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February 22, 2024
10:05 a.m.
State Capitol, Room 211
S.B. 2746, S.D. 1
RELATING TO HARBOR SAFETY

Senate Ways and Means

The Hawaii Department of Transportation (HDOT) provides the following **comments** on this measure that requires the department to regulate the labor responsible for manning the mooring lines for certain vessels in state commercial ports.

HDOT considers this proposed change as a regulation of labor and not a regulation of facilities. This bill also proposes that HDOT certify and recertify health and safety guidelines that govern certain operations. This level of regulation of labor falls outside the purview of HDOT and our personnel do not have the expertise to carry out this responsibility. As such, HDOT recommends that the committee amend this measure to place the authorization in an appropriate chapter of the Hawaii Revised Statutes that controls labor, such as Chapter 382.

Thank you for the opportunity to provide these comments.

TESTIMONY OF
LEODOLOFF R. ASUNCION, JR.
CHAIR, PUBLIC UTILITIES COMMISSION
STATE OF HAWAII

TO THE
SENATE COMMITTEE ON
WAYS AND MEANS

February 22, 2024
10:05 a.m.

Chair Dela Cruz, Vice Chair Moriwaki, and Members of the Committee:

MEASURE: S.B. No. 2746 S.D.1

TITLE: RELATING TO HARBOR SAFETY.

DESCRIPTION: Requires that the securing of mooring lines from vessels requiring tug assistance to commercial docks, wharves, piers, quays, and landings be performed by a stevedoring company. Defines "stevedoring company". Exempts, under certain circumstances, vessels operating on behalf of an authorized intrastate or transpacific water property carrier holding a certificate of public convenience and necessity issued under section 271G-10, HRS. Sunsets on 7/1/2028. Takes effect 7/1/2050. (SD1)

POSITION:

The Public Utilities Commission ("Commission") offers the following comments for consideration.

COMMENTS:

The Commission appreciates the intent of this measure to require that securing mooring lines from tug assistance is performed by local stevedoring companies.

The Commission finds that this measure's provision that would allow regulated intrastate shipping utilities the ability to utilize their current qualified staffing to safely and efficiently conduct their daily work. The Commission appreciates the legislature's focus on safety certification and supports the provisions requiring such certifications and recertifications for regulated intrastate shipping companies.

The Commission also agrees with the Legislature that the Hawaii's stevedoring companies are well-versed in the unique challenges and safety concerns with the state's various harbors. The Commission defers to Department of Transportation, Division of Harbors or other relevant entities, as to the administration of this measure's other provisions, including any potential enforcement and certification requirements.

Thank you for the opportunity to testify on this measure.

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Island Plastic Bags

February 22nd, 2024

TESTIMONY IN OPPOSITION TO SB 2746 SD1, RELATING TO HARBOR SAFETY

Senate Committee on Ways and Means
Senator Donovan M. Dela Cruz, Chair
Senator Sharon Y. Moriwaki, Vice Chair

Chair Dela Cruz, Vice Chair Moriwaki, and members of the Committee,

Thank you for the opportunity to provide testimony in **STRONG** opposition to SB 2746 SD1, Relating to Harbor Safety.

This proposed bill is based on a faulty, misleading premise. Trained, U.S Coast Guard licensed barge operators have safely secured vessels at docks in Hawaii's harbors for decades. Statewide, there is an average 12.8 million tons of marine cargo annually, and the industry has not experienced concerning safety incidents with securing mooring lines. Those who operate in these harbors undergo extensive training and must meet certain requirements to be authorized. No one is allowed to work in these positions without this authorization and this has maintained the high safety standards at the harbors.

The proposed bill also has serious unintended financial ramifications for the entire state. Being forced by law to use a stevedoring company, supplemental to existing marine licensed and union negotiated company comes at cost for the rest of us. It would add more significant cost to the existing barge operations with no appreciable benefit to existing tug assistance operators. Ultimately, these costs will end up in higher costs for local goods and services for Hawaii residents.

This is particularly troubling for those on Maui, which is already facing supply-chain challenges to rebuild Lahaina. The unnecessary shipping costs added for building materials and supplies must be borne by other Hawaii businesses and, ultimately, by consumers and taxpayers, many of whom are already struggling with inflationary prices on top of Hawai'i's high cost of living.

Island Plastic Bags

Thank you for the opportunity to provide testimony in opposition to SB 2746 SD1. Should you have any questions or comments about my testimony you can contact me by email at ahong@islandplasticbags.com or by phone at 808-484-4046.

Sincerely,

Adrian Hong

TESTIMONY
OF
MICHAEL N HANSEN, PRESIDENT
HAWAII SHIPPERS' COUNCIL
BEFORE THE
SENATE COMMITTEE ON WAYS AND MEANS
THE THIRTY-SECOND LEGISLATURE OF THE STATE OF HAWAII
REGULAR SESSION OF 2024
REGARDING
SENATE BILL 2746, RELATING TO HARBOR SAFETY
HEARING, 10:05 A.M., WEDNESDAY, FEBRUARY 22, 2024

Senator Donovan M. Dela Cruz, Chairman, Senator Sharon Y. Moriwaki, Vice Chair, and Members of the Committee:

I am testifying in opposition to Senate Bill 2746 “Relating to Harbor Safety” on the basis that it is an unnecessary government intervention into the collective bargaining relationship between employers and employees in the private sector and it contains so many technical errors that it is fatally-flawed.

The Hawaii Shippers’ Council (HSC) is a business league organization representing merchant cargo owners known in law and the transportation industry as “shippers” (as opposed to those who carry the cargo including water, air, truck and rail carriers).

The technical problems with the S.B, 2746 (2024) are described and analyzed as follows:

1. The Bill addresses “certified longshore linespersons” to define those members of the International Warehouse and Longshore Workers Union (ILWU) engaged in the handling of vessel mooring lines in Hawaii. However, there is no public or private agency in the United States (U.S.) or the State of Hawaii that certifies individual stevedores (or longshoremen) for maritime cargo handling and related work including lines handling.
2. The Bill claims that out-of-state companies are not required to use “trained” (i.e., union) local stevedores for maritime lines handling in the State of Hawaii. In fact, the only applicable legal requirements are the federal statutes that require persons performing stevedoring work in the U.S. including lines handling be eligible to work in the U.S. (e.g., they must be US. citizens, green card holders or nationals). Although one inference of this claim is that out-of-state companies may be using lines handlers from out-of-state in Hawaii, as a practical matter this not would not be economical and does not actually occur.
3. In pursuit of a safety-based approach to justify State regulation of maritime lines handling in Hawaii, the drafters of the Bill state that the stevedore companies in Hawaii are certified for safety. This cannot possibly be true as there is no state, national or international certification

applicable to stevedoring safety in the U.S. and Hawaii. This dispels a key tenant of the Bill's safety approach.

4. The Bill would exempt from the proposed statutory lines handling mandate those entities engaged in interisland (intrastate) common carriers by water transportation of property and regulated by the Hawaii State Public Utilities Commission (HPUC). However, there is no operational difference between the regulated common carriers and the other interisland tug and cargo barge operations engaged in contract carriage that would justify the lines handling exemption on the basis of safety or for other reasons. The exemption is simply for political reasons to avoid HPUC opposition to the current Bill (the HPUC opposed the 2023 Bills).
5. The Bill confirms that regulated interisland water carrier of property targeted for the exemption from the lines handling mandate would be Young Brothers LLC (YB), which, ironically, is owned by an out-of-state corporation, Saltchuk Resources Inc. of Seattle, Washington State.
6. Despite the Bill's obvious impact on the interisland barge carriers (particularly the unregulated contract carriers), its broadly worded provisions would apply to virtually all commercial cargo vessels calling at Hawaii ports. This aspect of the Bill is an unnecessary codification of existing and long-established commercial practice.
7. The statutory amendments to Hawaii State law proposed by the Bill would be to the Hawaii Revised Statutes, Title 19 Transportation and Utilities, Chapter 266 Harbors, Section 2 Powers and duties of department (19 HRS §266-2). This references the Hawaii State Department of Transportation and delegation to its Harbors Division.
8. The Bill bases the applicability of the proposed statutory maritime lines handling mandate on vessels, including barges and large self-propelled ships, upon a supposed "authorization" awarded to stevedoring companies to secure vessel mooring lines. However, such an official and binding "authorization" for stevedoring companies does not exist in Hawaii specifically and the U.S. generally.
9. The bill asserts the Hawaii State Public Utilities Commission (HPUC) and its authority under the Hawaii Water Carriers Act of 1974 as amended (15 HRS 271G) to issue a Certificate of Public Convenience and Necessity (CPCN) to regulated water carriers extends to "transpacific" commerce. This is a non sequitur. Hawaii law and PUC authority do not extend to interstate (domestic) and international (foreign) trade conducted by those ocean carriers operating Transpacific and calling at ports in Hawaii. These trades are the jurisdictions of the federal Surface Transportation Board (STB) for domestic and Federal Maritime Commission (FMC) for the foreign trade.
10. The Bill's proposed exemption for HPUC regulated water carriers targeting YB is based upon a fallacy that there is an existing Hawaii State health and safety certification of their maritime

employees who are not stevedores. This certification facility does not exist because the maritime industry is a federal jurisdiction on a nation-wide basis. This makes the proposed exemption for YB inoperative. The reference to employees who are not stevedores addresses the crewmembers employed on regulated carrier's tugs, these personnel are licensed by the federal U.S. Coast Guard (USCG).

11. The Bill proposes three new statutory definitions for inclusion in the same section of the Harbors chapter (19 HRS §266-2) as the other amendments are to be inserted. The purpose of these proposed definitions is to support the codification of the lines handling mandate. There are no existing definitions and there is no existing definitions section in the Harbors chapter, as is commonplace in other HRS chapters for other agencies. When suggesting definitions for the Harbors chapter, the Bill's drafters should have proposed a new section typically entitled definitions.
12. There is an extensive list of definitions for Harbors in the Hawaii Administrative Rules (19 HAR §41-2). However, these HAR definitions for Harbors do not include cargo, stevedoring company, stevedore, longshoremen and tug, among other potentially useful ones.
13. The Bill's proposed definition of "manifested cargo" is not germane. It's generally applicable to international (foreign) cargo where cargo manifests are required for customs purposes. (E.g., in the U.S., manifested cargo is filed on CBP Form 1302 - Inward Cargo Declaration and CBP Form 1302A Cargo Declaration - Outward with Commercial Forms.) However, this federal documentary requirement does not apply to domestic intrastate or interstate cargo. Thus, this definition would not support the lines handling mandate on interisland and interstate barges and interstate ships.
14. The Bill's proposed definition of "stevedoring company" depends on an unspecified "authorization" to support the statutory lines handling mandate. However, such an "authorization" doesn't exist making the definition inoperative. It would not support the lines handling mandate.
15. The Bill's proposed definition of "tug" is limited to just towing. In contrast, the proposed statutory amendment specifically refers to "tug assistance" to define the vessels subject to the lines handling mandate.

