeting the requirements of the National Board of Boiler and Pressure Vessel Inspectors and the DLIR's Director. We have our own Inspection Supervisor certified by the National Board in charge of our Owner-User Inspection Organization (OUIO), who has filed reports and appropriate fees to the State to obtain necessary operating permits to allow our refinery to continue without disruption. Our refinery has maintained the safe operations of all of the pressure-retaining items and boilers.

The OUIO arrangement is beneficial for both the DLIR and Par Hawaii. The DLIR Director retains oversight of Par Hawaii's inspections of its pressure-retaining items without having to devote resources for these inspections. It also gives Par Hawaii the ability to staff the OUIO with an optimal number of inspectors to perform all required inspections to ensure our refinery can operate 24 hours a day, seven days a week.

The bill also extends the time for the Director to reimburse the general fund from the Boiler and Elevator Revolving Fund from 10 years to 13 years. This extension helps to avoid potentially higher fees to Par Hawaii and other organizations that are served by DLIR's Boiler and Elevator Branch. Those fees would be passed on, potentially resulting in higher fuel prices to consumers and businesses at a time when crude oil prices are rising and a carbon tax is being considered.

Mahalo for allowing Par Hawaii to share our perspectives on why we support SB 3126, SD2.