



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

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February 9, 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: February 10, 2015

Time: 9:15 a.m.

Place: Conference Room 16, State Capitol

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

Re: S.B. No. 1121 Relating to Wages and Hours on Public Works

I. OVERVIEW OF PROPOSED LEGISLATION

Amends the Hawaii prevailing wage law to allow the Department of Labor and Industrial Relations (DLIR) to limit investigations under the Wages and Hours of Employees on Public Works Law, chapter 104, Hawaii Revised Statutes (HRS), to complaints filed within one year from the date wages were due and provide confidentiality to complainants and witnesses interviewed. Effective July 1, 2015.

The Department supports this Administrative proposal.

II. CURRENT LAW

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

III. COMMENTS ON THE SENATE BILL

This proposal conforms the time limitation period for the filing of prevailing wage complaints with those complaints filed under chapter 388, Hawaii Revised Statutes. 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.

By providing confidentiality from disclosure to the complainant and any information provided by witnesses interviewed, this bill encourages the timely reporting of alleged prevailing wage violations by lessening concerns regarding employer retribution.

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 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 will cover a much shorter period of time (up to one year instead of three). Similarly, witnesses may be more readily available.

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GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

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February 10, 2015

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

SUBJECT: **COMMENTS REGARDING TO S.B. 1121, RELATING TO WAGE AND HOURS ON PUBOIC WORKS LAW.** Requires laborers and mechanics working on public works to file complaints within one year of the date the payment was due and ensure confidentiality of the complainant or witness. Effective July 1, 2015.

Hearing

DATE: Tuesday, February 10, 2015
TIME: 9:15 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 S.B. 1121, Relating to Wages and Hours on Public Works Law which proposes to place a 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. This measure limits to investigation period to one year preceding the filing of the written request. This measure would also prohibit the employer from knowing who the complainants and witnesses are unless prior permission is provided by the complainant or witness.

While GCA appreciates that the Department of Labor and Industrial Relations (“Department”) may be attempting to limit the investigation period in an effort to narrow the scope of the potential violations in question, is it 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 does not believe the proposed subsection (c) which would withhold who the complainants and witnesses are is proper.

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