

JOSH GREEN M.D.  
GOVERNOR

SYLVIA LUKE  
LT. GOVERNOR



STATE OF HAWAII  
DEPARTMENT OF TAXATION

Ka 'Oihana 'Auhau  
P.O. BOX 259

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GARY S. SUGANUMA  
DIRECTOR

KRISTEN M.R. SAKAMOTO  
DEPUTY DIRECTOR

**TESTIMONY OF  
GARY S. SUGANUMA, DIRECTOR OF TAXATION**

**TESTIMONY ON THE FOLLOWING MEASURE:**

S.B. No. 1352, S.D.2, Relating to Housing

**BEFORE THE:**

House Committee on Housing

**DATE:** Wednesday, March 15, 2023

**TIME:** 9:00 a.m.

**LOCATION:** State Capitol, Room 312

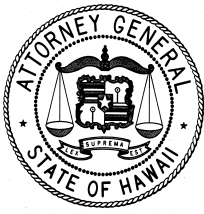
Chair Hashimoto, Vice-Chair Aiu, and Members of the Committee:

The Department of Taxation ("Department") offers the following comments regarding S.B. 1352, S.D.2, for your consideration.

This bill seeks to require contractors on government projects to pay their employees the prevailing wage. Section 5, on page 14 of the bill, amends section 201H-36, Hawaii Revised Statutes (HRS), by amending the aggregate cap on affordable housing projects certified by the Hawaii Housing Finance and Development Corporation for exemption from the general excise tax pursuant to section 237-29, HRS, from \$30,000,000 to an unspecified amount. The bill has a defective effective date of July 1, 2050, provided that amendments made to sections 104-2(b) and 201H-36(a), HRS, in sections 3 and 5 of the bill shall not be repealed when those sections are repealed and reenacted on June 30, 2030 by Act 39, Session Laws of Hawaii 2018.

The Department notes that it would be able to implement the tax provisions of this measure with an effective date of January 1, 2024.

Thank you for the opportunity to provide testimony on this measure.



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
KA 'OIHANA O KA LOIO KUHINA  
THIRTY-SECOND LEGISLATURE, 2023**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 1352, S.D. 2, RELATING TO HOUSING.

**BEFORE THE:**

HOUSE COMMITTEE ON HOUSING

**DATE:** Wednesday, March 15, 2023      **TIME:** 9:00 a.m.

**LOCATION:** State Capitol, Room 312

**TESTIFIER(S):** Anne E. Lopez, Attorney General, or  
Linda L.W. Chow, Deputy Attorney General

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Chair Hashimoto and Members of the Committee:

The Department of the Attorney General provides the following comments on the bill:

The original purposes of this bill were stated in section 1 as being "to encourage development of affordable housing units, support workforce housing renters with direct loans for security deposits, and temporarily promote timely reviews of projects through targeted streamlined processes without compromising health and safety or historic preservation." (Original draft of bill, page 2, lines 1-6).

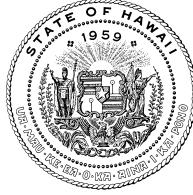
The Senate Committee on Ways and Means amended the original purposes of the bill in Senate Draft 2 by amending section 1 to make the sole purpose of the bill to be "to require contractors of government housing projects to pay their employees prevailing wages." (Senate Draft 2, page 1, lines 1-3). The purpose stated in Senate Draft 2 is therefore unrelated to any of the purposes stated in the original version of the bill. This change could be challenged as fundamentally altering the bill's original purpose and presenting a germaneness issue.

Under *League of Women Voters of Honolulu v. State*, 150 Hawai'i 182, 499 P.3d 382 (2021), the Hawai'i Supreme Court held that article III, section 15, of the State Constitution requires a bill to pass three readings in each house if a "non-germane amendment changes the object or subject of a bill so that it is no longer related to the original bill as introduced." *Id.* at 205, 499 P.3d at 405. There is a two-step analysis to determine whether changes made to a bill are "non-germane" and require additional

readings. The first step is to assess whether the change falls outside the scope of the subject of the bill as expressed in its title. The second step is to determine whether the amendment alters the bill in a way that fundamentally changes the bill's general purpose.

In this case, although the provisions of Senate Draft 2 still fall within the scope of the subject of the bill, as expressed in its title, the purpose of the bill has been completely changed. That would appear to satisfy at least the second step of the *League of Women Voters* analysis. This bill as currently drafted may therefore require two additional readings in the Senate to comply with article III, section 15, of the State Constitution.

