



**TESTIMONY OF THE STATE ATTORNEY GENERAL
TWENTY-FIFTH LEGISLATURE, 2009**

ON THE FOLLOWING MEASURE:

H.B. NO. 952, H.D. 1, S.D. 1, RELATING TO LABOR.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

DATE: Thursday, April 2, 2009 **TIME:** 10:15 AM

LOCATION: State Capitol, Room 016

TESTIFIER(S): Mark J. Bennett, Attorney General

WRITTEN TESTIMONY ONLY. For more information, contact
Frances E. H. Lum, Deputy Attorney General, at 586-1450.

Chair Taniguchi and Members of the Committee:

The Department of the Attorney General has concerns that section 1 of this bill may conflict with current law.

On page 2, lines 20-22, and page 3, lines 1-3, the bill states that if the parties cannot reach a collective bargaining agreement, either party may request conciliation under section 377-3, Hawaii Revised Statutes. On page 3, lines 4-14, the bill also states that "[i]f, after the expiration of the twenty-day period beginning on the date on which the request for conciliation is made . . . or such additional period as the parties may agree upon, the conciliator is not able to bring the parties to agreement . . . the board shall refer the dispute to an arbitration panel[.]"

Because the bill allows the parties to agree to conciliation beyond twenty days, it is not consistent with section 377-3, which only empowers a conciliator to resolve disputes for ten to twenty days:

The conciliator shall use the conciliator's best efforts to terminate the dispute by conciliation within ten days immediately succeeding the reference of the dispute to the conciliator or within such additional time, not to exceed ten days, as is agreed upon by all parties to the dispute. If within the ten days, or the additional time, if any, the conciliator fails to terminate the dispute by conciliation,

the conciliator shall immediately certify such fact to the board and the conciliator's appointment shall then end.

Once the ten-to-twenty day period runs under section 377-3, a conciliator's appointment would end even if the parties agreed to extend conciliation beyond twenty days.

Finally, the amendment to section 377-9 on page 4, lines 12-21, raises the possibility of an equal protection challenge because only employers, and not employees, who engage in willful or repeated unfair or prohibited practices are subject to a civil penalty not to exceed \$20,000. In adding the amendment, the Committee on Labor did not provide an explanation as to why such a penalty is necessary. Without a basis for treating employers differently from employees who willfully or repeatedly commit unfair or prohibited practices, the amendment could be struck if challenged.

LINDA LINGLE
Governor



SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

DUANE K. OKAMOTO
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512

TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE SENATE COMMITTEE ON
JUDICIARY AND GOVERNMENT OPERATIONS
THURSDAY, APRIL 2, 2009
10:15 A.M.
ROOM 016

HOUSE BILL NO. 952, HD1, SD1
RELATING TO LABOR

Chairperson Taniguchi and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 952, HD1, SD1, which seeks to certify entities as exclusive representatives absent an election where no other representatives are certified as the exclusive bargaining representatives and requires that collective bargaining begin within ten days between parties after written notice has been received and entities are certified as exclusive representatives. The Hawaii Department of Agriculture (HDOA) is in strong opposition to this bill.

The existing law honors a worker's right to a private ballot, thereby increasing the likelihood that the worker's decision was made free from influence, abuse and intimidation. If the results from the private ballot indicate interest in an election, then both the union and the employer have the opportunity to make their case to the workers. Under this bill, if a majority of workers sign a petition, which by its open nature exposes the worker's position and therefore places the worker in a vulnerable situation subject to peer pressure, the Hawaii Labor Relations Board would have to certify the union, and a private ballot election would be prohibited, even if the workers want one.

Due to language challenges, agricultural workers are particularly vulnerable to misleading verbal or written explanations of a petition process that they may have little or no familiarity with. A language study undertaken by the National Agriculture Statistics Service

indicates that the most prevalent language among agricultural workers is Ilocano; 89% comprehend English verbal instructions and 59% comprehend English written instructions. Among these same workers, comprehension of written instructions in Ilocano, is 79.7%. Among all agricultural workers, only 87.9% can understand written instructions in their first language and only 71.3% can understand written instructions in English.

