

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LIEUTENANT GOVERNOR



JADE T. BUTAY
DIRECTOR

WILLIAM G. KUNSTMAN
DEPUTY DIRECTOR

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

March 19, 2024

To: The Honorable Nicole E. Lowen, Chair,
The Honorable Elle Cochran, Vice Chair, and
Members of the House Committee on Energy & Environmental Protection

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

Date: Tuesday, March 19, 2024

Time: 9:50 a.m.

Place: Conference Room 325, State Capitol

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

Re: S.B. 3103 SD1 RELATING TO ENERGY

I. OVERVIEW OF PROPOSED LEGISLATION

The **DLIR strongly supports** this Governor's Package measure that requires an attestation or declaration regarding project labor standards for large-scale renewable energy projects. SB3103SD1 supports the intent of labor laws under the department's jurisdiction including apprenticeship, prevailing wages, workers' compensation, occupational safety and health, and employment discrimination.

SB3103SD1 will help ensure workers can earn a living wage and pursue a good career in Hawaii's renewable energy sector, a sector forecasted to grow to meet the State's renewable energy mandate by 2045. Moreover, Congress recently has passed legislation (Infrastructure Investment and Jobs Act, Inflation Reduction Act) that contain requirements and incentives involving prevailing wages and apprenticeship for renewable energy tax credits that if enacted this measure will facilitate.

Bolstering registered apprenticeship benefits employers by offering a cost-effective way for employers to train their employees while fostering worker productivity, loyalty and reliability. Apprenticeships also benefit workers, who can earn while they learn. Given that many people cannot afford to quit working to pursue training or education, apprenticeships can also help address inequities in the labor market.

In conclusion, SB3103SD1 supports adherence to bedrock labor standards and bolsters apprenticeship which is critical to ensuring Hawai'i's businesses and workers are equipped with the talent and skills needed to accomplish the State's visionary renewable mandate.



HAWAII STATE ENERGY OFFICE STATE OF HAWAII

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Testimony of
MARK B. GLICK, Chief Energy Officer

before the
**HOUSE COMMITTEES ON
ENERGY & ENVIRONMENTAL PROTECTION
AND
LABOR & GOVERNMENTAL OPERATIONS**

Tuesday, March 19, 2024
9:50 AM
State Capitol, Conference Room 325 & Videoconference

In Support with Amendments of
SB 3103, SD2

RELATING TO ENERGY.

Chairs Lowen and Matayoshi, Vice Chairs Cochran and Garrett, and members of the Committees, the Hawai'i State Energy Office (HSEO) supports with amendments SB 3103, SD2, an Administration bill which would establish labor standards for renewable energy projects one megawatt or larger.

This measure will help ensure workers can earn a living wage and pursue a good career in Hawai'i's utility renewable energy construction sector. To replace Hawai'i's aging fossil fuel infrastructure and achieve Hawai'i's 100% renewable energy mandate by 2045, a succession of large renewable energy projects will be needed over the next twenty (20) years. In addition, maintaining modernized and reliable renewable energy electric grids in Hawai'i will require the maintenance and replacement of utility energy projects for the foreseeable future.

Apprenticeships are entry level positions that provide the foundation for workforce growth and longevity. Developing a workforce through a registered apprenticeship program as required by this measure can build Hawai'i's long-term labor capacity by providing workers supervised on-the-job training (at lower rates than journey

workers) and diverse skills for all types of projects. Requiring use of registered apprentices with minimum labor standards that can increase the standard of work on critical energy infrastructure.

This measure can also support lower project costs through consistency with the maximum federal tax credits available for renewable energy projects under the Inflation Reduction Act (IRA) which require prevailing wages and apprenticeships; savings that can be passed down to Hawai'i ratepayers. Hawaiian Electric's most recent Stage 3 Request for Proposals gives preference to developers committing that eighty percent (80%) of the workforce during all periods of construction is paid at prevailing wage equivalent to that indicated in HRS 104 (Wages and Hours of Employees on Public Works).

HSEO has experience filing records for energy efficiency and renewable energy programs and has the capacity to keep the records (e.g., attestations, declarations) required by SB 3103, SD2, and would work with the Department of Labor and Industrial Relations (DLIR) on enforcement as needed under DLIR's statutory authorities.