FULL ANALYSIS
(With End Notes)

The following full analysis was made in reference to the PDF version of S.B. 2746 of 2024 as originally introduced on January 19, 2024.¹

SECTION 1.

Page 2, Lines 2-3 “. . . the mooring lines are secured by certified longshore linespersons.”

Comment: There is no certification of longshore (stevedore) lines handlers in the sense of a government agency or private body that certifies the qualifications of lines handlers in Hawaii or the U.S. generally.

From Vault Law, “There are no certification or licensing requirements for stevedores [in the U.S].”²

What is at issue and being referenced by the securing of mooring lines is the lines handling occurring on the wharf or other shoreside facility, which has traditionally been performed by stevedores and other maritime workers.

In contrast, seafarers, whether authorized to work in the U.S. or not, employed aboard U.S. and foreign flag vessels invariably handle the mooring lines onboard.

This includes tug crewmembers handling the lines onboard the barges they are towing. This requires tug crewmembers to be transferred from the tug to the barges.

In addition, in the U.S., domestic tug crewmembers (who are eligible to work in the U.S.) will typically handle and secure and unsecure the mooring lines of the barges they are towing to and from the wharf.

In comparison to the stevedores or longshoremen, the domestic seafarer crewmembers employed on U.S. flag tugboats are individually licensed by the federal U.S. Coast Guard (USCG) in a series of different deck department ratings from ordinary seaman to master mariner.

Lines 3-4: “. . . out-of-state companies are not required to utilize trained local longshore linespersons, or stevedores, to secure their operational vessels . . .”

Comment: This is a vague statement that can be construed with several different meanings, none of which may be true.

Existing federal law requires stevedoring activities including lines handling in the U.S. to be performed by individuals authorized to work in the U.S. (i.e., citizens, green card holders and

U.S. nationals) and prohibits foreign crew members, who are typically employed on foreign flag ships, from performing cargo and shoreside lines handling while under U.S. jurisdiction (Section 258 of the Immigration and Nationality Act of 1952 as amended (8 U.S.C. 1288)).³

This means that out-of-state companies are under the same federal legal obligations as in-state companies (i.e., corporations incorporated in Hawaii) to use persons who are eligible to work in the U.S.

The statement in the Bill implies that in-state companies are somehow legally required or otherwise obligated to use “local” (presumably Hawaii state resident) stevedore and longshore lines handlers, which is simply not true.

This statement has also been construed to mean that out-of-state companies may be using workers from out-of-state to perform lines handling in Hawaii. Although out-of-state lines handlers are eligible to work anywhere in the U.S. including Hawaii, they are not currently used to tie-up or let-go vessels in Hawaii. In this instance, the reference is to an ongoing activity that is primarily restricted to larger self-propelled ships that actually need the lines handling service. As a practical matter, it wouldn’t make any economic or everyday operating sense to transport people from out-of-state for the task of lines handling in Hawaii. This is a strawman argument.

What the drafters of the bill may actually be targeting is the out-of-state mariners onboard the coastwise-eligible (i.e. Jones Act) U.S. registered tugboats towing barges between the U.S. West Coast (USWC) and Hawaii. These USCG licensed U.S. seafarers typically handle the lines of the barges they are towing whether in Hawaii or on elsewhere in the U.S. If this is in fact the intent of the drafters, then the statement is duplicitous.

Lines 16-18: “Stevedoring companies in Hawaii are safety-certified and are well-versed in the unique challenges and safety concerns of each individual state harbor.”

Comment: There is no international, national (U.S.) or local (Hawaii State) public or private agency that specifically certifies stevedoring companies for safety. This appears to be a canard.

If there is such an agency, the drafters of this proposed legislation should clearly identify that agency by name and the procedure under which it certifies stevedoring companies for safety in Hawaii.

Local certification: Section 2, Pg. 6, lines 3-6 state “. . . a stevedoring company shall be certified and recertified on the State's health and safety guidelines that are applicable to the mooring of water carrier of property vessels . . .”

This is clearly a reference to the Hawaii State Department of Labor and Industrial Relations (DLIR), Occupational Safety and Health (HIOSH) division. The State of Hawaii does not have health and safety jurisdiction over the Hawaii maritime industry because it’s a federal

responsibility and is so across the country. Therefore, this provision and the corresponding proposed statutory amendment based upon this provision included the instant bill are not operative.^{4 5}

(Note: Federal jurisdiction of the U.S. maritime industry for regulatory purposes is generally paramount. For example, with maritime workmen’s compensation there are two federal programs (as opposed to state jurisdiction for most other industries). The Longshore and Harbor Workers’ Compensation Act of 1927 as amended (LHWCA) is a federal jurisdiction covering most maritime workers with the exception of seafarers.⁶ Mariners on U.S. flag vessels are covered by Section 33 of the Merchant Marine Act of 1920, commonly known as the Jones Act personal injury law.⁷ Another example is the licensing of seafarers in the U.S., which is a federal responsibility performed by the USCG.)

National certification: The federal Occupational Safety and Health Administration (OSHA) has safety jurisdiction over the maritime industry on a national basis including stevedoring (see 29 CFR 1918 Longshoring), but does not certify compliance. OSHA has established standards and conducts inspections to ensure compliance but does not certify.^{8 9}

International certification: The International Organization for Standardization (ISO) offers quality assurance certification for management (ISO 9001) and work environment management (ISO 45001)¹⁰ which are generally sought by European stevedores but not in the U.S. ¹¹ ISO certification is generally required for ship owners and operators and is performed by the marine classification societies. ISO also has technical standards for vessel construction and maintenance. There are no ISO stevedoring specific standards and certification.¹²

Lines 18-21: “. . . the legislature also recognizes that there are public utilities commission regulated shipping carriers with personnel who are capable of safely mooring the carrier’s vessels.”

Comment: The regulated shipping carrier referenced is Young Brothers LLC (YB) the sole intrastate ocean common carrier of property, which operates under the Hawaii Water Carriers Act of 1974 as amended (15 HRS §271G),¹³ and is regulated by the Hawaii State Public Utilities Commission (HPUC).¹⁴

YB operates in a tow-line ocean tug and cargo barge mode with a radial routing from their base port of Honolulu (Piers 39 and 40). This preamble statement previews and describes the statutory exemption proposed in Section 2 intended to allow YB tugboat crews to continue handling the YB barge mooring lines on the shoreside and avoid the cost and inefficacies of calling-out stevedore company lines handlers to secure the lines on the wharf or pier.

This proposed exemption would create a regulatory incongruity in the context of the maritime industry as a whole. Namely: If the YB tugboat crews are competent to handle barge mooring lines, and virtually all the tugboat crews operating in Hawaii (including YB’s) and those from

out-of-state calling on Hawaii ports are represented by the same union – the Inland Boatman’s Union (IBU) -- and are US Coast Guard (USCG) licensed, then why aren’t all these tug crews competent and why do we need this proposed legislation?

It is widely assumed this exemption for YB only was proposed by the drafters because last year YB and the HPUC testified against the companion bills (HB 714 / SB 824) saying the proposed lines handling requirement would harm the State’s only regulated water carrier of property and harm the State economically. As these were politically salient arguments, by exempting YB, the drafters of the current bills bill wished to avoid YB and HPUC opposition to the measures.

Page 3, Lines 1-4: “. . . [HPUC regulated water] carriers [primarily YB} should be permitted to continue using the services of their own personnel; providing that the personnel are certified and regularly recertified on the State’s safety guidelines and best practices.”

Comment: The phrase “continue using the services of their own personnel” is confirmation that the proposed exemption is intended to allow YB to continue using their tug crews to handle their barge mooring lines and not by the force of law be required to use stevedore company lines handlers.

The phrase “. . . providing that the [the YB] personnel [tug crews] are certified and regularly recertified on the State’s safety guidelines and best practices” is meaningless.

There is no existing state certification of YB personnel employed aboard their tugs for any purpose. The tug crews are federally documented by the USCG. Therefore, this provision is inoperative.

If the drafters of the instant bill believe there is a state certification process for YB’s tug crews, then they need to specify what it is.

Lines 10-14: “Accordingly, the purpose of this Act is to require, with certain exceptions, that the securing of mooring lines from vessels requiring tug assistance to the state’s commercial docks, wharves, quays and landings be performed by a stevedoring company.”

Comment: This statement expands the scope of the legislation beyond just barges to include all vessels including self-propelled ships. This may be more expansive than might have been originally thought and an unnecessary codification of existing and long-standing commercial practice.

SECTION 2.

Page 3, Lines 15-17: “Section 266-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows: ‘(a) The department of transportation shall:’”

Comment: Section 266-2 is a reference to Hawaii Revised Statutes (HRS), Title 19 Transportation and Utilities, Chapter 266 Harbors, Part I Generally, Section 2 Powers and duties of department. This section of Hawaii State law can be abbreviated as: 19 HRS §266-2. ¹⁵

Although it specifically references the Hawaii State Department of Transportation (DOT), HRS Chapter 266 applies to the delegation by the DOT to its Harbors Division (often, simply, “Harbors”).

19 HRS Chapter 266 Harbors consists of two parts as follows:

- Part I – Generally – Sections 266-1 – 266-31
- Part II – Special Facility Projects – Sections 266-51 – 266-56

These are the only sections of the HRS which specifically apply to Harbors. There is no definitions section in the applicable Part I.

Page 5, Lines 10-21: “(6) Require that the securing of mooring lines from vessels requiring tug assistance to commercial docks, wharves, piers, quays, and landings be performed by a stevedoring company; provided that this paragraph shall not apply to the securing of mooring lines from any vessels operating on behalf of an authorized intrastate or transpacific water carrier of property holding a certificate of public convenience and necessity issued under section 271G-10; provided further that all personnel conducting the mooring of vessels operating on behalf of an authorized intrastate or transpacific water carrier of property . . .”

Continuation, Page 6. Lines 1-6: “. . . holding a certificate of public convenience and necessity under section 271G-10 who are not employed by a stevedoring company shall be certified and recertified on the State's health and safety guidelines that are applicable to the mooring of water carrier of property vessels;”

Comment: The foregoing section of text (from pages 5 and 6) is the essential amendment proposed by the bill’s drafters to implement their desired policy to statutorily require the use of shoreside stevedore company lines handlers for cargo barges. This amendment does not appear to be workable due to several errors in construction and inherent contradictions.

General applicability. The operative phrase is, “Require that the securing of mooring lines from vessels requiring tug assistance to commercial docks, wharves, piers, quays, and landings be performed by a stevedoring company. . .”

This phrase would act in two ways. It would impose a statutory requirement on tug and barge operators to use lines handlers employed by stevedoring companies as opposed to the current and longtime customary practice of the tug crew handling on shore the mooring lines of the barges they are towing. It would also create a statutory mandate to call-out stevedore company lines handlers for virtually all larger vessels, typically self-propelled ships, which is the existing and longtime commercial practice and for which a statute is not required.

The instant bill's Section 1 preamble describes at length certified stevedore lines handlers and certified stevedoring companies creating the expectation these will be germane and material to the proposed statutory amendments. However, the actual language of the proposed amendment doesn't impose those certification requirements making the preamble seemingly a ruse.

