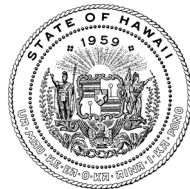


JOSH GREEN, M.D.  
GOVERNOR



LUIS P. SALAVERIA  
DIRECTOR

SABRINA NASIR  
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM  
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND  
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII  
DEPARTMENT OF BUDGET AND FINANCE  
*Ka 'Oihana Mālama Mo'ohelu a Kālā*  
P.O. BOX 150  
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE  
BUDGET, PROGRAM PLANNING AND MANAGEMENT DIVISION  
FINANCIAL ADMINISTRATION DIVISION  
OFFICE OF FEDERAL AWARDS MANAGEMENT

**WRITTEN ONLY**

TESTIMONY BY LUIS P. SALAVERIA  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
TO THE HOUSE COMMITTEE ON LABOR & GOVERNMENT OPERATIONS  
ON  
SENATE BILL NO. 722, S.D. 2

**March 14, 2023**  
**9:30 a.m.**  
**Room 309 and Videoconference**

RELATING TO OCCUPATIONAL SAFETY AND HEALTH

The Department of Budget and Finance (B&F) offers comments on this bill.

Senate Bill (S.B.) No. 722, S.D. 2: 1) establishes the Workforce Safety and Health Special Fund (WSHSF); 2) directs certain fees to be deposited into the WSHSF; and 3) requires unencumbered balance of the WSHSF exceeding an unspecified amount at the end of each fiscal year to be deposited into the general fund on or about June 30 every year.

As a matter of general policy, B&F does not support the creation of any special fund which does not meet the requirements of Section 37-52.3, HRS. Special funds should: 1) serve a need as demonstrated by the purpose, scope of work and an explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining. Regarding S.B. No. 722, S.D. 2, it is difficult to determine whether the WSHSF would be self-sustaining.

Thank you for your consideration of our comments.



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

March 14, 2023

To: The Honorable Scot Z. Matayoshi, Chair,  
The Honorable Andrew Takuya Garrett, Vice Chair, and  
Members of the House Committee on Labor & Government Operations

Date: Tuesday, March 14, 2023  
Time: 9:30 a.m.  
Place: Conference Room 309, State Capitol

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

**Re: S.B. 722SD1 RELATING TO OCCUPATIONAL SAFETY AND HEALTH**

**I. OVERVIEW OF PROPOSED LEGISLATION**

The **DLIR supports the intent** of this measure and offers comments. SB722 SD2 proposes to establish the occupational safety and health special fund with fees collected pursuant to §396-5.1 and civil penalties assessed pursuant to §396-10. The special fund would support personnel and operating expenses as well as staff development and training costs for the Hawaii Occupational Safety and Health Division (HIOSH).

**II. CURRENT LAW**

Act 156 (SLH, 1996) added a new section (§396-5.1) to allow the director to establish fees pursuant to chapter 91 for any aspect relating to issuance of permits, certificates, or licenses; various research activities for records pursuant to chapter 92; costs of training material in workshops, and public notices. Fees received are deposited to the general fund.

Collections from §396-5.1:

- FY20: \$10,890.50
- FY21: \$7,250
- FY22: \$9,700

HIOSH also collects penalties for safety and health violations pursuant to §396-10 that are currently deposited to the labor law enforcement special fund (§371-12.5). Collections from §396-10:

- FY20: \$2,519,255
- FY21: \$1,439,994
- FY22: \$1,669,534

### **III. COMMENTS ON THE SENATE BILL**

The department supports the intent of this measure to bolster HIOSH operations provided that its passage does not replace or adversely impact priorities indicated in the Governor's Executive Budget request. The department could use the fees collected pursuant to §396-5.1 to cover costs associated with permits, certificates and licenses not covered by the federal grant. The federal grant conditions do not allow the State to use penalties collected to operate the enforcement program (See OSHA 110 Form – 23(g) Grant Agreement, 23(g) OSHA Restrictions and Conditions, Item 23., page H-8 Version 2023-001: <https://labor.hawaii.gov/hiosh/files/2023/03/OSHA-110-Form.pdf> ). Reallocating the general funds savings by using the fees collected pursuant to §396-5.1 could support staff development and training and assist with staff retention efforts.

# ***SAH - Subcontractors Association of Hawaii***

***1188 Bishop St., Ste. 1003\*\*Honolulu, Hawaii 96813-2938***

***Phone: (808) 537-5619 ✦ Fax: (808) 533-2739***

March 14, 2023

Testimony To: House Committee on Labor & Government Operations  
Representative Scot Z. Matayoshi, Chair

Presented By: Tim Lyons, President

Subject: S.B. 722, S.D. 2 – RELATING TO OCCUPATIONAL SAFETY AND HEALTH.

Chair Matayoshi and Members of the Committee:

I am Tim Lyons, President of the Subcontractors Association of Hawaii. The SAH represents the following nine separate and distinct contracting trade organizations.

HAWAII FLOORING ASSOCIATION

ROOFING CONTRACTORS ASSOCIATION OF HAWAII

HAWAII WALL AND CEILING INDUSTRIES ASSOCIATION

ELECTRICAL CONTRACTORS ASSOCIATION OF HAWAII

TILE CONTRACTORS PROMOTIONAL PROGRAM

PLUMBING AND MECHANICAL CONTRACTORS ASSOCIATION OF HAWAII

SHEETMETAL AND AIR CONDITIONING NATIONAL CONTRACTORS ASSOCIATION OF HAWAII

PAINTING AND DECORATING CONTRACTORS ASSOCIATION

PACIFIC INSULATION CONTRACTORS ASSOCIATION

We are in opposition to this bill.

Our primary opposition is to the fact that this bill changes the funding mechanism for HIOSH to place all civil penalties (Section 1. §396- (2), lines 10-11) in their newly established Safety and Health Special Fund. We note that this is highly unusual for an agency to have their fines and penalties go towards their continued operation. It obviously presents a conflicting appearance when the funding of an agency is dependent upon the fines that they assess. HIOSH has regulations in excess of 1700 pages (est.) and virtually any business who is inspected could be found with some sort of violation. The bottom line is, if HIOSH needs more money all they have to do is send their inspectors out.

It may be that HIOSH needs a special fund, and if it does, so be it, however it should not be an arrangement where the civil penalties that are assessed go into that very same special fund.

Based on the above, we oppose this bill as written.

Thank you.