



STATE OF HAWAII
KA MOKU'ĀINA O HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
KA 'OIHANA PONO LIMAHANA

March 1, 2023

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

To: The Honorable Donovan M. Dela Cruz, Chair,
The Honorable Gilbert S.C. Keith-Agaran, Vice Chair, and
Members of the Senate Committee on Ways and Means

Date: Wednesday, March 1, 2023
Time: 10:05 a.m.
Place: Conference Room 211, State Capitol

From: Jade T. Butay, Director
Department of Labor and Industrial Relations (DLIR)

Re: S.B. 1384 SD1 RELATING TO WORKFORCE DEVELOPMENT

I. OVERVIEW OF PROPOSED LEGISLATION

The **DLIR supports** this Governor's Package proposal. SB1384 SD1 proposes to amend Chapter 202, Hawaii Revised Statutes (HRS) to :

- Conform the law to the conflict of interest provisions and nomenclature found in the Workforce Innovation and Opportunity Act (WIOA) and corresponding federal regulations,
- Amend the workforce development council law to be consistent with the state budget,
- Clarifies that the Governor selects the chairperson of the state workforce development board from among the private members,
- Repeals the requirement for the Department to report to the legislature the activities of the K-12 agriculture workforce development pipeline initiative.

II. CURRENT LAW

The General Appropriations Act of 2021, eliminated the program identification number of the Workforce Development Council and transferred its appropriation and positions to the Workforce Development Division (WDD).

The WIOA and related regulations found in 2 C.F.R part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal

Awards), 29 C.F.R. part 2900 and section 97.36, and 20 C.F.R. part 683 (Administrative Provisions Under Title I of the WIOA) and part 679 address conflicts of interest for non-federal entities and for recipients and subrecipients of federal awards under title I of the WIOA.

2 C.F.R. part 200 and part 2900 establish uniform administrative requirements, cost principles, and audit requirements for federal awards to non-federal entities and requires written standards of conduct covering conflicts of interest and governing the actions of employees.

20 C.F.R. part 683 requires that state and local workforce development board and standing committee members cannot vote on or participate in any decision-making capacity on the provision of services or any matter that would provide direct financial benefit to that member or the member's family. This bill codifies those federal regulations in the state law.

III. COMMENTS ON THE SENATE BILL

The DLIR supports this measure that amends the Workforce Development Council law to be consistent with the state budget as enacted in the General Appropriations Act of 2021 (Act 88 SLH, 2021), and conforms the WDC statute to the conflict of interest provisions and nomenclature found in the corresponding federal law (WIOA).

The DLIR worked with the Hawaii State Ethics Commission to hone the language of this ethics provision to clarify the responsibilities of the Governor pursuant to Chapter 202 (HRS) and the provisions found in the WIOA.

The bill also makes the terminology used in the state statutes consistent with the federal law: "Workforce Development Council" is changed to "Hawaii Workforce Development Board", and "county workforce development board" is changed to "local workforce development board". This measure also clarifies that the Governor selects the chairperson of the board from among the private sector members.

In addition, the measure will also repeal the requirement for the department to submit an annual report to the legislature of the activities of the K-12 agriculture workforce development pipeline initiative – last funded by the legislature in fiscal year 2016 – 2017.



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

ON THE FOLLOWING MEASURE:

S.B. NO. 1384, S.D. 1, RELATING TO WORKFORCE DEVELOPMENT.

BEFORE THE:

SENATE COMMITTEES ON JUDICIARY AND ON WAYS AND MEANS

DATE: Wednesday, March 1, 2023 **TIME:** 10:05 a.m.

LOCATION: State Capitol, Room 211

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**
(For more information, contact Doris Dvonch,
Deputy Attorney General, at (808) 586-1463)

Chairs Rhoads and Dela Cruz and Members of the Committees:

The Department of the Attorney General provides the following comments.

The bill amends chapter 202, Hawaii Revised Statutes (HRS), to rename the "Hawaii Workforce Development Council" as the "Hawaii Workforce Development Board" (Board) and "county workforce development boards" as "local workforce development boards" (local boards). The bill also requires the Board and local boards to develop written conflict of interest policies consistent with federal and state law, requires the Governor to select the chairperson of the Board from among its seventeen private sector members, and requires the Board to assist the Governor in the coordination of local boards to improve and develop a statewide workforce development system.

We believe the provision regarding the establishment of the Board, on page 3, lines 12-15, as currently worded, does not comply with article V, section 6, of the Hawaii State Constitution, which requires that boards created by law within the executive branch be established or placed *within* a principal department. The bill, as introduced, had provided on page 4, line 9, that the Board be "placed within" the Department of Labor and Industrial Relations (DLIR).

Section 4 of Senate Draft 1, on page 3, lines 12-15, contains an amendment to section 202-1, HRS, that provides the Board be "administratively attached" to the DLIR

and that deleted the wording that the Board was "placed within" the DLIR. To ensure the constitutional requirement is met, we recommend the following amended wording in Senate Draft 1, on page 3, lines 12-15:

There is established the Hawaii workforce development board that shall be ~~administratively attached to~~ placed within the department of labor and industrial relations for administrative purposes and shall ~~also~~

With this amended wording, the common wording used to meet the constitutional placement requirement is expressly used and any administrative support needs are covered by section 26-35, HRS, which applies to any board "established or placed within" a principal department "for administrative purposes." In addition, we suggest deleting the word "also" as it is no longer needed.

Additionally, section 9 on page 14, lines 15-18, amends section 348-8, HRS, to substitute the words "workforce development board" wherever the words "Hawaii workforce development council" appear. However, the words "state workforce development council" as opposed to "Hawaii workforce development council" appear in that section. Thus, we recommend amending page 14, lines 15-18, to state:

SECTION 9. Section 348-8, Hawaii Revised Statutes, is amended by substituting the words "Hawaii workforce development board" wherever the words "~~[Hawaii]~~ state workforce development council" appear, as the context requires.

Lastly, section 10 on page 14, line 19, to page 15, line 2, amends six HRS sections to substitute the words "Hawaii workforce development board" wherever the words "state workforce development council" appear. However, the words "workforce development council" as opposed to "state workforce development council" appear in those sections. Thus, we recommend amending page 14, line 19, to page 15, line 2, to state:

SECTION 10. Sections 201-16, 202-10, 304A-1143, 304A-3252, 373C-23, and 394-5, Hawaii Revised Statutes, are amended by substituting the words "Hawaii workforce development board" wherever the words "~~[state]~~ workforce development council" appear, as the context requires.

Thank you for the opportunity to testify.