The general applicability of this amendment pivots on the description of a "stevedore company" which follows in lines 11-20, "'stevedoring company' means a company that is registered to do business in the State . . . authorized to secure mooring lines and . . . provides . . . loading and offloading of . . . cargo" [emphasis added]. The regulatory body which would "authorize" a company engaged in stevedoring "to secure mooring lines" and the process and standards by which such "authorization" might be granted are not defined and do not exist.

The phrase "vessels requiring tug assistance" means the proposed statute would apply to all vessels including self-propelled ships not just intrastate and interstate cargo barges as the general understanding might have been. Although virtually all the larger self-propelled ships calling in Hawaii ports use tug assistance and line handlers when berthing and unberthing, this may be a broader mandate than many were anticipating. This broader application also addresses a situation where the use of lines handlers is common practice and really needs no statutory mandate making this aspect of the proposed legislation superfluous.

YB applicability. The amendment creating a YB exemption is fraught with problems both in terms of the scope of the statute and the basis upon which the exemption would become effective.

The mention of "transpacific," in the phrase "an authorized intrastate or transpacific water carrier of property holding a certificate of public convenience and necessity issued under section 271G-10," is a non sequitur.

The Hawaii State Public Utilities Commission (PUC) and its authority under the Hawaii Water Carriers Act of 1974 (HWCA 1974) as amended (15 HRS 271G) to issue a Certificate of Public Convenience and Necessity (CPCN)¹⁶ is limited to transportation within the State of Hawaii. Hawaii law and PUC authority do not extend to interstate (domestic) and international (foreign) trade conducted by those ocean carriers operating Transpacific and calling at ports in Hawaii. These trades are the jurisdictions of the federal Surface Transportation Board (STB)¹⁷ for domestic and Federal Maritime Commission (FMC)¹⁸ for the foreign trade. Hence the words "or transpacific" should be struck.

There is a major problem with the last phrase of this section of text ". . . all personnel conducting the mooring of vessels operating on behalf of an authorized intrastate or transpacific water carrier of property holding a certificate of public convenience and necessity under section 271G-10 who are not employed by a stevedoring company shall be certified and recertified on the

State's health and safety guidelines that are applicable to the mooring of water carrier of property vessels;”

The intent of this provision is to create an exemption for YB, as the PUC regulated interisland ocean carrier under the HWCA 1974 as amended (15 HRS 271G), to continue to use their tug crewmembers to handle their barge mooring lines rather than calling-out stevedore company longshoremen for this task.

The Hawaii State agency which regulates workplace health and safety is the Department of Labor and Industrial Relations (DLIR), Occupational Safety and Health (HIOSH) division. It doesn't have jurisdiction over the maritime industry in the State of Hawaii because it's a federal responsibility. As such, the basis for this proposed YB exemption does not exist de jure and would be unlikely to prevail de facto if enacted and thus rendering the YB exemption inoperative.

Meanwhile, YB tug crewmembers are certified by the USCG, which on its face should negate the need for this exemption (and the bill itself).

Page 6, Lines 11-20:

As used in this subsection:

"Manifested cargo" means the cargo, passengers, and crew of a vessel that are listed on a manifest or cargo document for the use of customs and other officials.

"Stevedoring company" means a company that is registered to do business in the State and authorized to secure mooring lines from vessels to commercial docks, wharves, piers, quays, bulkheads, and landings and that provides services in the loading and offloading of manifested cargo.

"Tug" means a boat used for towing larger vessels.

Comment: This is the other major amendment proposed by the instant bill to 15 HRS §266-2.

Currently, there are no statutory definitions nor a definitions section for Harbors in 15 HRS Chapter 266 Part I, which would apply generally to Harbors.

These definitions proposed by the Bill would be more appropriately be placed in a definitions section as part of 15 HRS Chapter 266 Harbors, Part I, generally, as opposed to inclusion in 15 HRS §266-2 as proposed by the Bill.

In contrast, there is an extensive listing of definitions in Hawaii Administrative Rules (HAR), Title 19 Department of Transportation (DOT), Subtitle 3 Harbors Division, Chapter 41, Section 2, Definitions, general (19 HAR §41-2).¹⁹ However, these HAR definitions do not include cargo, stevedoring company, stevedore, longshoremen and tug; and many other definitions that might be useful.

There are problems with the proposed definitions as follows:

The term “manifested cargo” would typically apply to international (foreign) cargo where there is a customs interface necessitating a formal manifest to meet regulatory requirements. (In the U.S., this is a Customs and Boarder Protection (CBP) documentary requirement: CBP Form 1302 - Inward Cargo Declaration²⁰ and CBP Form 1302A Cargo Declaration - Outward with Commercial Forms²¹). This would not necessarily apply to domestic cargo whether intrastate or interstate, which is the majority of general cargo (today typically in the form of container cargo) currently landed in Hawaii.

A stevedoring company as “. . . authorized to secure mooring lines from vessels to commercial docks, wharves, piers, quays, bulkheads, and landings and that provides services in the loading and offloading of manifested cargo.”

There is no authority that “authorizes” stevedore companies to perform cargo handling and related work in Hawaii. If the drafters of this proposed legislation believe there is such an authority, they should identify it and describe the authorization process.

As such an authority is unlikely to be identified, it would be more accurate to say “a stevedoring company is one that customarily performs maritime cargo handling and associated work.”

The definition of a “tug” is too limited only stating they’re “. . . used for towing large vessels.” Even the bill’s proposed amendment refers to tug assistance in order to define those vessels requiring stevedore company lines handlers.

Creating a definitions section for 15 HRS Chapter 266 Part I might be a useful endeavor to enhance its effectiveness. However, it should be done in consultation with the Harbors Division. At the end of the day, Harbors Division may believe the definitions in 18 HAR §41-2 are sufficient for their purposes.

If a statutory definitions section were to be created in 15 HRS Chapter 266, Part I, a good reference would be the federal United States Code Title 33, Navigation, and Title 46, Shipping. It would be best to harmonize definitions between the state and federal law where appropriate.

¹ Senate Bil 2746, Relating to Harbor Safety, Sen Chris Lee et al, 32nd Hawaii State Legislature, January 23, 2024, https://www.capitol.hawaii.gov/sessions/session2024/bills/HB1936_.HTM

² Stevedores; Requirements, Vault Law (Firsthand Inc. / Infobase Holding, LLC), New York City, NY, Retrieved February 14, 2024, <https://vault.com/professions/stevedores/requirements>

³ Wayne, E. Anthony, Foreign Prohibitions on Longshore Work by U.S. Nationals, Bureau for Economic and Business Affairs, U.S. Department of State, November 9, 2001,

<https://www.federalregister.gov/documents/2002/02/12/02-3335/foreign-prohibitions-on-longshore-work-by-us-nationals>

⁴ State Plans Hawaii, U.S. Occupational Safety and Health Administration (OSHA), Retrieved February 14, 2024, <https://www.osha.gov/stateplans/hi>

⁵ Lincoln, Reynolds, Hawaii State Occupational Safety and Health (HIOSH) Division, Department of Labor and Industrial Relations (DLIR), telephonic interview (808 586-9110), February 2, 2024.

⁶ The Longshore and Harbor Workers' Compensation Act (LHWCA): Overview of Workers' Compensation for Certain Private-Sector Maritime Workers (R41506), Congressional Research Service, May 14, 2020, <https://crsreports.congress.gov/product/pdf/R/R41506/9>, Pgs. 1 & 2.

⁷ Injuries at Sea: Establishing Liability, FindLaw.com / Thomson Reuters, March 26, 2008. <https://corporate.findlaw.com/human-resources/injuries-at-sea-establishing-liability.html>

⁸ Maritime (29 CFR 1915, 1917, 1918), Occupational Safety and Health Administration (OSHA), U.S. Department of Labor (DOL), Retrieved February 4, 2024, <https://www.osha.gov/maritime/standards>

⁹ Ruhl, Nick, Honolulu Office, OSHA, Telephonic interview (808 541-2680), February 4, 2024.

¹⁰ Certification, International Organization for Standardization (ISO), Retrieved February 4, 2024, <https://www.iso.org/certification.html>

¹¹ Quality assurance, Aalborg Stevedore Company A/S, Denmark, Retrieved February 4, 2024, <https://asc-as.dk/en/quality-assurance/>

¹² Policy - Ships and Marine Technology, International Organization for Standardization (ISO) Retrieved February 4, 2024, <https://policy.iso.org/ships-and-marine-technology.html>

¹³ Chapter 271G, Hawaii Water Carrier Act of 1974, Hawaii Revised Statutes (HRS) https://www.capitol.hawaii.gov/hrscurrent/Vol05_Ch0261-0319/HRS0271G/HRS_0271G-.htm

¹⁴ Water Carriers, Public Utilities Commission (PUC), State of Hawaii, Retrieved 19, 2024, <https://hpuc.my.site.com/cdms/s/regulated-entities/water-carriers>

¹⁵ Section 266-2 Powers and duties of department, Chapter 266 Harbors, Title 15 Transportation and Utilities, Hawaii Revised Statutes (HRS), (15 HRS §266-2), https://www.capitol.hawaii.gov/hrscurrent/Vol05_Ch0261-0319/HRS0266/HRS_0266-0002.htm

¹⁶ Certificate of public convenience and necessity (CPCN), Wikipedia, Retrieved February 18, 2024, https://en.wikipedia.org/wiki/Certificate_of_public_convenience_and_necessity

¹⁷ Surface Transportation Board (STB), Retrieved February 18, 2024, <https://www.stb.gov/>

¹⁸ Federal Maritime Commission (FMC), Retrieved February 18, 2024. <https://www.fmc.gov/>

¹⁹ Section 2, Definitions, general, Chapter 41, Subtitle 3 Harbors Division, Title 19 Department of Transportation (DOT), Hawaii Administrative Rules (HAR) (19 HAR §41-2), Retrieved February 18, 2024, <https://hidot.hawaii.gov/harbors/files/2013/01/19-41-2.pdf>

²⁰ CBP Form 1302 - Inward Cargo Declaration, U.S. Customs and Border Protection (CPB), U.S. Department of Homeland Security (DHS), August 04, 2023, <https://www.cbp.gov/document/forms/form-1302-inward-cargo-declaration>

²¹ CBP Form 1302A Cargo Declaration - Outward with Commercial Forms, U.S. Customs and Border Protection (CPB), U.S. Department of Homeland Security (DHS), https://www.cbp.gov/sites/default/files/assets/documents/2018-Feb/CBP%20Form%201302A_0.pdf

#

File Ref: HSC-1400e (Test HI Sen WAM Hearing 02-22-2024)



LiUNA!

