



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

February 2, 2022

To: The Honorable Brian T. Taniguchi, Chair,  
The Honorable Les Ihara, Jr. Vice Chair, and  
Members of the Senate Committee on Labor, Culture and the Arts

Date: Wednesday, February 2, 2022  
Time: 3:00 p.m.  
Place: Conference Room 225, & Videoconference

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

**Re: S.B. 3223 RELATING TO PUBLIC WORKS**

**I. OVERVIEW OF PROPOSED LEGISLATION**

SB3223 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.



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 Labor, Culture, and the Arts

Testimony by  
Hawai'i State AFL-CIO  
February 2, 2022

S.B. 3223 – 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.

Holding both individual persons and firms accountable for violations of Chapter 104, Hawaii Revised Statutes, is important to avoid repeat offenses by persons who may continually violate the law through newly created entities. Too often scofflaws can escape penalties simply by disbanding their culprit entity and creating a new one under a different name, allowing them to circumvent fair wage laws in the process.

This measure effectively puts unscrupulous persons and firms on notice that repeat offenders will lose the privilege of working on public works projects.

We appreciate your consideration of our testimony and strongly urge passage of S.B. 3223.

Respectfully submitted,

Randy Perreira  
President



# HAWAII REGIONAL COUNCIL OF CARPENTERS

February 2, 2022

Senate Committee on Labor Culture and the Arts  
Hawaii State Legislature  
Senator Brian Taniguchi, Chair  
Senator Les Ihara, Jr., Vice Chair

**Statement of the Hawaii Regional Council of Carpenters –SUPPORT for SB 3223 RELATING TO PUBLIC WORKS - 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 Taniguchi, Vice Chair Ihara, and Members of the Committee,

The Hawaii Regional Council of Carpenters supports SB3223 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.

## STATE HEADQUARTERS & BUSINESS OFFICES

OAHU: 1311 Houghtailing Street, Honolulu Hawaii 96817-2712 • Ph. (808) 847-5761 Fax (808) 440-9188  
HILO OFFICE: 525 Kilauea Avenue, Room 205, Hilo, Hawaii 96720-3050 • Ph. (808) 935-8575 Fax (808) 935-8576  
KONA OFFICE: 75-126 Lunapule Road, Kailua-Kona, Hawaii 96740-2106 • Ph. (808) 329-7355 Fax (808) 326-9376  
MAUI OFFICE: 330 Hookahi Street, Wailuku, Maui 96793-1449 • Ph. (808) 242-6891 Fax (808) 242-5961  
KAUAI OFFICE: Kuhio Medical Ctr Bldg., 3-3295 Kuhio Hwy, Suite 201, Lihue, Kauai 96766-1040 • Ph. (808) 245-8511 Fax (808) 245-8911

Mahalo for your consideration.



# 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 2, 2022

Senate Committee on Labor, Culture, and the Arts

Honorable Brian Taniguchi, Chair

Honorable Les Ihara Vice Chair

Honorable Members of the Senate Committee on Labor, Culture, and the Arts

**RE: SUPPORT OF S.B. 3223- 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 Taniguchi, Vice Chair Ihara, and Members of the Committee,

Hawaii Operating Engineers Local 3 **supports SB3223** 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.

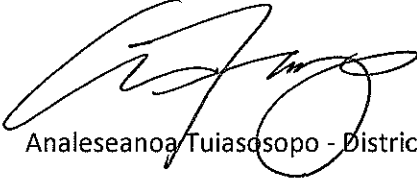
Yet, despite HRS 104 being a law in Hawaii for decades, there are still contractors who violate this law, and do not pay their workers the wages they are entitled to on public works projects. In HRS 104, there is a “three strike” policy in place, that gives contractors three opportunities to alter their 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, 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.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Analeseanoa Tuiasosopo', written in a cursive style.

Analeseanoa Tuiasosopo - District Representative, Hawaii Operating Engineers Local 3

**SB-3223**

Submitted on: 2/1/2022 9:48:10 AM

Testimony for LCA on 2/2/2022 3:00:00 PM

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

Comments:

Aloha Senators,

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 SB 3223.

Mahalo nui loa for your time and consideration,

Pride at Work - Hawai'i

# IATSE LOCAL 665

FILM, TELEVISION, STAGE, PROJECTION AND TRADESHOWS  
Since 1937

INTERNATIONAL ALLIANCE OF THEATRICAL STAGE EMPLOYEES, MOVING PICTURE TECHNICIANS, ARTISTS AND ALLIED CRAFTS  
OF THE UNITED STATES, ITS TERRITORIES AND CANADA, AFL-CIO, CLC

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The Thirty-First Legislature, State of Hawai'i  
Hawai'i State Senate  
Committee on Labor, Culture, and the Arts

Testimony by  
IATSE Local 665  
February 1st, 2022

## **S.B. 3223 - RELATING TO PUBLIC WORKS**

Aloha Chair Taniguchi, Vice Chair Ihara, and members of the Senate committee,

My name is Tuia'ana Scanlan, President of IATSE Local 665. Local 665 represents Entertainment Technicians in Stagecraft, Tradeshow & Conventions, and Film/TV industries across the State of Hawaii. **We submit this testimony in support of S.B. 3223.**

Holding both the individual and the firm, regardless of the name under which they do business, responsible for violations of Chapter 104, Hawaii Revised Statutes, is imperative to deter repeat offenders from taking advantage of the working families of Hawai'i. Exploitative individuals/businesses should not enjoy the benefits of contracts for public works if they repeatedly deny adequate compensation to the citizens of the public whom they employ.

