

UNITE HERE!

LOCAL 5 HAWAII

Eric Gill, Financial Secretary-Treasurer

Hernando Ramos Tan, President

Godfrey Maeshiro, Senior Vice-President

Tuesday, March 23, 2015

The Honorable Mark Nakashima, Chair
and Members
Committee on Labor & Public Employment
Hawaii State House of Representatives

TESTIMONY submitted on behalf of UNITE HERE! Local 5
Re: SB 1009, SD 1 Relating to Service Charges

Chair Nakashima and Members:

UNITE HERE Local 5 is a local labor organization representing 10,500 hotel, health care and food service workers employed throughout our State. We stand in strong support of SB 1009, SD 1 and ask for your Committee's support in advancing the measure.

SB 1009 is designed to amend HRS 481B-14 relating to hotel or restaurant charges to specifically include "portage" as an applicable service charge as outlined in the current statute.

In 2000, the Legislature found that service charges for the sale of "food or beverage" services shall be distributed directly to its employees as tip income. SB 1009 would simply treat "portage" in the same way as it is a service charge passed on to consumers for services rendered by employees.

Portage, like standard "food or beverage" service charges is a common charge passed on to guests.

We ask for the Committee's support in moving SB 1009, SD 1 forward.

Thank you.

The Twenty-Eighth Legislature
Regular Session of 2015

HOUSE OF REPRESENTATIVES
Committee on Labor & Public Employment
Rep. Mark M. Nakashima, Chair
Rep. Jarrett Keohokalole, Vice Chair
State Capitol, Conference Room 309
Tuesday, March 24, 2015; 9:45 a.m.

**STATEMENT OF THE ILWU LOCAL 142 ON S.B. 1009, SD1
RELATING TO SERVICE CHARGES**

The ILWU Local 142 supports S.B. 1009, SD1, which requires hotels to distribute portering service charges to employees in full or disclose to customers that the charges are being used for other purposes.

A plain definition of “portering” is, as stated in the bill, “the act of moving luggage, bags, or parcels between a guest room and a lobby, front desk, or any area with vehicular access at a hotel, hotel-condominium, or condominium-hotel.” In a hotel, portering is generally a service charge assessed by the hotel for each person in a group. Portering is charged to the organization making reservations for a group movement. In this sense, portering is very similar to the service charge by hotels and restaurants for group dining services such as a banquet.

Courts have ruled that any service charges assessed for group functions, like banquets, and paid under contract by a single entity must be provided in full to the servers and other employees who are working at the function—unless management discloses to the entity entering into the contract that the service charge will be used for other purposes. Following the court rulings, hotels and restaurants have, in fact, made such disclosures in order to retain a portion of the service charges for their own use.

Service charges are considered gratuities, or tips, by the general public with the expectation that these service charges will be paid to the workers providing the service. Most consumers do not believe they should provide a gratuity to management, which already charges them a fee for the goods or services provided. If the fee charged by management is insufficient, management may increase the fee accordingly. Retaining the service charge or—in the case of S.B. 1009, SD1, the portering—amounts to assessing an additional fee without the customer’s knowledge.

S.B. 1009, SD1 recognizes that most people assume that service charges and portering fees are paid as gratuities to the employees doing the work—i.e., the waiters and bussers who are tending to their food and beverage needs at the banquet and the bell staff who are transporting luggage to their rooms. S.B. 1009, SD1 provides clear guidance that portering is to be provided in full to the employees providing portering services. And, similar to service charges for food and beverage services, management may retain a portion of the portering if a clear disclosure is made to the purchaser of service.

Our only concern is that, in the case of service charges, management has, in fact, made those disclosures and retained a portion of the service charges for its own use. The same is likely to happen with portering. However, changing the law clearly provides for transparency and establishes the policy under which management may apply portering fees.

The ILWU urges passage of S.B. 1009, SD1. Thank you for the opportunity to provide testimony on this measure.

Testimony in Support of SB 1009

William Gonzales
Aston Waikiki Beach, Front Service Department
1932 Liliha St, Honolulu, HI 96817

My name is William Gonzalez and I work at the Aston Waikiki Beach Hotel. I support HB 854. I'm employed in the Front Services Department. I've worked as a Bell Clerk, Runner, and Night Bell/Valet Attendant. As part of my responsibilities I do the nightly audit in terms of how many cars are there per night. I work hard at my job. A couple times a month I work a double – starting at 2 pm and ending at 6 am the next morning.