THE SENATE
KA 'AHA KENEKOA

THE THIRTY-SECOND LEGISLATURE
REGULAR SESSION OF 2024

COMMITTEE ON WAYS AND MEANS

Senator Donovan M. Dela Cruz, Chair
Senator Sharon Y. Moriwaki, Vice Chair

PETER A. GANABAN
*Business Manager/
Secretary-Treasurer*

ALFONSO OLIVER
President

JOBY NORTH II
Vice President

TONI FIGUEROA
Recording Secretary

MARTIN ARANAYDO
Executive Board

ORLANDO PAESTE
Executive Board

JOSEPH YAW
Executive Board

ESTHER AILA
Auditor

RUSSELL NAPIHAA
Auditor

MARK TRAVALINO
Auditor

YUGAN HOTTENDORF
Sergeant-At-Arms

Thursday, February 22, 2024, 10:05 am
Conference Room 211
State Capitol, 415 South Beretania Street

Re: Testimony in Support of SB2746

Chair Dela Cruz, Vice Chair Moriwaki, and members of the committee:

The Laborer's International Union Local 368 represents 5000+ members working in construction, environmental remediation, maintenance, food service, health care, clerical, and other occupations, as well as in state, local, and municipal government jobs and as mail handlers in the U.S. Postal Service across the State.

The Laborers' International Union Local 368 **supports the intent of SB2746** which requires that the securing of mooring lines from vessels requiring tug assistance to commercial docks, wharves, piers, quays, and landings be performed by a stevedoring company, defines "stevedoring company", and exempts, under certain circumstances, vessels operating on behalf of an authorized intrastate or transpacific water property carrier holding a certificate of public convenience and necessity issued under section 271G-10, HRS.

Thank you for the opportunity to testify in support of SB2746.

Respectfully,

Peter A. Ganaban

Business Manager/Secretary Treasurer
Laborers International Union of North America - Local 368
1617 Palama Street
Honolulu, HI 96817

LiUNA Local 368
1617 Palama Street
Honolulu, HI 96817
Phone: (808) 841-5877
Fax: (808) 847-7829
www.local368.org

Feel the Power



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PLUMBERS AND FITTERS LOCAL 675 UNITED ASSOCIATION



THE SENATE KA 'AHA KENEKOA

THE THIRTY-SECOND LEGISLATURE
REGULAR SESSION OF 2024

COMMITTEE ON WAYS AND MEANS

Senator Donovan M. Dela Cruz, Chair
Senator Sharon Y. Moriwaki, Vice Chair

Thursday, February 22, 2024, 10:05 am
Conference Room 211
State Capitol, 415 South Beretania Street

Re: Testimony in Support of SB2746

Chair Dela Cruz, Vice Chair Moriwaki, and members of the committee:

The Plumbers & Fitters Local 675 was founded in 1919 and received its charter from the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States. Our members provide quality and reliable work on projects including, but not limited to, power plants, water treatment plants, oil refineries, hospitals, government and commercial buildings, hotels and luxury resorts, high-rise condominiums, and single-family homes in residential neighborhoods across the State.

The Plumbers & Fitters Local 675 **supports the intent of SB2746** which requires that the securing of mooring lines from vessels requiring tug assistance to commercial docks, wharves, piers, quays, and landings be performed by a stevedoring company, defines "stevedoring company", and exempts, under certain circumstances, vessels operating on behalf of an authorized intrastate or transpacific water property carrier holding a certificate of public convenience and necessity issued under section 271G-10, HRS.

Thank you for the opportunity to testify in **support of SB2746**.

Respectfully,

Emmanuel Zibakalam





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

February 20, 2024

Honorable, Donovan Dela Cruz, Senate Committee on Ways and Means, Chair
Honorable, Sharon Moriwaki, Senate Committee on Ways and Means, Vice Chair
Honorable Members of the Senate Committee on Ways and Means

RE: SB 2746 SD1- RELATING TO HARBOR SAFETY.

Chair Dela Cruz,

My name is Ana Tuiasosopo. I am the District Representative and Trustee for Operating Engineers Local 3 (OE3). We are the largest Construction Trades Local in the United States. I and the members of Operating Engineers Local 3 support SB2746 SD1.

OE3 agrees with the legislature that ensuring the safety of Hawaii's commercial harbors is in the best interest of the State. The State has a responsibility to help protect not only the personal safety of harbor workers but also the physical integrity of the State's commercial docks. To this end, the best way to ensure the safety of Hawaii's harbors and harbor workers is to require the use of a stevedoring company to secure mooring lines when vessels are pulled into the State's harbors by tug. Stevedoring companies in Hawaii are safety-certified and are well-versed in the unique challenges and safety concerns of each individual state harbor.

Therefore, we humbly ask for your support and approval of SB 2746 SD1.

Sincerely,

Ana Tuiasosopo
Hawaii District Representative, Trustee
Hawaii Operating Engineers Local 3



February 22, 2024

**TESTIMONY IN OPPOSITION TO SENATE BILL 2746 SD1
RELATING TO HARBOR SAFETY**

Senate Committee on Ways and Means

The Honorable Donovan Dela Cruz, Chair
The Honorable Sharon Moriwaki, Vice Chair
Thursday, February 22, 2024, 10:05 am
VIA VIDEOCONFERENCE
Conference Room 211
State Capitol
415 South Beretania Street

Chair Dela Cruz, Vice Chair Moriwaki and members of the Committee,

Island Energy Services, LLC ("IES") offers the following testimony in OPPOSITION to SB2746 SD1 requiring the securing of mooring lines for tug assisted vessels to be manned by an existing, operational stevedoring company operating within the State.

IES contracts Sause Bros. to transport its shipments of petroleum fuel from Honolulu to Neighbor Island customers. Approximately seven hundred tug assisted barge arrivals and departures occur annually to supply this critical commodity of fuel to power various energy dependent businesses and residence alike.

IES has not experienced any safety or other operational incidents that would warrant the need for additional marine operations proposed by this measure. The requirements proposed by SB2746 SD1 will however add significant cost to the existing barge operations with no appreciable benefit to existing tug assisted operations. The increased cost incurred by IES, as well as all companies transporting commodities and manifested cargo via tug assisted barges utilizing State owned and controlled facilities will result in higher costs for local goods and services for Hawaii residents. Neighbor Island consumers in particular will likely bear a disproportionate amount of the increased cost due to the double handling of commodities like fuel originating from facilities located on Oahu.

Furthermore, the current fuel barging operations and port call schedules are complex and designed to be efficient and optimal to reduce unnecessary logistical costs. Adding the additional layer of services by a third-party proposed by SB2746 SD1 will undoubtedly increase the likelihood of scheduling and other logistical delays not experienced by IES' existing operations. Other unintended consequences could result in increased operational risks, which could result in fuel shortages and runouts on the Neighbor Islands.

We thank the Senate Ways and Means Committee for this opportunity to share our concerns and **urge this measure be HELD.**

Albert D.K. Chee, Jr.
Vice President
Island Energy Services, LLC



HAWAII PORTS MARITIME COUNCIL

affiliated with
Maritime Trades Department
AMERICAN FEDERATION OF LABOR and CONGRESS OF INDUSTRIAL ORGANIZATION

606 Kalihi Street Honolulu, Hawaii 96819

TELEPHONE: (808) 845-5222

FAX: (808) 841-1191

Member Unions:

February 20, 2024

American Federation Of
Government Employees

Hawaii Government
Employees Association,
AFSCME Local 152

Hawaii Pilots Association,
MM&P Pilots Division

Inlandboatmen's Union
of the Pacific

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

International Brotherhood of
Electrical Workers Local 1186

International Brotherhood of
Electrical Workers Local 1260

International Longshore and
Warehouse Union Local 142

International Union of
Elevator Constructors
Local 126

Ironworkers Union
Stabilization Fund
Local 625

Laborers' International Union
of North America Local 368

Marine Engineers'
Beneficial Association

Marine Firemen,
Watertenders, Oilers & Wipers

Masters, Mates and Pilots,
Offshore Division

Sailors' Union of the Pacific

Seafarers International Union

Sheet Metal Workers Local 293

United Food and Commercial
Workers International Union
Local 480

Senate Committee of Ways & Means
Honorable Donovan M Delacruz, Chair
Honorable Sharan Moriwaki, Vice Chair
Members of the Senate Committee of Ways & Means

RE: SB2746 RELATING TO HARBOR SAFETY

The Hawaii Ports Maritime Council strongly supports SB2746. Hawaii's existing Stevedore companies have demonstrated their experience and competence over the decades on Hawaii's waterfront. Passage of this bill will ensure that qualified persons will do this work according to industry standard safety practices. We appreciate your consideration and strongly urge passage of SB2746.

Respectfully,

Randy Swindell
President

Marine Firemen's Union

AFFILIATED WITH THE SEAFARERS INTERNATIONAL UNION OF N.A., AFL-CIO

HONOLULU BRANCH
707 Alakea Street
Honolulu, Hawaii 96813

(808) 538-6077 telephone
(808) 531-3058 fax



HEADQUARTERS
San Francisco, California

BRANCH
Wilmington, California

PORT SERVICED
Seattle, Washington

February 20, 2024

Senate Committee of transportation and Culture & Arts

Honorable Chris Lee, Chair

Honorable Loraine Inouye, Vice Chair

Members of the Senate Committee of Transportation and Culture & Arts

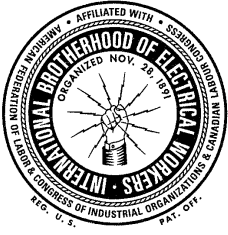
RE: SB2746 RELATING TO HARBOR SAFETY

The Honolulu Marine Firemen's Union strongly supports SB2746. Every mariner understands that when you need to tie up or let go a vessel of any size to the pier, the safest way is always to have experienced people on the dock ready to catch the first line and all the other lines. Getting that first line tied to the pier and all other lines tied, then winching in the vessel slowly and safely to the pier, against the wind, currents, whether the vessel is low to the dock or up high against the dock. To be safe you need the limited amount of crew on a vessel to operate the vessel safely. You need crew on the bow and crew on the stern to pay out the lines. You need the the captain, mate, and helmsman in the bridge. You need the engineers in the engine room. This is all for safety because it has happened many times when something goes wrong, something brakes at the worst time. You need the experienced crew to stay on board to safely operate the ship and you need experienced line handlers to tie up or let go the vessel from the dock. To not hire either is a liability. At sea it is always safety first.

Mario Higa



Honolulu Port Agent



International Brotherhood of Electrical Workers

LOCAL UNION NO. 1186 • Affiliated with AFL-CIO

1935 HAU STREET, ROOM 401 • HONOLULU, HI 96819-5003
TELEPHONE (808) 847-5341 • FAX (808) 847-2224

TO: SENATE COMMITTEE ON WAYS AND MEANS
Hearing on Thursday, February 22, 2024 at 10:05a.m., Conference Room 211

RE: TESTIMONY IN **SUPPORT** OF SB 2746

Honorable Chair Donovan M. Dela Cruz, Vice Chair Sharon Y. Moriwaki, and
Members of the Committee:

The International Brotherhood of Electrical Workers Local Union 1186 (IBEW 1186), is comprised of over 3,000 men and women working in electrical construction, telecommunications, civil service employees, and educator and faculty associations.

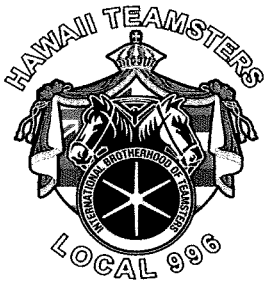
IBEW 1186 **SUPPORTS** this bill in its effort to protect both the workers and the facilities of our harbor systems. As a labor union, safety is a core value of our organization.

