



HAWAII STATE ENERGY OFFICE STATE OF HAWAII

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Testimony of
MARK B. GLICK, Chief Energy Officer

before the
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Thursday, March 28, 2024
2:00 PM
State Capitol, Conference Room 329 & Videoconference

In Support of
SB 3103, SD2, HD1

RELATING TO ENERGY.

Chair Nakashima, Vice Chair Sayama, and members of the Committee, the Hawai'i State Energy Office (HSEO) supports SB 3103, SD2, HD1, 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 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, HD1, and would work with the Department of Labor and Industrial Relations (DLIR) on enforcement as needed under DLIR's statutory authorities.

HSEO appreciates 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. Through Good Jobs Hawai'i, the Hawai'i Clean Energy Sector Partnership, and other efforts, HSEO, DLIR, and others are supporting the growth of Hawai'i's registered apprenticeships program.

Thank you for the opportunity to testify.

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
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
KA 'OIHANA PONO LIMAHANA

March 28, 2024

To: The Honorable Mark M. Nakashima, Chair,
The Honorable Jackson D. Sayama, Vice Chair, and
Members of the House Committee on Consumer Protection & Commerce

Date: Thursday, March 28, 2024
Time: 2:00 p.m.
Place: Conference Room 329, State Capitol

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

Re: S.B. 3103 SD1 HD1 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 HD1 supports the intent of labor laws under the department's jurisdiction including apprenticeship, prevailing wages, workers' compensation, occupational safety and health, and employment discrimination.

SB3103 SD1HD1 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, SB3103 SD1HD1 supports adherence to bedrock labor standards and bolsters apprenticeship which is critical to ensuring Hawaii's businesses and workers are equipped with the talent and skills needed to accomplish the State's visionary renewable mandate.

Testimony of
Pacific Resource Partnership

House Committee On Consumer Protection & Commerce
Representative Mark M. Nakashima, Chair
Representative Jackson D. Sayama, Vice Chair

SB 3103 SD2, HD1—Relating To Renewable Energy
Thursday, March 28, 2024
2:00 P.M.

Aloha Chair Nakashima, Vice Chair Sayama, and Members of the Committee:

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, HD1, 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, HD1 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, HD1 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, HD1 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.

SB 3103 SD2, HD1 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.



(Continued From Page 1)

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



**TESTIMONY BEFORE THE HOUSE COMMITTEE ON
CONSUMER PROTECTION & COMMERCE**

**SB 3103 SD2, HD1
Relating to Energy**

Thursday, March 28, 2024
2:00 PM
State Capitol, Conference Room 329

Greg Shimokawa
Director, Renewable Acquisition
Hawaiian Electric

Chair Nakashima, Vice Chair Sayama, and Members of the Committee,

My name is Greg Shimokawa and I am testifying on behalf of Hawaiian Electric and offer comments on SB 3103 SD2, HD1, Relating to Energy.

SB 3103 SD2, HD1 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. There is a risk of electric generation shortfall if these projects become delayed due to labor shortages. Generation shortfalls would result in rolling blackouts and interruptions in electric service for customers. 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, and negatively impact its customers, should an exception process not be added.

Thank you for this opportunity to comment on SB 3103 SD2, HD1.



LATE

March 28, 2024

TO: Chair Mark M. Nakashima
Vice Chair Jackson D. Sayama
Members of the Committee on Consumer Protection & Commerce

FR: Noelani Derrickson
Public Policy & Business Development

RE: SB3103 SD2 HD1 Relating to Energy. - **COMMENTS**

Thank you for the opportunity to provide testimony regarding SB3103 SD2 HD1.

Tesla respectfully proposes amendments for SB3103 SD2 HD1 to better align the current bill language with federal labor requirements recently added in the Inflation Reduction Act (IRA) for large energy projects and clarify what qualifies as construction work.

We offer several amendments to improve and further clarify requirements in SB3103 SD2 HD1. The proposed amendments and rationale, found in the Appendix, include key recommendations to:

1. Allow exclusion of equipment inspecting, testing, and commissioning to apply during construction from the definition of "construction";
2. Exclude original equipment manufacturer's commissioning equipment from the definition of "construction"; and
3. Allow the Department to provide "good faith effort" waivers, mirroring requirements in the federal Inflation Reduction Act.

Thank you,

Noelani Derrickson

APPENDIX

- 1. Allow exclusion of equipment inspecting, testing, and commissioning to apply during construction in the definition of “construction”.**

Suggested Language:

Section 1. §196 (b)

"Construction" includes on-site construction and fabrication, excludes ~~post-construction~~ equipment testing or inspection, and shall be effective thirty days after project completion.

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. Depending on the project design and construction schedule, equipment testing and commissioning on one area of the site or equipment may occur while other areas of the project or equipment are still under construction. As such, this exclusion should not be limited to only post-construction equipment testing, inspecting, or commissioning.

- 2. Exclude original equipment manufacturer commissioning of equipment from the definition of “construction”.**

Suggested Language:

Section 1. §196 (b)

"Construction" includes on-site construction and fabrication, excludes post-construction equipment testing or inspection or commissioning, and shall be effective thirty days after project completion.

Rationale: Similar to equipment testing and inspection, original equipment manufacturers facilitate work to commission equipment. Equipment commissioning is a distinct process and generally includes evaluating system performance and validating the system is ready to operate as designed. For example, a battery energy provider may test and inspect equipment many times before final equipment commissioning.

- 3. Allow the Department to provide “good faith effort” waivers, similar to the federal Inflation Reduction Act.**

Suggested Language:

Section 1. §196

(h) The Department may provide exemptions to covered projects if good faith effort documentation demonstrates inability to comply with subsection requirements.

Rationale: The federal [Inflation Reduction Act](#) includes a “good faith effort” clause which 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 or an ability for the Department to waive certain requirements, 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. While we appreciate that SB 3103 (b)(4) requires attestation of “a collated list of good faith effort documentation regarding use of apprentices”, it is important that the Department is also authorized to allow exemptions if a project can adequately demonstrate it has made a good faith effort regarding use of apprentices and has not been provided with the necessary workforce required for the project.

LATE

SB-3103-HD-1

Submitted on: 3/27/2024 4:26:59 PM

Testimony for CPC on 3/28/2024 2:00:00 PM

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

Comments:

HRCC is in support of this important measure which will ensure that alternative energy projects will be built at the lowest possible cost to the ratepayers in Hawaii.



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

LATE

March 28, 2024

Honorable, Mark M. Nakashima, House Committee on Consumer Protection and Commerce, Chair
Honorable, Jacson D. Sayama, House Committee on Consumer Protection and Commerce, Vice Chair
Honorable Members of the House Committee on Consumer Protection and Commerce

RE: SB 3103 SD2 HD1 RELATING TO ENERGY

Chair Nakashima,

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 HD1**, 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 HD1 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 HD1.

Sincerely,

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