



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 Senate
Committee on Judiciary

Testimony by
Hawai'i State AFL-CIO
March 3, 2022

S.B. 3223 S.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 **support** of S.B. 3223 S.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 S.B. 3223 S.D. 1.

Respectfully submitted,

Randy Perreira
President



THE SENATE
THE THIRTY-FIRST LEGISLATURE
REGULAR SESSION OF 2022

Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair

Thursday, March 3, 2022, 9:30AM
Via Videoconference

Re: Testimony in support of SB3223, SD1 - RELATING TO PUBLIC WORKS

Chair Rhoads, Vice Chair Keohokalole, 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** SB3223, SD1, 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,

Kalani Werner
State Director



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
The Senate
Committee on Judiciary

Testimony by
Hawaii Government Employees Association

March 3, 2022

S.B. 3223, S.D. 1 – RELATING
TO PUBLIC WORKS

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO supports the purpose and intent of S.B. 3223, S.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 S.B. 3223, S.D. 1.

Respectfully submitted,

Randy Perreira
Executive Director



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

March 3, 2022

To: The Honorable Karl Rhoads, Chair,
The Honorable Jarrett Keohokalole, Vice Chair, and
Members of the Senate Committee on Judiciary

Date: Thursday, March 3, 2022
Time: 9:30 a.m.
Place: Via Videoconference

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

Re: S.B. 3223 S.D.1 RELATING TO PUBLIC WORKS

I. OVERVIEW OF PROPOSED LEGISLATION

SB3223 SD1 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 104-24(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 SENATE BILL

The intent of the current language in Hawaii's Prevailing Wage Law was for "person" to mean a sole proprietor and "firm" as all other registered 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.



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

Senate Committee on Judiciary

Honorable Karl Rhoads, Chair

Honorable Jarrett Keohokalole, Vice Chair

Honorable Members of the Senate Committee on Judiciary

March 2, 2022

RE: SUPPORT OF S.B. 3223 SD1- 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 Rhoads, Vice Chair Keohokalole, and Members of the Committee,

Hawaii Operating Engineers Local 3 **supports SB3223 SD1** 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. We would also like **to offer comments**.

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, which 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.



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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. After further discussion with the Hawaii Department of Labor and Industrial Relations (DLIR), we feel that adding in the amendments DLIR recommends will help accomplish the purpose of the law.

Sincerely,

Analeseanoa Tuiasosopo
District Representative – Hawaii
Operating Engineers Union Local 3



LATE

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

The Thirty-First Legislature, State of Hawai'i
Hawai'i State Senate Committee on Judiciary

Testimony by
Hawaii Nurses Association
March 3, 2022

S.B. 3223 – 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 S.B. 3223.

S.B. 3223 will help protect Hawai'i's workers from wage theft Holding employers who violate wage and hour laws accountable is in the best interest of everyone.

Thank you for your consideration and we urge you to pass this legislation.

Respectfully,

Joan Craft
Treasurer

HAWAII PORTS MARITIME COUNCIL

affiliated with

Maritime Trades Department

AMERICAN FEDERATION OF LABOR and CONGRESS OF INDUSTRIAL ORGANIZATION

606 Kalihl Street Honolulu, Hawaii 96819

TELEPHONE: (808) 845-5222

FAX: (808) 841-1191

Member Unions:

March 2, 2022

*International Brotherhood of
Boilermakers, Iron Ship
Builders, Blacksmiths,
Forgers and Helpers
Lodge 627*

Senate Committee on Judiciary
Honorable Chair, Karl Rhoads

*International Brotherhood of
Electrical Workers Local 1260*

Honorable Vice Chair Jarrett Keohokalole,
Honorable Members of the Senate Committee on Judiciary

*International Union of
Elevator Constructors
Local 126*

RE: SUPPORT OF S.B. 3223 SD1- 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 Government
Employees Association,
AFSCME Local 152*

*Hawaii Pilots Association,
MM&P Pilots Division*

Dear Chair Rhoads, Vice Chair Keohokalole, and Members of the Committee

*Inlandboatmen's Union
of the Pacific*

The Hawaii Ports Maritime Council strongly supports S.B. 3223 SD-1 to hold
individual persons and firms accountable for violations of Chapter 104 Hawaii
Revised Statutes. It's important to avoid repeat offenders who try to circumvent
the law. We appreciate your consideration and strongly urge passage of SB 3223
SD-1.

*International Longshore and
Warehouse Union Local 142*

*Laborers' International Union
of North America Local 368*

*Marine Engineers'
Beneficial Association*

Respectfully,

*Marine Firemen,
Watertenders, Oilers & Wipers*

*Masters, Mates and Pilots,
Offshore Division*



Sailors' Union of the Pacific

Randy Swindell, President
Hawaii Ports Maritime Council

Seafarers International Union

*United Food and Commercial
Workers International Union
Local 480*