The vital importance that our docks and harbors serve to our community require special attention to ensure that only experienced and qualified workers are handling the aspects of vessel movements and mooring. This bill is a positive step in the protection of our harbors and docks where our community receives all of its critically important goods.

Thank you for this opportunity to submit this testimony in **SUPPORT** of SB 2746

Sincerely,

Damien T.K. Kim
Business Manager/
Financial Secretary



HAWAII TEAMSTERS & ALLIED WORKERS LOCAL 996

Affiliated with the International Brotherhood of Teamsters

Local996@hawaii-teamsters.com

1817 Hart Street
Honolulu, HI 96819-3205

Telephone: (808) 847-6633
Fax: (808) 842-4575

February 20, 2024

KEVIN HOLU
President/Principal Officer

THE SENATE

JOELLE HUSSEY
Secretary – Treasurer

Committee on ways and means

Senator Donovan Dela Cruz, Chair
Senator Sharon Y. Moriwaki, Vice Chair
State Capitol. Conference Room 211 & Videoconference
Tuesday, February 20, 2024

WALTER FOX III
Vice President

Statement from Hawaii Teamsters & Allied Workers Local 996 on SB2746 RELATING TO HARBOR SAFETY

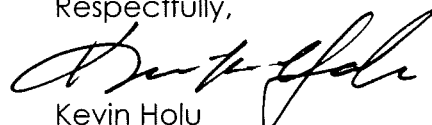
TAVESI AUGAFA
Recording Secretary

On behalf of the Hawaii Teamsters Local 996 I am writing to express my **STRONG SUPPORT** for Senate Bill 2746, which aims to enhance harbor safety and mooring operations in Hawai'i. As the President of Hawaii Teamsters Local 996 I have a deep understanding of the unique challenges and essential role they play in our island community.

BEVERLY TUSI
Trustee

Respectfully,

JONATHAN LEO REED
Trustee


Kevin Holu
President



**TESTIMONY OF TINA YAMAKI, PRESIDENT
RETAIL MERCHANTS OF HAWAII
February 22, 2024
Re: SB 2746 SD1 RELATING TO HARBOR SAFETY**

Good morning, Chair Dela Cruz and members of the Senate Committee on Ways and Means. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii was founded in 1901, RMH is a statewide, not for profit trade organization committed to the growth and development of the retail industry in Hawaii. Our membership includes small mom & pop stores, large box stores, resellers, luxury retail, department stores, shopping malls, local, national, and international retailers, chains, and everyone in between.

We are in opposition of SB 2746 SD1 Relating to Harbor Safety. This measure requires that the securing of mooring lines from vessels requiring tug assistance to commercial docks, wharves, piers, quays, and landings be performed by a stevedoring company. Defines "stevedoring company"; exempts, under certain circumstances, vessels operating on behalf of an authorized intrastate or transpacific water property carrier holding a certificate of public convenience and necessity issued under section 271G-10, HRS. Sunsets on 7/1/2028; and takes effect 7/1/2050.

It is our understanding that **for decades, there are trained, U.S. Coast Guard licensed barge operators that continue to safely secure vessels at docks in Hawaii's harbors.** Those who operate in these harbors undergo extensive training and must meet certain requirements to be authorized. No one is allowed to work in these positions without this authorization and this has maintained the high safety standards at the harbors. **So why are we trying to fix something that is not broken or something that is not an industry standard as the industry has NOT experienced concerning safety incidents with securing mooring lines?**

It is measures like these that have the potential to increase the cost of goods and products and make it even more costly for Hawaii's residents to shop for food, clothing, beverages, appliances, equipment, and other necessities as well as continue to make Hawaii one of the most expensive states to live in.

An average of 12.8 million tons of cargo is shipped into Hawaii by sea every year. Most of the items we see in stores are part of this cargo as Hawaii must ship everything from the mainland and internationally as well as ship it between islands.

If this bill passes, we will see prices of goods and products increase. The cost to use a mandated stevedoring company will be passed on to the distributor, the distributor will pass the cost on to the retailer and the retailer will pass the cost on to the customer. **This would also impact the local businesses on the neighboring islands like farmers and retailers who ship their products and goods between the islands.** In other words, we will see a price hike in our rice, spam, shoes, clothing, appliances, and building supplies to name a few.

In addition, having to wait for the mandated workers could also delay the offloading of the cargo. This will especially impact the neighbor Islands who get shipment once a week. If the ship is not offloaded in time and loaded on to the barges that go between islands, our neighbor island community will have to wait another week for their goods and products. We are especially concerned about the island of Maui who is in the process of rebuilding and are already facing supply-chain challenges to rebuild Lahaina.

Hawaii is already an expensive place to live, and we can't afford higher prices that are caused by this type of legislation.

We urge you to hold this bill.

Mahalo again for this opportunity to testify.



February 22, 2024

**TESTIMONY IN OPPOSITION TO SB2746
RELATING TO HARBOR SAFETY**

Senate Committee on Ways and Means
The Honorable Donovan M. Dela Cruz, Chair
The Honorable Sharon Y. Moriwaki, Vice Chair

Thursday, February 22, 2024, 10:05 AM
Conference Room 224
State Capitol 415 South Beretania Street

Chair Dela Cruz, Vice Chair Moriwaki and members of the Committee,

Thank you for the opportunity to provide comments in **OPPOSITION** to **SB2746**, Relating to Harbor Safety.

Par Hawaii is critical infrastructure defined by the Cybersecurity & Infrastructure Security Agency (CISA) in providing energy security for our State. SB 2746, if enacted: 1) will not increase harbor safety; 2) will increase the risk of a supply disruption particularly to the Neighbor-Islands; and 3) will lead to unnecessary added labor which will be passed onto the consumer through higher fuel and energy costs.

To transport the millions of gallons of fuel (e.g. gasoline, diesel, jet fuel) to the Neighbor Islands, our company charters a tug and barge on a long-term basis through Sause Brothers who has been operating marine vessels in Hawaii for 58 years. We load fuel products from our refinery at Barbers Point Harbor approximately every three days and transit to Kauai, Hawaii Island or Maui. We generally visit each island at least once every ten days, approximately 40x annually, in consistent and reliable delivery of fuel to the Neighbor Islands. It's a demanding schedule that requires our barge to be on the move essentially all of the time, around the clock, and in coordination with all harbors.

For decades, the union-represented workforce of Sause Brothers has secured our vessels safely at the dock and has coordinated harbor access with DOT-Harbors. The crew members are **trained and licensed** to carry out these duties through a rigorous US Coast Guard testing and licensing program. If the tug and barge crew and DOT-Harbors are not in-sync, delivery will be delayed.

And, because our barge does not have scheduled downtime, the schedule changes frequently (can be multiple times per week) as a result of inclement weather conditions or because of loading or discharge operations.

If we were required to use a stevedoring company to tie up the tug and barge, Neighbor-Island **energy resupply would become subject to the schedule and availability of stevedoring personnel.** This will lead to delays in resupply and would meaningfully increase the risk of fuel runouts on the Neighbor-Islands.

Par Hawaii would not be the only party impacted by this legislation. Other energy companies, including Hawaiian Electric, Hawaii Gas, Aloha Petroleum and Island Energy Services, all charter tugs and barges would be subject to these new and unnecessary requirements. Additionally, several non-energy companies such as Hawaiian Cement, American Marine Corporation, and Aloha Marine Lines, who bring in building materials and supplies would be impacted.

We believe this bill is unnecessary and, we also ask the committee to clarify what it means for a non-stevedore company to be certified by the State's health and safety guidelines that are applicable to the mooring of vessels, which currently does not exist.

If the committee intends to move this measure forward, we request at minimum, the following by added to Section 3 and the opportunity for stakeholders to continue in this discussion.

SECTION 3. The provisions of this Act shall be enforced to the extent they are not held to conflict with any federal or state constitutional provision, law, rules, or regulations. The provisions of this Act are not severable and if any provision of the Act, or the application thereof to any person or circumstance is held to conflict with any federal or state constitutional provision, law, rule, or regulation, this Act, in its entirety, shall be invalid and section 266-2, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the approval of this Act[.]; provided further that this Act shall not apply to tug operators regulated by the United States Coast Guard and who are signatory to a collective bargaining agreement.

Mahalo,

Eric Wright
President
Par Hawaii



Board of Directors

Robert Hood

President

Aloha Petroleum LLC

Al Chee

*Vice President &
Secretary/Treasurer*

Island Energy Services, LLC

Casie Bui

Second Vice President
Aloha Petroleum LLC

Eric Wright

Immediate Past President
Par Hawaii

Kimo Haynes

Hawaii Petroleum, LLC

Alec McBarnet

Maui Oil Petroleum, LLC

Annie Marszal

Lahaina Petroleum

Jon Mauer

Island Energy Services, LLC

Paul Oliveira

Maui Oil Company, Inc.

John Peyton

Par Hawaii

Steve Wetter

Hawaii Petroleum, LLC

Testimony of Bob Hood

President of the Hawaii Energy Marketers Association (HEMA)

TESTIMONY IN OPPOSITION TO SENATE BILL 2746, SD1

Senate Committee on Ways and Means

The Honorable Donovan M. Dela Cruz, Chair

The Honorable Sharon Y. Moriwaki, Vice Chair

February 22, 2024 @ 10:05 AM

Conference Room 211

Hawaii State Capitol; 415 South Beretania Street

Aloha Chair Dela Cruz, Vice Chair Moriwaki, and Members of the Committee:

I am Bob Hood, President of the Hawaii Energy Marketers Association (HEMA). HEMA is a nonprofit trade association comprised of members who market motor fuel products and operate convenience stores across the state. In addition, some of its members also contract with marine transportation companies for its safe, reliable and cost-effective transportation of fuel products to the Neighbor-Islands.

HEMA **OPPOSES** SB 2746, SD1 Relating to Harbor Safety.

The proposed legislation is based on a misleading premise that suggests a need for safe harbor operations. However, highly-trained, certified, and U.S Coast Guard licensed tug and barge operators are already in place. These professionals have been safely securing cargo vessels at docks in Hawaii's harbors for many decades.

We are not aware of any safety incidents related to the securing of dock lines in Hawaii. These operators are experts in their field and transport approximately 12.8 million tons of cargo to Hawaii's neighboring islands each year. This includes essential fuel provided by HEMA's members. Therefore, the existing operators have proven their professionalism and capability in ensuring safe harbor operations.

Furthermore, Hawaii's Neighbor-Island barging operations are highly coordinated to keep fuel flowing to these communities. This requires the vessels to be operated efficiently and with little downtime. Requiring stevedoring services would lead to yet further additional scheduling complexities that will inevitably result in disruptions in delivery for HEMA's essential products, in addition to other essential commodities for Hawaii.

Finally, this proposed legislation will meaningfully increase the Neighbor Island logistics costs, which will lead to higher prices for the Neighbor Island residents.