Thank you for the opportunity to provide comments.



**LATE**

EXECUTIVE CHAMBERS  
KE KE'ENA O KE KIA'ĀINA

JOSH GREEN, M.D.  
GOVERNOR  
KE KIA'ĀINA

Testimony of **Nani Medeiros**  
Chief Housing Officer, Office of the Governor

Before the  
**House Committee on Housing**  
Wednesday, March 15, 2023  
9:00 a.m. Via Video Conference  
Conference Room 312

In consideration of  
**Senate Bill No. 1352, SD2**  
**RELATING TO HOUSING**

Aloha Chair Hashimoto, Vice-Chair Aiu and members of the committee.

Mahalo for the opportunity to testify in support of Senate Bill 1352, SD2. This is an administration measure that proposes some of the components in the Governor's housing strategy and plans to make housing more affordable and accessible for our local people, and create incentives for increased development, and faster development, of affordable housing.

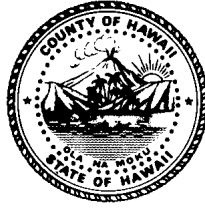
We prefer SB1352, SD1 as that version created a new rental deposit loan program that helps working individuals and families earning between 80% - 120% of the area median income (AMI). For example, this loan program would help individuals earning between \$53-\$80K/year, two person families earning between \$61-\$91K/year, and three person families earning between \$68K-\$102K/year. Zero interest loans up to \$2500 will be awarded to eligible applicants and be used as a security deposit for a rental offering of at least six months. This program helps single parents, and families and individuals who would like to secure rental housing and earn enough to cover monthly rental payments, but do not have savings resources to provide the first month's rent and a security deposit.

We appreciate your consideration of our request and look forward to working with you during session, as these issues and many others continue to be explored.

Mahalo,

Nani Medeiros

**Jennifer Kagiwada**  
Council Member District 2 South Hilo



Office: (808) 961-8272  
jennifer.kagiwada@hawaiicounty.gov

## HAWAI'I COUNTY COUNCIL - DISTRICT 2

25 Aupuni Street • Hilo, Hawai'i 96720

DATE: March 14, 2023  
TO: House Committee on Housing  
FROM: Jennifer Kagiwada, Council Member  
Council District 2  
SUBJECT: SB 1352 SD2

Aloha Chair Hashimoto, Vice Chair Aiu, and Committee Members,

I write in support of SB1352 SD2, which authorizes counties to promote labor standards through county ordinances. While our office sees the urgent need for affordable housing, we want to ensure that prevailing wages for laborers working on these projects are included as part of this bill and want to emphasize the following:

- Prevailing wages provides Hawaii residents with the opportunity to earn a living wage to keep up with Hawaii's high cost of living
- Prevailing wages help keep local families off of welfare and other government assistance programs and provide them with economic stability
- Prevailing wages will help stimulate the local economy and support local businesses by providing families with proper wages

Mahalo for the opportunity to submit testimony in support of this bill.

Mahalo,

Jenn Kagiwada

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

**SUBJECT:** GENERAL EXCISE, Exemption for affordable housing; rental deposit loan program

**BILL NUMBER:** SB 1352 SD 2 [GOV-06]

**INTRODUCED BY:** Senate Committee on Ways and Means

**EXECUTIVE SUMMARY:** Authorizes counties to promote certain labor standards through zoning ordinances. Includes off-site construction of a public work project under Hawai'i's law on the wages and hours of employees on public works. Requires that all orders from the Governor to set aside public lands for the development of affordable housing contain a provision that the construction of the development be subject to Hawai'i's law on the wages and hours of employees on public works.

**SYNOPSIS:** As it relates to taxation, this bill amends section 201H-36, HRS, by changing the GET exemption limitation from \$30 million to an unspecified amount for category (a)(5) projects. Affordable housing projects in categories (a)(1) to (4) are not affected.

**EFFECTIVE DATE:** January 1, 2050.

**STAFF COMMENTS:** This is an Administration measure sponsored by the Office of the Governor and designated GOV-06 (23).

Currently, HRS section 237-29 provides a GET exemption for the development of affordable housing. The HHFDC, under HRS section 201H-36, and county housing departments, under HRS section 46-15.1, can certify projects for the GET exemption.