After discussions with stakeholders, HSEO offers the following amendments for the Committee's consideration:

1. Page 3, Line 12: The person constructing a covered project, not the contractor, may be best suited to provide notice of compliance with this law.

(c) A [~~contractor~~] person constructing a covered project shall notify the purchaser of the project or the purchaser of the energy from the project of the existence of the signed attestation or declaration required pursuant to subsection (a).

2. Page 4, Line 13: The definition of "Construction" should be narrowed to exclude the fabrication or assembly of project materials occurring off-site, which could be in other states or countries. Options could be to limit "on-site" construction work to that within the State of Hawai'i, county in which the project is located, project tax map key(s), or project parcel street address(es). HSEO also believes "Construction" should not

include post-construction equipment testing and inspection which can be highly specialized and manufacturer specific.

~~[(h)]~~ (i) As used in this section:

“Construction” includes on-site ~~[and off-site]~~ construction and fabrication, shall exclude post-construction equipment testing or inspection, and shall be effective thirty days after project completion.

5. Page 5, Line 6: The measure should clarify “renewable energy” is defined under HRS 269-91 (Public Utilities Commission, Part V. Renewable Portfolio Standards).

“Renewable energy” means as defined under HRS 269-91.

HSEO notes the IRA includes a ‘good faith effort’ exception from its tax credit apprenticeship requirements.

HSEO acknowledges the concerns voiced over possible shortages of apprentices enrolled in, or graduated from, a registered apprenticeship program and welcomes further discussion to ensure adequate local labor capacity. Accordingly, there has been considerable collaborate efforts to support the growth of Hawai'i's registered apprenticeships programs, namely Good Jobs Hawai'i, the Hawai'i Clean Energy Sector Partnership, and other programs featuring HSEO, DLIR among others.

Thank you for the opportunity to testify.

Testimony of
Pacific Resource Partnership

House Committee On Energy & Environmental Protection
Representative Nicole E. Lowen, Chair
Representative Elle Cochran, Vice Chair

House Committee On Labor & Governmental Operations
Representative Scot Z. Matayoshi, Chair
Representative Andrew Takuya Garrett, Vice Chair

SB 3103 SD2—Relating To Renewable Energy
Tuesday, March 19, 2024
9:50 A.M.

Aloha Chairs Lowen and Matayoshi, Vice Chairs Cochran and Garrett, and Members of the Committees:

Pacific Resource Partnership (PRP) is a nonprofit organization that represents the Hawai'i Regional Council of Carpenters, the largest construction union in the state with approximately 6,000 members, in addition to more than 250 diverse contractors ranging from mom-and-pop owned businesses to national companies.

PRP writes in **strong support** to SB 3103 SD2, which requires attestation or declaration regarding project labor standards for large-scale renewable energy projects, including state-approved apprenticeship programs and prevailing wage requirements.

SB 3103 SD2 establishes labor standards for the construction of renewable energy projects, which will provide long-term career opportunities for Hawaii's residents and ensure that reputable contractors are building renewable energy projects within the State of Hawaii.

The prevailing wage requirement in SB 3103 SD2 will provide Hawaii's residents with an opportunity to earn a living wage with benefits to keep up with Hawaii's high cost of living. Prevailing wages help keep residents off welfare and other government assistance programs, stimulate Hawaii's economy, and provide economic stability for workers and their families.

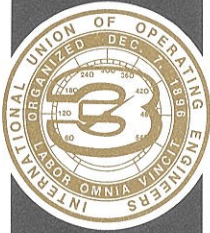
SB 3103 SD2 requires contractors and subcontractors working on a project to use apprentices enrolled in or graduated from a state-approved apprenticeship program. This requirement will provide valuable training opportunities to Hawaii's residents allowing them to pursue a long-term career path building renewable energy projects. These training programs will strengthen the overall skill levels of Hawaii's workforce to be compatible with the renewable energy industry, providing Hawaii with a workforce that can help meet its clean energy goals.