Enacting SB 2746, SD1 would generate: (i) unnecessary state-mandated overstaffing, (ii) delays in delivery of commodities that may even lead to product outages, and (iii) significant additional barging costs that would inevitably be passed to the Neighbor Island residents.

It should also be noted that this proposed legislation would further compound the challenges of rebuilding on Maui, which is already facing supply-chain constraints and escalating costs.

We urge the committee's deferral of SB 2746, SD1. Thank you for allowing us to share our concerns.



SAUSE BROS.

499 N. NIMITZ HWY, PIER 21 • HONOLULU, HI 96817
TELEPHONE: (808) 521-5082 • WWW.SAUSE.COM

February 21, 2024

**TESTIMONY PROVIDING COMMENTS TO SENATE BILL 2746
RELATING TO HARBOR SAFETY**

Senate Committee on Ways and Means
The Honorable Donovan M. Dela Cruz, Chair
The Honorable Sharon Y. Moriwaki, Vice Chair

Thursday, February 22, 2024, 10:05 AM
Conference Room 224
State Capitol 415 South Beretania Street

Chair Dela Cruz, Vice Chair Moriwaki and members of the Committee,

Sause Bros. offers the following comments regarding how SB2746 will negatively impact operations throughout Hawaii.

For the past 58 years, Sause Bros. has maintained a local office and operations in Hawaii. Our union mariners are licensed, highly trained and have the greatest level of experience in the industry which is evidenced by operating safely and efficiently in Hawaii for over five (5) decades. Requiring mooring lines handlers who are not familiar with our specialized equipment provides no value-added safety benefit to our operations.

Additionally, scheduling barges in Hawaii's congested harbors is a difficult task due to the countless arrivals and departures per month throughout the State. Attempting to schedule around mooring line handler availability in conjunction with dynamic resupply schedules and weather events, particularly on neighbor islands, will be a challenging endeavor.

Thank you for allowing us to share our concerns.

Blaine Gemeno
Vice President
Sause Bros., Inc.



**Testimony to
The Committee on Ways and Means**

**Thursday, February 22, 2024
10:05 AM
Conference Room 211 & VIA videoconference
Hawaii State Capitol**

SB 2746 SD1

Chair Dela Cruz, Vice Chair Moriwaki, and members of the committee,

Hawaii Gas offers comments on SB 2746 SD1, which requires that the securing of mooring lines from vessels requiring tug assistance to commercial docks, wharves, piers, quays, and landings be performed by a stevedoring company. Defines “stevedoring company”.

Since 1904, Hawaii Gas has been a pioneer in the gas industry. Hawaii Gas is again at the leading edge of our industry given our integration of both renewable natural gas (RNG) and hydrogen into our fuel supply mix and distributing it through our utility pipeline system. Hawaii Gas plays a vital role in Hawaii’s energy portfolio by providing clean, reliable, and cost-effective energy to over 70,000 customers on all islands, all of whom depend on the company for water heating, cooking, drying, and other commercial and industrial applications. The company employs some 350 professionals, over 75% of whom are under collective bargaining.

Hawaii Gas has concerns that this bill would create additional costs and cause unnecessary delays of critical energy resources to our customers. Hawaii Gas has utilized Sause Brothers for over twenty years to perform towing services for delivery of essential fuel that provides reliable and resilient energy to our customers. For decades, the union-represented workforce of Sause Brothers has secured our vessels safely at the dock and has coordinated harbor access with DOT-Harbors. The crew members are trained and licensed to carry out these duties through a rigorous US Coast Guard regulated testing and licensing program. The current process has a proven track record for both safety and energy security.

Additionally, scheduling barges in Hawaii’s congested harbors is a difficult task due to the countless arrivals and departures per month throughout the State. Attempting to schedule around line handler availability in conjunction with dynamic resupply schedules and weather events, particularly on neighboring islands, will be a challenging endeavor.

We respectfully request consideration for an amendment that provides that this bill not apply to tug operators who are regulated by the Coast Guard and who are signatory to a collective bargaining agreement.

Thank you for the opportunity to testify.

Hawai'i Cost of Living Coalition

A coalition of Hawai'i businesses and organizations committed to building resilience in our island home

Members

Aloha Marine Lines

American Marine Corporation

Building Industry Association of Hawaii

Chamber of Commerce of Hawaii

Kapolei Chamber of Commerce

Kona-Kohala Chamber of Commerce

Maui Chamber of Commerce

Construction Industry of Maui

Contractors Association of Kauai

General Contractors Association of Hawaii

Hawaii Fueling Facilities Corporation

Hawaiian Cement

Island Energy Services

Island Plastic Bags

Par Hawaii

Retail Merchants of Hawaii

Sause Bros.

February 22, 2024

OPPOSITION TO SB 2746 SD1 RELATING TO HARBOR SAFETY

Senate Committee on Ways and Means
The Honorable Donovan M. Dela Cruz, Chair
The Honorable Sharon Y. Moriwaki, Vice Chair

Thursday, February 22, 2024, 10:05 AM

Conference Room 211

Hawaii State Capitol, 415 South Beretania Street

Chair Dela Cruz, Vice Chair Moriwaki, and members of the Committee,

Thank you for the opportunity to provide testimony in opposition to SB 2746 SD1, Relating to Harbor Safety.

This proposed bill is based on a faulty, misleading premise. Trained tug operators have safely secured vessels at docks in Hawaii's harbors for decades. Statewide, there is an average 12.8 million tons of marine cargo annually, and the industry has not experienced concerning safety incidents with securing mooring lines. Those who operate in these harbors undergo extensive training and must meet certain requirements to be authorized. No one is allowed to work in these positions without this authorization and this has maintained the high safety standards at the harbors.

The proposed bill also has serious unintended financial ramifications for the entire state. Being forced by law to use a stevedoring company may benefit that company and those members but comes at cost for the rest of us. It would add more significant cost to the existing barge operations with no appreciable benefit to existing tug assistance operators. Ultimately, these costs will end up in higher costs for local goods and services for Hawaii residents.

This is particularly troubling for those on Maui, which is already facing supply-chain challenges to rebuild Lahaina. The unnecessary shipping costs added for building materials and supplies must be borne by other Hawaii businesses and, ultimately, by consumers and taxpayers, many of whom are already struggling with inflationary prices on top of Hawai'i's high cost of living.

We urge the committee's deferral of SB 2746 SD1. Thank you for allowing us to share our concerns.

Mahalo,

Hawaii Cost of Living Coalition



LOCAL 142

February 21, 2024

The Thirty-Second Legislature
Regular Session of 2024

THE SENATE

Committee on Ways and Means

Senator Donovan M. Dela Cruz, Chair
Senator Sharon Y. Moriwaki, Vice Chair

STATEMENT OF THE ILWU LOCAL 142 IN STRONG SUPPORT OF SB 2746 SD1 RELATING TO HARBOR SAFETY

On behalf of the International Longshore and Warehouse Union Local 142, I am writing to express my **STRONG SUPPORT** for Senate Bill 2746, which aims to enhance harbor safety and mooring operations in Hawai'i. As the President of ILWU Local 142 and a stevedore with 25 years of experience in our state harbors, I have a deep understanding of the unique challenges and essential role they play in our island community.

The legislative findings in SB2746 accurately recognize Hawaii's unique position as the most remote island chain in the world. Our harbor system serves as a vital lifeline for 98% of all goods arriving in Hawai'i.

SB2746 proposes a responsible solution by mandating the involvement of Hawaii-based, safety-certified stevedoring companies. These companies employ highly skilled, experienced local longshore workers who possess the intimate knowledge of Hawaiian waters and mooring practices crucial for minimizing accidents and ensuring optimal safety. As with any stevedoring job, mooring operations carry significant risks, and accidents can have devastating consequences, even death.

SB2746 strikes a commendable balance with oversight by the DOT and recognition of the existing competence of PUC-regulated shipping carriers. These carriers will be permitted to continue using their certified and regularly recertified personnel, ensuring minimal disruption to operations.

I urge you to join me in supporting Senate Bill 2746. This legislation is critical for ensuring the safety and efficiency of our harbors and protecting our state's infrastructure.

Thank you for the opportunity to voice our support for SB 2746.

Christian West
President, ILWU Local 142



February 21, 2024

TO: HONORABLE DONOVAN M. DELA CRUZ, HONORABLE SHARON Y. MORIWAKI, VICE CHAIR, COMMITTEE ON WAYS AND MEANS

SUBJECT: **OPPOSITION TO S.B. 2746 SD1, RELATING TO HARBOR SAFETY.**
Requires that the securing of mooring lines from vessels requiring tug assistance to commercial docks, wharves, piers, quays, and landings be performed by a stevedoring company. Defines "stevedoring company." Exempts, under certain circumstances, vessels operating on behalf of an authorized intrastate or transpacific water property carrier holding a certificate of public convenience and necessity issued under section 271G-10, HRS. Sunsets on 7/1/2028.

HEARING

DATE: Thursday, February 22, 2024
TIME: 10:05 a.m.
PLACE: Capitol Room 211

Dear Chair Dela Cruz, Vice Chair Moriwaki and Members of the Committee,

The General Contractors Association of Hawaii (GCA) is an organization comprised of approximately five hundred (500) general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is the largest construction association in the State of Hawaii. Our mission is to elevate Hawaii's construction industry and strengthen the foundation of our community.

GCA **OPPOSES** S.B. 2746 SD1, which requires that the securing of mooring lines from vessels requiring tug assistance to commercial docks, wharves, piers, quays, and landings be performed by a stevedoring company. Defines "stevedoring company." Exempts, under certain circumstances, vessels operating on behalf of an authorized intrastate or transpacific water property carrier holding a certificate of public convenience and necessity issued under section 271G-10, HRS. Sunsets on 7/1/2028.

Housing, homelessness, and the cost of living are three of the biggest issues facing the State. In fact, 41% of households in Hawaii are below the ALICE threshold. This measure would hinder progress to address the housing crisis and raise the cost of living for all residents, particularly those living on neighbor islands.

This measure is not necessary. GCA members already utilize fully trained unionized labor to handle the specific tug/barge operations unique to them and have a clean safety record when mooring and tending lines during their operations. The crews are fully trained and audited by the US Coast Guard and American Bureau of Shipping to safely handle mooring lines.



GENERAL
CONTRACTORS
ASSOCIATION
OF HAWAII

This measure will increase the cost of lumber, concrete, and the movement of construction equipment within the construction industry, with the neighbor islands seeing the highest increases in costs. We are also aware that fuel, gas, and electricity will also see an increase in price if this measure passes. This is a major concern for our members, especially those that may be involved in the rebuilding of Lahaina.

At a minimum, annual cement costs on Maui alone are expected to increase by at least \$268,000 (3%) in added passed through costs.

If the committee is inclined to move this measure we suggest amending the measure to specify that this Act shall not apply to tug operators regulated by the United States Coast Guard and who are signatory to a collective bargaining agreement.

Thank you for the opportunity to provide testimony in opposition to this measure.