One category of projects available for certification, added by Act 54, SLH 2017, as amended by Act 39, SLH 2018, is affordable rental housing projects developed through new construction or substantial rehabilitation between July 1, 2018 through June 30, 2030, under a contract described in section 104-2(i)(2), HRS, provided that the exemption:

1. Applies to contracting only;
2. Is capped at \$30,000,000 per year in the aggregate; and
3. Applies to projects for households at or below 140 percent of the HUD area median income, of which 20 percent is for households at or below 80 percent of the HUD area median income.

The bill changes the \$30 million aggregate cap to an unspecified amount.

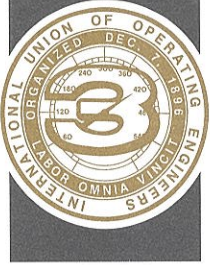
If the policy goal is to build more affordable housing, we need to be wary of attaching conditions to the goal that would bog down the process. This bill, if it were to raise the \$30 million cap,

Re: SB 1352 SD2

Page 2

would soften one of the conditions that were attached in the 2017 legislation. The challenge now is to make sure that taxpayers can afford the enhanced bill.

Digested: 3/11/2023



# 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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March 13, 2023

The Honorable Troy N. Hashimoto, Chair  
The Honorable Micah P.K. Aiu, Vice Chair  
House Committee on Housing

RE: S.B. NO. 1352 SD2 – AUTHORIZES COUNTIES TO PROMOTE CERTAIN LABOR STANDARDS THROUGH ZONING ORDINANCES. INCLUDES OFF-SITE CONSTRUCTION OF A PUBLIC WORK PROJECT UNDER HAWAII'S LAW ON THE WAGES AND HOURS OF EMPLOYEES ON PUBLIC WORKS. REQUIRES THAT ALL ORDERS FROM THE GOVERNOR TO SET ASIDE PUBLIC LANDS FOR THE DEVELOPMENT OF AFFORDABLE HOUSING CONTAIN A PROVISION THAT THE CONSTRUCTION OF THE DEVELOPMENT BE SUBJECT TO HAWAII'S LAW ON THE WAGES AND HOURS OF EMPLOYEES ON PUBLIC WORKS. EFFECTIVE 7/1/2050. (SD2)

Dear Chair Hashimoto, Vice Chair Aiu, and Members of the Committee:

My name is Ana Tuiasosopo. I am the District Representative and Trustee for Operating Engineers Local 3. We are the largest construction union in the United States, covering California, Nevada, Utah, and Hawaii. I and the members of Operating Engineers Local 3 (OE3) STRONGLY SUPPORT House Bill 1352 SD2- Relating to Housing.

OE3 writes in strong support of SB 1352 SD2, which will incentivize developers to build more affordable housing and ensure that the workers building these projects are paid a living wage with benefits (prevailing wages), so they can afford the homes that they are building.

Section 10, Page 24, Amends Section 104-2 to require every laborer and mechanic “employed” for the construction of any public work project, “including but not limited to off-site construction, where a portion of the building or work is manufactured or constructed for the performance of the contract” shall be paid no less than the prevailing wage. Providing for this requirement to apply to both on-site and off-site construction is consistent with the intent of the requirement and helps close what could otherwise become an unintended loophole to coverage, i.e., without this language some might improperly circumvent the intent of this statute by moving construction work off-site in order to avoid complying with Chapter 104, HRS, which would undermine and could potentially eviscerate the intent of this amended statute. Further, specifying that off-site construction includes construction of all or any portion of the building or work is important for clarity, i.e., without this specificity, some might argue that construction of less than all of the building or work does not require compliance with chapter 104, which would be contrary to the intent of the amended statute.



Thank you for this opportunity to submit written testimony support of SB1352 SD2.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ana Tuiasosopo', written over the printed name.

Ana Tuiasosopo  
Operating Engineers Local 3 – Hawaii

Testimony of  
Pacific Resource Partnership

House Committee On Housing  
Representative Troy N. Hashimoto, Chair  
Representative Micah P.K. Aiu, Vice Chair

**LATE**

SB 1352 SD2—Relating To Housing  
Wednesday, March 15, 2023  
9:00 A.M.

Aloha Chair Hashimoto, Vice Chair Aiu, and Members of the Committee:

Pacific Resource Partnership (PRP) is a non-profit market recovery trust fund which represents approximately 7,000 men and women union carpenters and 240 large and small contractors. With our expertise in research, compliance, marketing, and project advocacy, we are committed to building a stronger, more sustainable Hawaii in a way that promotes a vibrant economy, creates jobs, and enhances the quality of life for all residents of Hawaii.