(Continued From Page 1)

SB 3103 SD2 also includes provisions requiring contractors and subcontractors to demonstrate a history of compliance with labor laws and building codes. These provisions are important to ensure that contractors play by the rules and do not take advantage of workers and evade laws that protect the public.

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



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

March 13, 2024

Honorable, Nicole E. Lowen, Committee on Energy & Environmental Protection, Chair
Honorable Members of the House Committee on Energy & Environmental Protection
Honorable, Scot Z. Matayoshi, Committee on Labor & Government Operations, Chair
Honorable Members of the House Committee on Labor & Government Operations

RE: SB 3103 SD2 RELATING TO ENERGY

Chair Lowen and Chair Matayoshi,

My name is Ana Tuiasosopo. I am the District Representative and Trustee for Operating Engineers Local 3. We are the largest Construction Trades Local in the United States. **I and the members of Operating Engineers Local 3 support SB 3103 SD2**, requiring attestation or declaration regarding project labor standards for large-scale renewable energy projects, including state-approved apprenticeship programs and prevailing wage requirements.

The prevailing wage requirement in SB 3103 SD2 will provide Hawaii's residents with an opportunity to earn a living wage with benefits to keep up with Hawaii's high cost of living. Prevailing wages help keep residents off welfare and other government assistance programs, stimulate Hawaii's economy, and provide economic stability for workers and their families.

It also requires contractors and subcontractors working on a project to use apprentices enrolled in or graduated from a state-approved apprenticeship program. This requirement will provide valuable training opportunities to Hawaii's residents allowing them to pursue a long-term career path building renewable energy projects. These training programs will strengthen the overall skill levels of Hawaii's workforce to be compatible with the renewable energy industry, providing Hawaii with a workforce that can help meet its clean energy goals.

Lastly, SB 3103 SD1 also includes provisions requiring contractors and subcontractors to demonstrate a history of compliance with labor laws and building codes. These provisions are important to ensure that contractors play by the rules and do not take advantage of workers and evade laws that protect the public.

We humbly ask for your support and approval of SB 3103 SD2.

Sincerely,

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

SB-3103-SD-2

Submitted on: 3/18/2024 8:04:39 AM

Testimony for EEP on 3/19/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Nathaniel Kinney	Hawaii Regional Council of Carpenters	Support	In Person

Comments:

HRCC is in support of this vital measure that ensures that renewable energy projects are built at the lowest possible cost for the utility rate-payers in the state of Hawaii.

We believe that the definition of "construction" should be amended to be defined as "includes on-site construction conducted on the tax map key(s) of the covered project and in-state fabrication, and shall exclude manufacturer-specific post-construction equipment testing or inspection".

We are opposed to any other amendments that we believe will drive up project costs that will be ultimately born by rate-payers of Hawaii.



**HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION
HOUSE COMMITTEE ON LABOR AND GOVERNMENT OPERATIONS**

March 19, 2024 at 9:50 AM
Conference Room 325

TESTIMONY IN SUPPORT OF SB 3103 SD2

Aloha Chair Lowen, Chair Matayoshi, and members of the Committees:

Blue Planet Foundation **supports SB 3103 SD2**, which provides good jobs in the deployment of large-scale renewable energy projects and promotes local workforce development, prevailing wages, social equity, and other benefits in Hawai'i's transition to a clean energy economy.

As Hawai'i continues to make progress towards its climate goals, including producing 100% renewable electricity by 2045 (Act 97 of 2015) and becoming carbon-negative by 2045 (Act 15 of 2018), there is a growing need to provide planning and funding to expand education, training, and workforce development in support of a clean energy future. Our state should prioritize the development of a local, skilled workforce with good-paying jobs in the areas of clean energy, energy efficiency, zero-emission vehicles, and other related industries.

Additionally, we must ensure a "just transition," so that Hawai'i workers currently employed in carbon-intensive jobs are given resources and opportunities to transition to careers that advance climate resiliency through livable wages, worker rights, and workplace safety. A just transition requires diversity, equity, and inclusion in our developing clean energy workforce. We see SB 3103 as a welcome step to provide assurance to the Department of Business and Economic Development that the electricity sector is committed to creating these types of jobs.