QUALITY PEOPLE. QUALITY PROJECTS



**International Union of Painters and Allied Trades
District Council 50**

TO THE SENATE COMMITTEE ON WAYS AND MEANS
THIRTY-SECOND LEGISLATURE
REGULAR SESSION OF 2024

**TIME/DATE: THURSDAY, FEBRUARY 22, 2024, 10:05 A.M.,
CONFERENCE ROOM 211 & VIA VIDEOCONFERENCE STATE CAPITOL**

**TESTIMONY IN SUPPORT OF SENATE BILL NO. 2746, S.D. 1, - "RELATING TO
RELATING TO HARBOR SAFETY."**

**TO CHAIR DELA CRUZ AND MEMBERS OF THE SENATE COMMITTEES ON WAYS
AND MEANS:**

The International Union of Painters and Allied Trades, District Council 50 (DC50), appreciates the opportunity to provide testimony in **SUPPORT** of Senate Bill No. 2746, S.D. 1 – "RELATING TO HARBOR SAFETY." My name is Lorna Woo, Director of Government Affairs, District Council 50. DC50 is an organization that represents five (5) local unions, the Painters, Local Union 1791; the Glaziers Architectural and Glass Metal Workers, Local Union 1889; the Carpet Linoleum and Soft Tile, Local Union 1926; the Drywall, Tapers Finishers, Local Union 1944 and the Pearl Harbor Metal Trades Specialty Workers, Local Union 1941 – approximately 2000 members statewide.

This measure will require that mooring lines from vessels requiring tug assistance be secured by a stevedoring company. We support this measure because it will increase safety at Hawaii's harbors as well as encourage the employment of skilled and experienced local longshore workers across the state.

We therefore urge your passage of this measure and thank you again for this opportunity to voice our **SUPPORT** for Senate Bill No. 2746, S.D. 1.

2240 Young Street
Honolulu, HI 96826

Phone
808.941.0991

Fax
808.955.9091

Email
info@dc50.org

Website
www.dc50.org

PAINTERS
808.941.0991

GLAZIERS,
ARCHITECTURAL
METAL AND
GLASSWORKERS
808.946.3329

CARPET, LINOLEUM
AND SOFT TILE
808.942.3988

DRYWALL TAPERS,
FINISHERS
808.946.6621

CONTRACTORS ASSOCIATION OF KAUAI

4231 Ahukini Road • Lihu'e, Kaua'i, Hawai'i 96766
Phone: (808) 246-2662 • Fax: (808) 246-8642



February 21, 2024

TESTIMONY OPPOSITION TO SB 2746 RELATING TO HARBOR SAFETY

LATE

Senate Committee on Ways and Means
The Honorable Donovan Dela Cruz, Chair
The Honorable Sharon Moriwaki, Vice Chair

February 22, 2024 @ 10:05 AM
Conference Room 211
State Capitol 415 South Beretania Street

Chair Dela Cruz, Vice Chair Moriwaki, and members of the Committee:

Thank you for the opportunity the Contractors Association of Kaua'i (CAK) is afforded to provide testimony in STRONG opposition to SB 2746, Relating to Harbor Safety.

The proposed bill has serious unintended financial ramifications for the entire state. Being forced by law to use a stevedoring company, supplemental to existing marine licensed and union negotiated company comes at a price for the consumers as well as the construction industry that our association represents. It will add significant cost to the existing barge operations with no appreciable benefit to existing tug assistance operators. Ultimately, these costs will end up in higher costs for local goods and services at a time when working families and retirees are struggling with Hawai'i's high cost of living.

The hundred member Contractors Association of Kaua'i (CAK) strongly urges the committee to defer SB 2746. Thank you for allowing us this opportunity to share our concerns.

Sincerely,
CONTRACTORS ASSOCIATION OF KAUAI

Karen Taketa,
Executive Director

Copy: The Honorable Senate President, Ronald D. Kouchi



February 22, 2024

**TESTIMONY IN OPPOSITION TO SB2746
RELATING TO HARBOR SAFETY**

Senate Committee on Ways and Means
The Honorable Donovan M. Dela Cruz, Chair
The Honorable Sharon Y. Moriwaki, Vice Chair

Thursday, February 22, 2024, 10:05 AM
Conference Room 224
State Capitol 415 South Beretania Street

Chair Dela Cruz, Vice Chair Moriwaki and members of the Committee,

Thank you for the opportunity to provide comments in **OPPOSITION** to **SB2746**, Relating to Harbor Safety.

American Marine Corporation (AMC) is critical water carrier in the State of Hawaii. SB 2746, if enacted: 1) will not increase harbor safety; 2) will increase the risk of a supply disruption particularly to the Neighbor-Islands; and 3) will lead to unnecessary added labor costs which will be passed onto the consumer through higher transportation costs.

AMC transports aggregate and other general cargo to and from the Neighbor Islands. AMC also tows the barge PUNAPAU for our customer Hawaiian Cement. We load cement at Barbers Point Harbor approximately every three days and transit to Kauai, Hawaii Island or Maui. We generally visit each island at least once per month, approximately 40 times annually. Thereby ensuring there is a consistent and reliable delivery of cement to the Neighbor Islands. It's a demanding schedule that requires our tug to be on the move essentially all of the time, around the clock, and in coordination with all harbors.

For decades, the union-represented workforce of AMC has secured our tugs and barges safely at the dock and has coordinated harbor access with DOT-Harbors. The crew members are **trained and licensed** to carry out these duties through a rigorous US Coast Guard testing and licensing program. If the tug and barge crew and DOT-Harbors are not in-sync, delivery will be delayed.

Because our tugs and barges do not have scheduled downtime, the schedule changes frequently (can be multiple times per week) as a result of inclement weather conditions or because of loading or discharge operations.

If AMC is required to use a stevedoring company to tie up the tug and barge, Neighbor-Island **resupply of critical construction cargo and cement would become subject to the schedule and availability of stevedoring personnel.** This will lead to delays in resupply and would meaningfully increase the risk of delay to construction projects on the Neighbor-Islands.

AMC would not be the only party impacted by this legislation. Other companies, including Hawaiian Cement, Par, Hawaiian Electric, Hawaii Gas, Aloha Petroleum, Island Energy Services, Sause Bros. and Aloha Marine Lines all charter tugs and or barges would be subject to these new and unnecessary requirements.

We believe this bill is unnecessary and, we also ask the committee to clarify what it means for a non-stevedore company to be certified by the State's health and safety guidelines that are applicable to the mooring of vessels, which currently does not exist.

If the committee intends to move this measure forward, we request at minimum, the following be added to Section 3 and the opportunity for stakeholders to continue in this discussion.

SECTION 3. The provisions of this Act shall be enforced to the extent they are not held to conflict with any federal or state constitutional provision, law, rules, or regulations. The provisions of this Act are not severable and if any provision of the Act, or the application thereof to any person or circumstance is held to conflict with any federal or state constitutional provision, law, rule, or regulation, this Act, in its entirety, shall be invalid and section 266-2, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the approval of this Act[.] ; provided further that this Act shall not apply to tug operators regulated by the United States Coast Guard and who are signatory to a collective bargaining agreement.

Mahalo,



Michael MacDonald
Vice President
American Marine Corporation



LATE

**SENATE COMMITTEE ON WAYS & MEANS
State Capitol
415 South Beretania Street
10:05 AM**

FEBRUARY 22, 2023

RE: SB 2746 - RELATING TO HARBOR SAFETY

Chair Dela Cruz, Vice Chair Moriwaki, 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 regarding SB 2746, Relating to Harbor Safety. This bill would require that the securing of mooring lines from vessels requiring tug assistance to commercial docks, wharves, piers, quays, and landings be performed by a stevedoring company, defines "stevedoring company", exempts, under certain circumstances, vessels operating on behalf of an authorized intrastate or transpacific water property carrier holding a certificate of public convenience and necessity issued under section 271G-10, HRS.

BIA Hawaii is concerned about the possible unintended consequence of this bill raising the cost of housing in Hawaii. Adding an additional layer of cost onto shipping would raise the cost of building materials, which could in turn further raise the already-high cost of construction.

The state of Hawaii is in a dire housing crisis. As the Legislature is aware, the cost of housing in Hawaii is extremely high, and out of touch for many kama`aina. 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 appreciate the opportunity to share our comments.

LATE

SB-2746-SD-1

Submitted on: 2/21/2024 2:26:02 PM

Testimony for WAM on 2/22/2024 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Jim Gomes	Testifying for Hawaiian Cement	Oppose	Written Testimony Only

Comments:

February 22, 2024

SUBJECT: TESTIMONY IN OPPOSITION TO SB 2746, RELATING TO HARBOR SAFETY

Senate Committee on Ways and Means
The Honorable Donovan M. Dela Cruz, Chair
The Honorable Sharon Y. Moriwaki, Vice Chair

February 22, 2024 @ 10:05 AM
Conference Room 211
State Capitol 415 South Beretania Street

Chair Dela Cruz, Vice Chair Moriwaki, and members of the Committee,

Hawaiian Cement has provided cement (a critical component for making concrete) throughout the State of Hawaii since 1962. And since 1981, we have delivered cement to four Neighbor Island Cement Terminals using our specialized 184-foot barge called the "Punapau." For over 40 years, our local Unionized labor workforce working with our Unionized Tug Operator, American Marine, have safely and effectively moored our own lines without incident. We are a fully trained and "well-versed" barge crew team who follow stringent company and maritime standard operating procedures to ensure the safe handling of all aspects of our barge operation to include mooring our lines. As a joint team, we have experienced a clean safety record when mooring and "tending" lines during our operations. Our relationship provides us the flexibility required to manage what is often a challenging delivery schedule as Neighbor Island concrete construction needs are fluid. SB 2746 would impact those efficiencies while also raising the cost for our Neighbor Islands customers.

Conservatively the Neighbor Island Construction industry would incur an additional \$7/ton or \$806,400 (3% increase) in added passed through costs annually. I want to caveat these additional costs do not include potential additional charges associated with detention, emergency call outs, delays, and/or standby time.

Terminal Location	Potential Construction Industry 2024 Annual Cost Increase
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Maui	\$268,800
Kawaihae	\$246,400
Nawiliwili	\$156,800
Hilo	\$134,400

Hawaiian Cement has a critical responsibility to the State's construction industry, and we are committed to providing high quality and affordable products while following Marine Industry Safety Polices and Regulations. No one knows our barge operation better than our crews. We take pride in running a safe and environmentally sound operation with dedicated Unionized employees. We do not support SB 2746 as it currently is written as our crews are fully trained to safely handle mooring lines. We instead recommend all marine tug and barge operators and mobile dry dock facilities operating within the State of Hawaii who have existing collective bargaining agreements be exempt from this Bill.

Mahalo,

Jim Gomes

VP of Operations

Hawaiian Cement



Chamber of Commerce HAWAII

The Voice of Business

**Testimony to the Senate Committee on Ways and Means
Thursday, February 22, 2024 at 10:05AM
Conference Room 211 & Videoconference**

RE: SB2746 SD1 Relating to Harbor Safety

LATE

Aloha Chair Dela Cruz, Vice Chair Moriwaki, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **has serious concerns** regarding **SB2746 SD1**, which requires the department to regulate the labor responsible for manning the mooring lines for certain vessels in state commercial ports.