PRP writes in **strong support** of SB 1352 SD2, which will incentivize developers to build more affordable housing and ensure that the workers building these projects are paid a living wage with benefits (prevailing wages), so they can afford the homes that they are building.

**Section 2, Page 3, authorizing the counties to promote labor standards, including but not limited to living wages, benefits, requirements for participation in state-approved apprenticeship programs.** This amendment will allow policymakers to require labor standards as a condition to providing developers with flexibility in zoning. Labor standards will provide many benefits to residents. For instance, the prevailing wage requirements throughout SB1352 SD2, will provide Hawaii’s residents with an opportunity to earn a living wage with benefits to keep up with Hawaii’s high cost of living. Prevailing wages help keep residents off welfare and other government assistance programs, stimulate Hawaii’s economy, and provide economic stability for workers and their families. Proper training through an apprenticeship program, approved and registered by the State Department of Labor and Industrial Relations, will create more career opportunities for residents, such as an opportunity to become a journeyman, contractor, or business owner, while also assuring homes are being built by skilled and qualified laborers for the safety of Hawaii families. Moreover, the apprenticeship program requirement for affordable housing projects will help train the next generation of skilled construction workers who Hawaii needs to end this housing crisis.

**Section 3, Page 6, Amends Section 104-2 to require every laborer and mechanic “employed” for the construction of any public work project, “including but not limited to off-site construction where a portion of the building or work is manufactured or constructed for the performance of the contract” shall be paid no less than the prevailing wage.** Providing for this requirement to apply to both on-site and off-site construction is consistent with the intent of the requirement and helps



**(Continued From Page 1)**

close what could otherwise become an unintended loophole to coverage, *i.e.*, without this language some might improperly circumvent the intent of this statute by moving construction work off-site in order to avoid complying with Chapter 104, HRS, which would undermine and could potentially eviscerate the intent of this amended statute. Further, specifying that off-site construction includes construction of all or any portion of the building or work is important for clarity, *i.e.*, without this specificity, some might argue that construction of less than all of the building or work does not require compliance with chapter 104, which would be contrary to the intent of the amended statute.

**Section 3, Page 9, Deletes or removes restrictions on 201H-36(a)(5) projects preventing projects from receiving direct and indirect financing; and Section 5, Page 14 removing the \$30 million GET cap for 201H-36(a)(5) projects.** These amendments make it possible for 201H-36(a)(5) projects to obtain GET exemptions along with county waivers and exemptions pursuant to City and County of Honolulu Ordinance 18-1. More specifically, Page 9 removes language that prevents 201H-36(a)(5) projects from receiving direct or indirect financing from any governmental contracting agency, which is an obstacle for these projects to use waivers/exemptions provided for in Ordinance 18-1.

**Section 4, Pages 9 and 10, requiring affordable housing projects on lands given to the counties or other state agencies by a Governor’s EO to require every contractor and subcontractors working on the affordable housing project to pay prevailing wages, including for offsite construction.** This amendment provides clarifying language stating that the use of state or county lands to build affordable housing projects requires compliance with Hawaii’s prevailing wages laws pursuant to Chapter 104, HRS.

Requiring affordable housing projects built on county or state lands to comply with Chapter 104, HRS, is also consistent with HAR Title 12, Chapter 22. DLIR’s definition of a “public work” states:

Any building, structure, road, or real property, the construction of which is undertaken:

(A) *By authority of;* and

(B) ***Through the use of*** funds, grants, loans, bonds, ***land, or other resources of the State or any county,*** board . . . or other agency or instrumentality thereof, to serve the interest of the general public, regardless of whether title thereof is held by a state or county agency.

HAR § 12-22-1 (emphasis added). Further, compliance with Chapter 104, HRS, helps to promote the fair, efficient, and expeditious completion of projects and, in turn, the responsible use of state and county lands and resources.

**(Continued From Page 2)**

As such, we respectfully request your favorable decision on this measure. Thank you for this opportunity to submit written testimony.



**LATE**

**HOUSE COMMITTEE ON HOUSING  
State Capitol, Room 312  
415 South Beretania Street  
9:00 AM**

**MARCH 15, 2023**

RE: SB 1352 - RELATING TO HOUSING

Chair Hashimoto, Vice Chair Aiu, and members of the committee:

My name is Max Lindsey, 2023 Government Relations Committee Chair of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii. Our members build the communities we all call home.