Climate change impacts—such as extreme weather events, human health effects, food and water insecurity, forced displacement, and other related risks—will have a disproportionate impact on economically disadvantaged communities and communities of color. SB 3103 helps to address social equity and uplift local workforce in our climate change mitigation and adaptation efforts, so that we can collectively create a more sustainable and resilient economic future where all of Hawai'i's people can thrive.

Thank you for the opportunity to provide testimony in support.



**Hawaiian
Electric**

**TESTIMONY BEFORE THE HOUSE COMMITTEES
ON ENERGY & ENVIRONMENTAL PROTECTION
AND LABOR & GOVERNMENT OPERATIONS**

**SB 3103, SD2
Relating to Energy**

Tuesday, March 19, 2024
9:50 AM
State Capitol, Conference Room 325

Rebecca Dayhuff Matsushima
VP, Resource Procurement
Hawaiian Electric

Dear Chair Lowen, Chair Matayoshi, Vice Chair Cochran, Vice Chair Garrett, and
Members of the Committees,

My name is Rebecca Dayhuff Matsushima and I am testifying on behalf of
Hawaiian Electric and offer comments on SB 3103, SD2, Relating to Energy.

SB 3103, SD2 proposes to amend HRS Chapter 196 to add a new section which
would require any person constructing a large-scale renewable energy project to
submit a signed attestation or declaration regarding project labor standards to the
Department of Business, Economic Development, and Tourism.

Hawaiian Electric understands the importance of encouraging the use of local
labor and payment of prevailing wages to support the sustainable development of
renewable energy projects in Hawai'i. To help with achieving this goal, Hawaiian
Electric incentivizes developers to work with contractors that utilize local labor and
prevailing wage rates through the Request for Proposals (RFP) process. Hawaiian
Electric also notes that renewable energy tax credits available under the Inflation
Reduction Act contain requirements and incentives for prevailing wages and

apprenticeships.

However, requiring contractors to meet all the compliance and reporting requirements proposed in this bill may deter bidders from participating in RFPs for large-scale renewable energy projects by introducing additional regulatory and administrative burdens. Additionally, we have concerns that this bill may leave Hawaiian Electric and its developers with no options to support the volume of projects required to meet our renewable energy and decarbonization goals. For example, Hawaiian Electric has approximately 16 large scale renewable energy projects selected from its Stage 3 procurement expecting to start construction sometime in 2025, as well as 12 community solar projects slated to start construction by 2025. This is in addition to 7 solar plus storage projects from Hawaiian Electric's Stage 1 and Stage 2 projects procurements currently in construction. Additionally, there are larger efforts across the state, such as rebuilding Lahaina, and a need for more housing, that will also stress the local labor pool. Hawaiian Electric is wary of any unintended negative consequences that implementing this bill might have on the renewable energy sector.

To remedy potential union labor shortages under this bill, Hawaiian Electric proposes amending the bill by adding an exception to the requirements of subsection (a), on Page 4, Line 6:

(h) If persons under subsection (a) are unable or unwilling to meet the requirements set forth in subsection (a), and enforcing such requirements will prevent the completion of work in accordance with an existing or new contract, and all reasonable attempts have been made to procure persons who are able and willing to meet the requirements of subsection (a), then the entity completing the work may be exempt from the requirements of subsection (a).....

(h) (i) As used....

This exception process provides a path for the hiring of project labor, which would otherwise not meet the requirements of the proposed section 1 of Chapter 196, HRS, only if it is determined union labor could not meet the contractual deadlines in such projects.

In summary, while Hawaiian Electric fully encourages the use of local labor and payment of prevailing wages for renewable energy projects and has maintained preferences for the same in its RFPs, it is concerned this bill could adversely affect the development of renewable energy projects in Hawai'i, should an exception process not be added.

Thank you for this opportunity to comment on SB 3103, SD2.



March 19, 2024

TO: Chair Nicole E. Lowen
Vice Chair Elle Cochran
Members of the Committee on Energy and Environmental Protection

Chair Scot Z. Matayoshi
Vice Chair Andrew Takuya Garrett
Members of the Committee on Labor & Government Operations

FR: Noelani Derrickson
Public Policy & Business Development

RE: SB3103 SD2 Relating to Energy. - **COMMENTS**

Aloha Chair Lowen, Chair Matayoshi, Vice Chair Cochran, Vice Chair Garrett, and Members of the Committees:

Thank you for the opportunity to provide testimony regarding SB3103 SD2.

