



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

February 22, 2024

To: The Honorable Donovan M. Dela Cruz, Chair,  
The Honorable Sharon Y. Moriwaki, Vice Chair, and  
Members of the Senate Committee on Labor and Technology

Date: Thursday, February 22, 2024

Time: 9:46 a.m.

Place: Conference Room 211, State Capitol

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

**Re: S.B. 2351 SD1 RELATING TO WORKFORCE DEVELOPMENT**

**I. OVERVIEW OF PROPOSED LEGISLATION**

The **DLIR opposes** the SD1 of this measure and strongly prefers the original draft that proposes to amend Chapter 202, Hawaii Revised Statutes (HRS) to:

- Conform the law to the conflict-of-interest provisions and nomenclature found in the Workforce Innovation and Opportunity Act (WIOA) and corresponding federal regulations,
- Amend the workforce development board law to be consistent with the state budget and terminology used in the WIOA and Code of Federal Regulations, and
- Clarifies that the Governor selects the chairperson of the state workforce development board from among the private members.

The SD1 of this measure contains serious flaws and reflects a misunderstanding of the intent and purpose of the WIOA and related federal regulations including the governance structure and the Director's responsibility for the federal funds.

**II. CURRENT LAW**

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

20 CFR Part 679 Subpart A describes the purpose of the State Workforce Development Board is to advise the Governor in development and implementation

of a Unified State Plan for the WIOA and assist in achieving the State's strategic and operational vision and goals outlined in the plan, including service delivery to the Local Areas using WIOA formula funds.

The WIOA and related regulations found in 2 C.F.R part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards), 29 C.F.R. part 2900 and section 97.36, and 20 C.F.R. part 683 (Administrative Provisions Under Title I of the WIOA) and part 679 address conflicts of interest for non-federal entities and for recipients and subrecipients of federal awards under title I of the WIOA.

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

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

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

The DLIR opposes SB2351 SD1 as:

- SB2351 SD1 is contrary to the legislative intent for HRS 202 as approved by the Legislature in the General Appropriations Act of 2021.
- 202-5, HRS, already places the state board within the DLIR for administrative purposes and states it, "shall act in an advisory capacity to the governor."
- If the purpose of the measure is to conform the state workforce development board statute to the WIOA and related Code of Federal Regulations, then "workforce development council" should be replaced by "Hawaii workforce development board" and "council" replaced by "board" (C.F.R. Part 679 and WIOA Section 101) throughout Chapter 202, HRS.
- The proposed additional language in the new paragraph (3) of Section 202, HRS, (pg. 7, lines 18-21) does not conform to 20 C.F.R. 679.130.
- Act 57 (SLH, 2016) provided for a temporary exemption to the quorum requirement of Chapter 92 (Sunshine Law) as Act 57 expanded the membership of the board by 11 members. If the board is still having quorum challenges after eight years, then the Legislature should consider reducing

the membership of the board. Currently, the board is comprised of 41 members whereas the federal law only requires 33 members.

- The preamble states that the purpose of this measure is to clarify that the state board is administratively attached to the DLIR, which it already is pursuant to 202-5, HRS. Further, the preamble states the purpose of the measure is to transfer the board's program ID, appropriations, and positions are to be transferred from the Workforce Development Division. The WIOA and related CFR does not require a program ID, appropriations or positions for the state board. 20 CFR 679.160 states, "the State WDB may hire a director and other staff to assist in carrying out the functions described in WIOA sec. 101(d) and § 679.130...".
- The DLIR Director is the WIOA grant recipient and signatory to the conditions of the awards, which includes ensuring conformity with 2 C.F.R part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards), 29 C.F.R. part 2900 and section 97.36, and 20 C.F.R. part 683 (Administrative Provisions Under Title I of the WIOA) as described above in the II. Current Law section.



# IATSE LOCAL 665

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Thirty-Second Legislature, State of Hawai'i  
Regular Session of 2024  
Senate Committee on Ways and Means  
Senate Committee on Judiciary

Testimony by IATSE 665  
February 22nd, 2024

## **S.B. 2351 S.D. 1 - RELATING TO WORKFORCE DEVELOPMENT**

Aloha Chair Dela Cruz, Vice Chair Moriwaki, Chair Rhoads, Vice Chair Gabbard, and members of the Senate Committees,

My name is Tuia'ana Scanlan, International Trustee and president of IATSE Local 665, the union representing technicians in the entertainment industry in Hawai'i. **Local 665 supports SB 2351 SD1**, relating to workforce development.

The Workforce Innovation and Opportunities Act (WIOA) of 2014 is designed to help job seekers access employment, education, training, and support services to succeed in the labor market and to match employers with the skilled workers they need to compete in the global economy. WIOA requires that states establish a workforce development board to be a planning and policy advisor to the Governor on workforce issues. Additionally, these advisory boards are intended to serve as an informational "clearinghouse" for all workforce development programs in the state and were originally intended to be the primary architects of overall state workforce strategy. It is only when these, among other, milestones are met that the state of Hawai'i can continue to receive federal workforce development funds. By engaging all stakeholders, a fully funded state unified plan on workforce development can holistically prepare Hawai'i's job seekers to be competitive in the global market and positively impact the state's economy.

The goals of WIOA are both lofty and worthy. I've witnessed firsthand the dedication and professionalism of the Hawai'i Workforce Development Council in their journey towards achieving these goals. In order to do so, it is imperative that the WDC is autonomous and independent of other agencies. Without the ability to hold meetings, establish quorum, hire employees, or negotiate contracts, the chances of meeting these goals are unlikely. **IATSE 665 asks for your committees' support of SB 2351 SD1.** Thank you for the opportunity to testify.

In Solidarity,

Tuia'ana Scanlan  
International Trustee  
President, IATSE 665 (he/him/his)