I get paid \$10.15 an hour. We don't make many tips because we work the graveyard. That's why we get \$10 an hour instead of \$7.25, which is what the daytime people get paid. My average portorage payments each paycheck are about \$150.

I have two kids. I send money to them every month. I miss my kids but I came here to try to make a better life for my family. On \$10 an hour and less than \$2 an hour portorage, I'm not making it.

I asked a supervisor what's happening with the portorage. He told me he couldn't show me the information about portorage, that it was confidential.

Portorage is charged to groups for moving bags in and out. It is supposed to replace the tip earning opportunity we lose because we are moving bags but we don't get to see the guests. We put bags in empty rooms when guests check in, and we pull bags out of empty rooms when they leave.

Here's the problem. In order to know that the hotel is paying the workers 100% of the portorage they charge from the guest, we need to know the following facts: (1) How many groups were charged portorage? (2) How much were they charged? (3) How many people in each group? (4) How many hours were worked by each individual worker that week?

If we know these facts, we can do the math and we can find out where the money is going. The only reason to hide these facts is because things aren't on the up and up.

I don't know what they're doing with our money. But I know if there were being 100% honest with us, they'd have no problem telling us what they were doing. Aston should be held accountable, we should have some guarantees that the company isn't stealing our wages.

Testimony in Support of SB 1009

Tommy Angelos
Night Attendant, Bell/Valet, Aston Waikiki Beach Hotel
2412 Koa Ave, Apt 402, Honolulu, HI 96815

My name is Tommy Angelos, and I work at the Aston Waikiki Beach Hotel. I'm employed as an overnight attendant in the Front Services Department. I've worked at this hotel for almost three years.

I get paid \$10.61 per hour. On the overnight, hardly anyone checks into or out of the hotel, or brings their car in or pulls their car out. That means to supplement my \$10 an hour, I rely on the portorage.

I have my paycheck right here. My allotment for 88.25 hours was \$150.17 – \$1.70 an hour for every hour I worked.

Portorage is the money that groups pay to a hotel so that their bags will get moved from the airport to their rooms when they arrive, and then back out from their rooms and back to the airport when they leave. We never get to see these guests, these guests never see how the bags arrive in their rooms and the tour coordinators inform the guests that they don't need to tip us because they have already paid a portorage fee.

But we don't think management is paying us everything they charge the guests.

During my three years there, I've asked the supervisor, who is the one who calculates all the portorage, what percentage we get. I never get an answer. We don't know how it gets figured out or if we get all of the portorage.

They lock up all the file cabinets where the information is kept on portorage and if you ask to have the key, they say they don't have the key, even though they do. If we are getting 100% of the portorage, why not share with us how it has been calculated?

There is a food and beverage service charge law in this state that protects food and beverage workers. Workers and guests deserve transparency. We deserve to know where they money is going. Help us put an end to the secrecy.

Alan Pi'iohia
Doorman, Aston Waikiki Beach Hotel
812 Olokele Ave, Apt F, Honolulu, HI 96816

My name is Alan Pi'iohia, and I work at the Aston Waikiki Beach Hotel. I'm employed as a doorman. I'm a single father of a 9 year old girl. I take my responsibility to my family and to my community very seriously.

I've worked in the hotel industry for 10 years. I've worked in four different hotels. Each job I work I think it can't get worse, and then it does.

I've been at the Aston Waikiki Beach for almost 3 years. I get paid \$9.20 per hour. I started as a Bell Attendant making minimum wage. Today, Bell Attendants still start at minimum wage, minus the tip deduction, so only \$7.25 an hour. In our department, they've combined jobs, so one person has to both park cars and move bags.

We rely on our tips. We rely on our portorage.

Portorage is the money that groups pay to a hotel so that their bags will get moved from the airport to their rooms when they arrive, and then back out from their rooms and back to the airport when they leave. We never get to see these guests, these guests never see how the bags arrive in their rooms and the tour coordinators inform the guests that they don't need to tip us because they have already paid a portorage fee.

But we don't think management is paying us everything they charge the guests.

We ask to see the contracts and they deny us. We ask if the hotel is keeping a percentage of the portorage charges and they won't answer us. Several years ago, one of our managers got fired – I heard it was because he was trying to find out where our portorage was going. Long term workers say that the amount of portorage has decreased and the share that we keep has decreased. The truth is we don't know. But if they are paying us 100%, why won't they show us the facts?

There is a food and beverage service charge law in this state that protects food and beverage workers. Our situation is exactly the same. Why can't the law protect us too?