Tesla respectfully proposes amendments for SB3103 SD2 to better align the current bill language with federal labor requirements recently added in the Inflation Reduction Act (IRA) for large energy projects. As such, projects in compliance with the IRA may be unable to be built in Hawaii due to the additional obligations in SB3103 SD2. Importantly, the bill includes an overly expansive definition of what qualifies as contractors doing construction work, resulting in nearly any type of work being done on or off-site for a large energy project to qualify under its requirements.

We offer several amendments to improve and further clarify requirements in SB3103 SD2. The proposed amendments and rationale, found in the Appendix, include key recommendations to:

1. Limit "Construction" to only on-site work;
2. Exclude original equipment manufacturer inspecting and testing from definition of "Contractor"; and
3. Include "Good faith effort" provision similar to the federal Inflation Reduction Act.

Thank you,

Noelani Derrickson

APPENDIX

1. Limit “Construction” to only on-site work.

Suggested Language:

Section 1. §196 (b)

"Construction" includes on-site ~~and off-site~~ construction and fabrication and shall be effective thirty days after project completion.

Rationale: The proposed definition of construction is broad and exceeds standard definitions of construction work. It is problematic because it could create differentiated requirements between federal and state workforce obligations under the varied definitions of what constitutes construction work. Importantly, activities occurring off-site, whether they be off-site at a port, on another island, or out-of-state, are inappropriately captured in the proposed definition of construction.

2. Clarify “Contractor” does not include equipment inspection, testing, or commissioning.

Suggested Language:

Section 1. §196 (b)

"Contractor" means any person furnishing construction under a contract with any person, governmental contracting agency, general contractor, subcontractor, individual, partnership, firm, corporation, joint venture, or other legal entity, acting directly or through an agent, employee, consultant, corporate officer, or corporate director. Contractor does not include any person that inspects, tests, or commissions equipment on behalf of an original equipment manufacturer.

Rationale: Original equipment manufacturers, such as for a battery energy system or transformer, may offer inspection, testing, and commissioning of their provided equipment on site to ensure it is installed correctly and operating as specified. This work should not be considered construction, regardless of whether it is during construction or following construction.

3. Add a “good faith effort” clause directly from federal Inflation Reduction Act.

Suggested Language:

Section 1. §196 (a)

(1) Use apprentices enrolled in or graduated from an apprenticeship program pursuant to chapter 372;

(a) A person who constructs a covered project sited in the State shall be deemed to have satisfied the requirements under this paragraph if such

person has requested qualified apprentices from an apprenticeship program, and either:

- (i) **Such request has been denied, provided that such denial is not the result of refusal by the person or any contractors or subcontractors engaged in the performance of construction with respect to such covered project to comply with the established standards and requirements of the apprenticeship program, or**
- (ii) **The registered apprenticeship program fails to respond to such request within 5 business days after the date on which such registered apprenticeship program received such request;**

Rationale: The “good faith effort” clause, pulled directly from the federal [Inflation Reduction Act](#), most importantly prevents projects from being stalled or canceled due to lack of workforce availability or lack of responsiveness from apprenticeship programs. If no apprentices are available, a project should be informed and able to proceed with other qualified workforce options. If a project does not receive a response in a reasonable timeframe and has records of outreach, a project should be able to proceed without delays. Without instituting a “good faith effort” clause, a project could be indefinitely delayed or canceled if an apprenticeship program is either unable to provide the necessary workforce required or if the apprenticeship program fails to respond to the project’s request. For example, if an apprenticeship program is unresponsive for weeks or even months to a project’s request for available workers, S.B. 3103 provides no alternative path for continuing forward with the project. Notably, the federal IRA requires records and proof that a good faith effort was made. This can include official forms that are used to request apprentices, emails, faxes, or call records. Lastly, availability and responsiveness may or may not be an issue right now in Hawaii for covered projects, but could in the future, and Hawaii should appropriately prepare for this without necessitating a statute change.