The Chamber is wary of the negative consequences for the maritime industry in Hawaii if this measure is to be enacted. Mandating the use of a specific stevedoring company would limit competition and potentially drive-up costs for businesses in the industry. This could lead to a decrease in business and ultimately harm the economy.

There are concerns about the practicality of this proposed requirement. There are a limited number of existing, operational stevedoring companies operating within the State, and mandating that vessels use one of these companies could create logistical challenges and delays for both the vessels and the stevedoring companies. This could lead to increased costs for businesses, as they would need to allocate more resources to navigate these challenges.

If enacted, this measure would imply widespread issues in our energy supply chain and ultimately increase costs for businesses, which would in turn lead to increased costs to the consumers in Hawaii. It could also lead to a shortage of a wide range of goods that are vitally important to our economy and are transported across all neighbor islands.

For the above concerns and unintended consequences of this bill, we ask this committee to defer SB2746 SD1.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 2,000+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

Thank you for this opportunity to testify.



MAUI
CHAMBER OF COMMERCE
VOICE OF BUSINESS

LATE

**HEARING BEFORE THE SENATE COMMITTEE ON
WAYS AND MEANS
HAWAII STATE CAPITOL, SENATE CONFERENCE ROOM 225
Thursday, February 22, 2024, 10:05 A.M.**

To The Honorable Senator Donovan M. Dela Cruz, Chair
The Honorable Senator Sharon Y. Moriwaki, Vice Chair
Members of the committee on Ways and Means

OPPOSE SB2746 RELATING TO HARBOR SAFETY

The Maui Chamber of Commerce **OPPOSES SB2746** which requires that the securing of mooring lines from vessels requiring tug assistance to commercial docks, wharves, piers, quays, and landings be performed by a stevedoring company, defines "stevedoring company," and exempts, under certain circumstances, vessels operating on behalf of an authorized intrastate or transpacific water property carrier holding a certificate of public convenience and necessity issued under section 271G-10, HRS.

The Chamber notes that trained, U.S Coast Guard licensed barge operators have safely secured vessels at docks in Hawaii's harbors for decades. Statewide, there is an average 12.8 million tons of marine cargo annually, and the industry has not experienced concerning safety incidents with securing mooring lines. Those who operate in these harbors undergo extensive training and must meet certain requirements to be authorized. No one is allowed to work in these positions without this authorization and this has maintained the high safety standards at the harbors. If anyone feels there have been safety issues, particularly in Hawaii, we feel they should submit a 5-year review of Hawaii operations before such legislation is considered.

Further, those most concerned with the safety of the ship and the crew would be the boat owners and they seem to be fine with how everything is working now.

The proposed bill also has serious unintended financial ramifications for the entire state. Being forced by law to use a stevedoring company, supplemental to existing marine licensed and union negotiated company comes at cost for the rest of Hawaii's population. It would add more significant cost to the existing barge operations with no appreciable benefit to existing tug assistance operators. Ultimately, these costs will end up in higher costs for local goods and services for Hawaii residents.



MAUI

CHAMBER OF COMMERCE

VOICE OF BUSINESS

To The Honorable Senator Donovan M. Dela Cruz, Chair
The Honorable Senator Sharon Y. Moriwaki, Vice Chair
Members of the committee on Ways and Means
OPPOSE SB2746 RELATING TO HARBOR SAFETY
Page 2

This is particularly troubling for those of us here on Maui, which is already facing supply-chain challenges to rebuild Lahaina. The unnecessary shipping costs added for building materials and supplies must be borne by other Hawaii businesses and, ultimately, by consumers and taxpayers, many of whom are already struggling with inflationary prices on top of Hawaii's high cost of living.

For these reasons we **OPPOSE SB2746** and respectfully request that this bill be deferred.

Sincerely,

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.

LATE

February 22, 2024

TESTIMONY IN OPPOSITION TO SB2746 RELATING TO HARBOR SAFETY

Senate Committee on Ways and Means

The Honorable Donovan M. Dela Cruz, Chair

The Honorable Sharon Y. Moriwaki, Vice Chair

Thursday, February 22, 2024, 10:05 AM

Conference Room 224

State Capitol 415 South Beretania Street

Senator Donovan M. Dela Cruz, Chairman, Senator Sharon Y. Moriwaki, Vice Chair, and Members of the Committee:

Thank you for the opportunity to provide testimony in STRONG opposition to SB 2746, Relating to Harbor Safety.

The American Waterways Operators (AWO) is the tugboat, towboat and barge industry's advocate, resource, and united voice for safe, sustainable, and efficient transportation on America's waterways, oceans, and coasts. Our industry is the largest segment of the nation's 40,000-vessel domestic maritime fleet and moves 665 million tons of cargo each year safely and efficiently. AWO member companies move cargo both between the Hawaiian Islands and from the mainland to the state, which ranks number two in per capita jobs related to the domestic maritime industry, contributing over \$3.3 billion to the state's economy. AWO appreciates the opportunity to testify regarding SB 2746. This bill will unnecessarily raise the costs on Hawaiians by adding an unneeded step to be taken when tugs, including ship assist vessels, tie up their mooring lines.

AWO agrees wholeheartedly with the sentiment that Hawaii's ports and harbors are of the utmost importance, as they provide the most cost-effective way to get needed products to the state, including food, fuel, and other important necessities of everyday life. With regard to SB 2746, however, we believe that this bill will not improve safety at Hawaii ports and will instead simply increase the costs of goods for Hawaiians statewide.

The towing industry is proud of our safety record, and it's worth mentioning here that our industry has not experienced the sort of safety incidents this bill purports to address. If you know our industry, then that accomplishment should not surprise you. Our mode of transportation is the safest because we have asked the Coast Guard to create regulations for the tugboat and towboat industry. This was done to improve mariner safety, vessel safety, harbor safety, and improve customer service. This has also led to improvements in sustainability and environmental responsibility in our sector. Tugboats, towboats, and barges receive rigorous inspections on a regular basis, mariners onboard are credentialed by the U.S. Coast Guard, and require endorsements in order to serve in various roles, such as Master of Towing Vessels, Mate of Towing Vessels, and others. Moreover, men and women working on towing vessels undergo rigorous training, above and beyond the training found on uninspected fishing vessels, including navigation, towing operations, firefighting, and

pollution control. Additionally, regulated towing vessels are required to maintain health and safety plans. Finally, customers of the tugboat and towboat business often have strict guidelines for safety and performance in the movement of their products, further upping the standard of service in our industry. Given all of these federal requirements, added state requirements with regard to line handling are simply unnecessary.

As you think about the towing industry and our friends in commercial fishing, we would like to draw a distinction. Compare the towing-industry requirements to the most recent incident touted by proponents of SB 2746, where a fishing vessel struck a bridge in Honolulu Harbor. It is important to point out that when comparing safety requirements of fishing industry vessels to the tugboats operating on Hawaii waters, there is no comparison. The vast majority of fishing industry vessels are not inspected and are regulated only for general safety equipment and navigational safety requirements. There are no specific certifications required for individuals working on these vessels, and the training required pales in comparison to the requirements of Subchapter M, that portion of the Code of Federal Regulations pertaining to tugboats and towboats. Our industry invests in mariner training on an annual basis and the lack of incidents shows.

Hawaii ports are the most remote in the world and are a critical lifeline for goods needed by Hawaiians. As a result, the cost of living in Hawaii is among the highest in the United States. Requiring tugboat and barge crews to engage the use of line handlers is an unnecessary expense that will be passed onto consumers who should not have to bear it.

Thank you for your consideration. We would ask that you oppose SB 2746.

Sincerely,
Peter Schrappen, CAE

Vice President – Pacific Region
American Waterways Operators

SB-2746-SD-1

Submitted on: 2/19/2024 5:59:45 PM

Testimony for WAM on 2/22/2024 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
B. Hansen	Individual	Support	Written Testimony Only

Comments:

Strong SUPPORT for SB2746! Harbor Safety & Transparency. As islanders, we depend on safe and secure ports. This bill sets training & oversight standards for critical infrastructure. Mahalo!

SB-2746-SD-1

Submitted on: 2/20/2024 10:33:24 AM

Testimony for WAM on 2/22/2024 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Collin Mansanas	Individual	Support	Written Testimony Only

Comments:

I strongly support SB2746, mahalo

SB-2746-SD-1

Submitted on: 2/20/2024 10:34:59 AM

Testimony for WAM on 2/22/2024 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Lyle Nicely	Individual	Support	Written Testimony Only

Comments:

I strongly support SB2746.

SB-2746-SD-1

Submitted on: 2/20/2024 10:43:27 AM

Testimony for WAM on 2/22/2024 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Sam	Individual	Support	Written Testimony Only

Comments:

I am i Full support for SB 2746

SB-2746-SD-1

Submitted on: 2/20/2024 10:52:30 AM

Testimony for WAM on 2/22/2024 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
David Maeva	Individual	Support	Written Testimony Only

Comments:

I am in strong support of this bill. It supports local labor and families

SB-2746-SD-1

Submitted on: 2/20/2024 11:02:55 AM

Testimony for WAM on 2/22/2024 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Ronny De Reis	Individual	Support	Written Testimony Only

Comments:

I strongly support this bill and the experienced stevedores.

SB-2746-SD-1

Submitted on: 2/20/2024 11:25:28 AM

Testimony for WAM on 2/22/2024 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Mike Sur	Individual	Support	Written Testimony Only

Comments:

<http://Strong support>

SB-2746-SD-1

Submitted on: 2/20/2024 11:35:10 AM

Testimony for WAM on 2/22/2024 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Matthew Coleman	Individual	Support	Written Testimony Only

Comments:

I'm in **support** of this bill, it's crucial to have a professional **Stevedoring Company** handling the Mooring lines for safety purposes.

SB-2746-SD-1

Submitted on: 2/20/2024 11:40:20 AM

Testimony for WAM on 2/22/2024 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Maui Wolfgramm	Individual	Support	Written Testimony Only

Comments:

I strongly support SB2746 and believe it to an extremely important step in the right direction for the safety and wellbeing of all individuals and groups of whom this bill will help, and will have no negative effects on the economy of Hawaii.

SB-2746-SD-1

Submitted on: 2/20/2024 11:55:27 AM

Testimony for WAM on 2/22/2024 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Shannon	Individual	Support	Written Testimony Only

Comments:

Harbor (safety) is a key part of our daily duties as a longshoremen / Linesman-Coopers. It is my job to be sure that I am doing my job and no-one else.

SB-2746-SD-1

Submitted on: 2/20/2024 1:06:16 PM

Testimony for WAM on 2/22/2024 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
J White	Individual	Support	Written Testimony Only

Comments:

I stand in Strong Support of SB2746 SD1

SB-2746-SD-1

Submitted on: 2/20/2024 3:06:05 PM

Testimony for WAM on 2/22/2024 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Nathan Dudoit	Individual	Support	Written Testimony Only

Comments:

I strongly urge our legislators to pass SB2746 as amended. It provides a win-win for stakeholders, the State of Hawaii and their working families.

Mahalo