It is for these reasons that we **support S.B. 3223**. Thank you for the opportunity to testify.

Respectfully,



Tuia'ana Scanlan  
President, IATSE Local 665  
he/him/his





**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

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The Thirty-First Legislature, State of Hawai'i  
Hawai'i State Senate  
Committee on Labor, Culture and the Arts

Testimony by  
Hawaii Nurses Association  
February 2, 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,

Daniel Ross  
President

# HAWAII PORTS MARITIME COUNCIL

affiliated with

Maritime Trades Department

AMERICAN FEDERATION OF LABOR and CONGRESS OF INDUSTRIAL ORGANIZATION

606 Kailhi Street Honolulu, Hawaii 96819

TELEPHONE: (808) 845-5222

FAX: (808) 841-1191

Member Unions: February 1, 2022

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

Senate Committee on Labor, Culture and the Arts  
Honorable Brian Taniguchi, Chair

*International Brotherhood of  
Electrical Workers Local 1260*

Honorable Les Ihara, Vice Chair

Members of the Senate Committee on Labor, Culture and the Arts

*International Union of  
Elevator Constructors  
Local 126*

RE: S.B. 3223 Relating to Public Works

*Hawaii Government  
Employees Association,  
AFSCME Local 152*

The Hawaii Ports Maritime Council strongly supports S.B. 3223 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.

*Hawaii Pilots Association,  
MM&P Pilots Division*

*Inlandboatmen's Union  
of the Pacific*

*International Longshore and  
Warehouse Union Local 142*

Respectfully,

*Laborers' International Union  
of North America Local 368*



*Marine Engineers'  
Beneficial Association*

Randy Swindell  
President

*Marine Firemen,  
Watertenders, Oilers & Wipers*

*Masters, Mates and Pilots,  
Offshore Division*

*Sailors' Union of the Pacific*

*Seafarers International Union*

*United Food and Commercial  
Workers International Union  
Local 480*





# WESTERN CONFERENCE OF OPERATING ENGINEERS

OF THE INTERNATIONAL UNION OF OPERATING ENGINEERS

1121 L STREET, SUITE 206 • SACRAMENTO, CALIFORNIA 95814  
AREA CODE (916) 440-8710 • FAX (916) 440-8714

RON SIKORSKI  
President

DAREN KONOPASKI  
Vice-President

EDWARD CURLY  
Secretary-Treasurer

TIM CREMINS  
Director  
tcremins@IUOE.org

February 1, 2022

Honorable Brian Taniguchi  
Chair, Senate Committee on Labor, Culture and the Arts  
Hawaii State Capitol, Room 219  
Honolulu, Oahu, Hawaii, 96813

**Re: SB 3223 (Taniguchi)- Wages and Hours of Employees on Public Works- SUPPORT**

Dear Senator Taniguchi,

On behalf of the Western Conference of Operating Engineers, I write to inform you of our **strong support of SB 3223 (Taniguchi)**, which would make a modest change to HRS Sections 104-24 and 104-25 that we feel will result in having a positive impact on public works wage and hour violations in the State.

Hawaii is fortunate to have some of the strongest prevailing wage laws in the nation, however despite these laws, organizations such as the Operating Engineers have noted contractors seeking to circumvent state statute in an effort to avoid paying construction workers on public works projects the prevailing wage that they are entitled to.

Existing State law, HSR 104, provides a "three-strike" policy that affords contractors the opportunity to remedy non-compliance of wage and hour laws prior to being substantially penalized. In an instance where a contractor commits three of these violations, existing law provides that the contractor is to be suspended from bidding public works projects for three years. While this law has been an effective deterrent, we have noted instances where companies that have been cited for their third strike and received suspension, proceed to move their key leaders and personal to another company and continue their business under a new name, thereby avoiding suspension and retaining their ability to bid public works projects.

In an effort to combat against this behavior, SB 3223 (Taniguchi) would make a modest change to HRS Sections 104-24 and 104-25 that will enable DLIR to suspend both the person and firm that has committed their third HRS 104 violation.

For these reasons and more, I am delighted to inform you of our strong support of SB 3223 (Taniguchi). If I can be of any assistance at all, please do not hesitate to reach out to myself or staff at (916)-440-8710.

Sincerely,

**Tim Cremins**  
International Union of Operating Engineers