



**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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March 16, 2015

To: The Honorable Gilbert S.C. Keith-Agaran, Chair,
The Honorable Maile S.L. Shimabukuro, Vice Chair, and
Members of the Senate Committee on Judiciary and Labor

Date: March 17, 2015
Time: 9:00 a.m.
Place: Conference Room 016, State Capitol

From: Elaine N. Young, Acting Director
Department of Labor and Industrial Relations (DLIR)

Re: H.B. No. 952, H.D. 2 Relating to Wages and Hours on Public Works Law

I. OVERVIEW OF PROPOSED LEGISLATION

Amends the Hawaii prevailing wage law provide confidentiality to complainants when asked. The DLIR strongly supports this Administrative proposal.

II. CURRENT LAW

There is no statutory requirement to maintain confidentiality of the identity of a person filing a complaint. The current custom and practice period for investigations is within three years from the date of filing a complaint with the DLIR.

III. COMMENTS ON THE HOUSE BILL

Under current practice, prevailing wage complaints filed with the DLIR generally require a review of up to three years of payroll records. In addition to the fading memories of witnesses, this three-year review period extends the time needed to investigate the time and payment records.

Extending confidentiality to the complainant from disclosure encourages the timely reporting of alleged prevailing wage violations by lessening concerns regarding employer retribution. The confidentiality will assist the DLIR in conducting a full investigation that can be supported in the instance of appeal.

The department notes that the Wage Standards Division (WSD) is one of the general funded programs that has not obtained any restoration in capacity since the 2009 Reduction-in-Force (RIF). Twice since the RIF (HB2766, 2012 and SB3039, 2014) the Legislature has deliberated on creating a public works special fund in recognition of the reduced capacity of the department to conduct timely Hawaii Revised Statutes chapter 104 investigations. Both measures perished in conference committee.

This measure, if enacted, will facilitate and make investigations easier because payroll and other records requiring review, including availability of witnesses, will cover a much shorter period of time (up to one year instead of three).

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GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

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March 17, 2015

TO: HONORABLE GILBERT KEITH-AGARAN, CHAIR, HONORABLE MAILE SHIMABUKURO, VICE CHAIR SENATE COMMITTEE ON JUDICIARY AND LABOR

SUBJECT: **COMMENTS REGARDING TO H.B. 952, H.D. 1, RELATING TO WAGE AND HOURS ON PUBLIC WORKS LAW.** Ensures confidentiality of a complainant in an investigation of wage and hour violations for public works projects. (HB952 HD2)

Hearing

DATE: Tuesday, March 17, 2015
TIME: 9:00 a.m.
PLACE: Conference Room 016

Dear Chair Keith-Agaran, Vice Chair Shimabukuro, and Members of the Committee,

The General Contractors Association of Hawaii (GCA) is an organization comprised of over hundred five hundred eighty (580) general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is the largest construction association in the State of Hawaii. The mission is to represent its members in all matters related to the construction industry, while improving the quality of construction and protecting the public interest.

Thank you for the opportunity to comment on H.B. 952, H.D. 2, Relating to Wages and Hours on Public Works Law. This measure currently prohibits the employer from knowing who the complainants are unless prior permission is provided by the complainant or witness, which is similar to language in governing Hawaii Industrial and Occupational Safety and Health.

The previous H.D. 1 version of the bill which included a provision to limit the time period in which a claimant can initiate a case for unpaid wages or overtime compensation to one year after the date of wages or overtime were due and payable appeared to make sense. The previous version of the measure would have limited the investigation period to one year preceding the filing of the written request.

While GCA appreciated the Department of Labor and Industrial Relation's ("Department") initial intent to limit the investigation period in an effort to narrow the scope of the potential violations in question, the current bill does not seem necessary as it only attempts to address the identity of the complainant. One would question whether it is fair to withhold information from the employer as to who the investigation may involve? Given that the employer must cooperate with any investigation, isn't it necessary for the employer to provide the proper files and information to the Department in order to assist in the investigation? Therefore, GCA finds that the proposed subsection (c) which would withhold who the complainants are -- may not be proper.

Thank you for this opportunity to present our views on this matter.



A'ohē hana nui ka alu'ia
"No Task Is Too Big When Done Together By All"

HAWAII BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO

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KIKA G. BUKOSKI
Executive Director

March 14, 2015

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Honorable Senator Gilbert Keith-Agaran, Chair
Honorable Senator Maile S.L. Shimabukuro, Vice Chair
Members of the Committee on Judiciary and Labor
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

RE: **IN SUPPORT** OF HB952, HD2 RELATING TO WAGE AND HOUR ON PUBLIC WORKS
LAW Hearing: Tuesday, March 17, 2015, 9:00 a.m. Conference Room 016

Honorable Chair, Vice Chair and Committee Members;

The Hawaii Building & Construction Trades Council, AFL-CIO (HBCTC) is a chartered member of the Building and Construction Trades Department, AFL-CIO which was first organized in 1908 and is comprised of 16 out of 17 construction trade unions with 386 state, local and provincial councils in the United States and Canada and an estimated 15,000 members locally. Our primary mission being to provide employment opportunities and living wages for many of Hawaii's working men and women in the construction industry.

The Council respectfully SUPPORTS HB952, HD2 which ensures confidentiality in an investigation of wage and hour violations for public works projects. The Department of Labor and Industrial Relations stated intent is to reduce the time to adjudicate a claim by encouraging claimants to file sooner.

A recent article (Honolulu Star Advertiser, Tuesday, February 10, 2015) reported that a Honolulu-based contractor was found in violation of wage and hour laws and ordered to pay \$305,000 in back wages and damages.

Also, in recent testimony provided by the Department of Labor and Industrial Relations on HB713, HD1 Relating to Contractors as heard on February 11, 2015, the Department voluntarily admits to a significant backlog in complaints related to prevailing wage law (chapter 104, HRS), and that quote..., "the AVERAGE" age of the pending 187 complaints is 688 days old."

HBCTC strongly supports provisions that strengthen the intent of Chapter 104, HRS by protecting the identities of those victims who report contractors that violate the law. Such protections will not only encourage claimants to come forward sooner without fear of retaliation or retribution by the employer, but also assist the Department in reducing the case time and backlog that currently exists.

Thank you for this opportunity to testify in SUPPORT OF HB952, HD2. Mahalo.