**BIA-Hawaii offers the following comments on SB 1352. Relating to Housing.** This bill authorizes counties to promote certain labor standards through zoning ordinances. Includes off-site construction of a public work project under Hawaii's law on the wages and hours of employees on public works, and requires that all orders from the Governor to set aside public lands for the development of affordable housing contain a provision that the construction of the development be subject to Hawaii's law on the wages and hours of employees on public works.

Section 3.1 of the bill on page 6 would amend HRS 104-2(b) to require manufactured items to be produced by workers who were paid the prevailing wage. We have concerns about this specific section because it would be difficult to comply. While we understand and agree with the importance of wage fairness, it would be nearly impossible to be able to verify that a manufactured item used in construction was manufactured by a worker who was paid the prevailing wage.

The state of Hawaii is in a dire housing crisis. As the Legislature is aware, the cost of housing in Hawaii is extremely high, with Oahu's median price of homes being currently over \$1 million. Approximately 153,967 U.S. households are priced out of buying a home for every \$1000 increase in price, according to the National Association of Home Builders (NAHB). We are in support of legislation that would allow for the building of much-needed housing at every price point in Hawaii.

Thank you for the opportunity to share our concerns.



Randy Perreira, President

HAWAII STATE AFL-CIO  
Hawaii's Labor Unions

888 Mililani Street Suite 501, Honolulu, Hawaii 96813

The Thirty-Second Legislature, State of Hawai'i  
Hawai'i State House of Representatives  
Committee on Housing

**LATE**

Testimony by  
Hawai'i State AFL-CIO  
March 15, 2023

S.B. 1352 S.D. 2 – RELATING TO HOUSING

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. 1352 S.D. 2.

Employment of a well-trained labor workforce prudently gives government housing projects the highest probability of on-time, on-budget, and on-quality completion. Prevailing wages are living wages. Paying prevailing wages on government housing projects strengthens Hawai'i's building and construction workforce recruitment and retention. Strengthening this workforce will build Hawai'i's capacity to meet the demand for housing that is truly affordable to eligible working people.

We appreciate your consideration of our testimony in **support** of S.B. 1352 S.D. 2.

Respectfully,

A handwritten signature in black ink, appearing to read 'Randy Perreira', written over a circular stamp or seal.

Randy Perreira  
President

RP/dd



**MAUI**  
CHAMBER OF COMMERCE  
VOICE OF BUSINESS

**LATE**

HEARING BEFORE THE HOUSE COMMITTEE ON  
HOUSING  
HAWAII STATE CAPITOL, HOUSE CONFERENCE ROOM 312  
WEDNESDAY, MARCH 15, 2023 AT 9:00 A.M.

To The Honorable Troy N. Hashimoto, Chair  
The Honorable Micah P.K. Aiu, Vice Chair  
Members of the committee on Housing

**COMMENTS ON SB1352 SD2 RELATING TO AFFORDABLE HOUSING**

The Maui Chamber of Commerce would like offer **COMMENTS on SB1352 SD2** which creates the Rental Deposit Loan Program; allows the Hawai'i Housing Finance and Development Corporation (HHFDC) to develop certain housing projects that are exempt from laws, rules, and ordinances, including income restrictions, under certain circumstances; creates tax incentives for the development of affordable housing; amends the definition of "history(sic) property"; temporarily allows third-party reviews of application and notifications to the State Historic Preservation Division for five years; authorizes counties to promote certain labor standards through zoning ordinances; includes off-site construction of a public work project under Hawai'i's law on the wages and hours of employees on public works; requires that all orders from the Governor to set aside public lands for the development of affordable housing contain a provision that the construction of the development be subject to Hawai'i's law on the wages and hours of employees on public works.

The Chamber supports the original intent of this measure which was to establish a rental deposit loan program and incentives to support development of affordable housing, local renters, third party reviewers, and address government processes to lower housing costs.

We are concerned with the ambiguous language being proposed to be added to HRS 46-4(a)(12) which states "Promoting labor standards, including but not limited to living wages, benefits, requirements for participation in state-approved apprenticeship programs that promote the efficient and expeditious completion of construction projects and permit and encourage the orderly development of land resources within the county's jurisdiction." What is the definition of "labor standards" or "orderly development?"

Mahalo for the opportunity to offer **COMMENTS on SB1352 SD2**.

Sincerely,

Pamela Tumpap  
President