Hawaii's farms would be subject to additional costs stemming from this bill. This is not the time to be adding additional costs onto Hawaii's agricultural producers. There are 7,521 farms in Hawaii, 84.6% of these farms are family farms. 1,783 Hawaii farms hire labor with most of these farms on the Big Island (63.3%), followed by Honolulu county (14.1%), Maui county (13.7%) and Kauai county (8.9%). Only 46.3% of all Hawaii farms have net profits with 87.9% of those with net profits reporting profits of \$49,999 or less. 53.7% of the farms in Hawaii report net losses. Over 74% of Hawaii's farmers have to work two or more jobs to stay in agriculture. How can you expect Hawaii's farmers to take on additional jobs just to pay the cost of unionization without any increase in productivity?

Hawaii's farm workers are already the highest paid in the country. Among hired farm workers on all farms in Hawaii, the average wage paid in the period of January 11-17, 2009 in Hawaii was \$12.69/hr. compared to \$11.16 in California and \$10.93 nationally (excluding Alaska). Among field and livestock workers on all farms in Hawaii, the average wage paid in the same period was \$10.93, \$10.10 in California, and \$10.08 nationally (excluding Alaska). Hawaii is already at a competitive disadvantage due to the cost and availability of land and water, transportation costs, and effects of invasive species.

This bill as written sets back Hawaii's efforts to become more self-sufficient in food production and in the long-run will result in the lessening of opportunities for agricultural workers. We strongly urge that you do what is best for Hawaii agriculture by ensuring that this bill is not allowed into law.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

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The Twenty-Fifth Legislature, State of Hawaii
Hawaii State Senate
Committee on Judiciary and Government Operations

Testimony by
Hawaii Government Employees Association
April 2, 2009

H.B. 952, H.D. 1, S.D. 1 –
RELATING TO LABOR

The Hawaii Government Employees Association strongly supports the purpose and intent of H.B. 952, H.D. 1, S.D. 1, which proposes amendments to Chapter 377, HRS (The Hawaii Employment Relations Act). The bill proposes streamlining union certification and facilitating initial collective bargaining in the private sector. The proposed process permits the employees, with a majority of their signatures, to petition to be represented by a union. Currently, an employer does not have to recognize the majority's signatures and can insist on a secret ballot election. The measure will help level the playing field, giving the choice to employees.

The other suggested additions to Chapter 377, HRS, will facilitate settlement of an initial collective bargaining agreement. The measure will prevent efforts by employers to stall negotiations indefinitely. The bill requires the parties to make every reasonable effort to reach an agreement; provides for a request for conciliation and, ultimately, arbitration to resolve a dispute; and provides for a collective bargaining agreement that will be binding for two years. Further, the bill makes it a violation for an employer to commit unfair practices interfering with an employee's statutory rights, subject to a civil penalty.

Labor unions have a significant role to play in helping our economic recovery and to restore the middle class. We strongly support the proposed legislation to streamline union certification and give employees a voice at work.

Thank you for the opportunity to testify in support of H.B. 952, H.D. 1, S.D. 1.

Respectfully submitted,

Nora A. Nomura
Deputy Executive Director

HAWAII TEAMSTERS AND ALLIED WORKERS, LOCAL 996

Affiliated with the International Brotherhood of Teamsters

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Sen. Brian Taniguchi, Chair
Sen. Dwight Takamine, Vice-Chair
Committee on Judiciary and Government Operations

Glenn Ida
Representative
Thursday, Apr. 2, 2009, 10:15 AM
Conference Room 016

Support of HB 952, HD1, SD1, Relating to Labor

The Hawaii Teamsters Local 996 believes that HB 952, HD1, SD1, will even the playing field and removes some of the barriers that currently exists in a corporate dominated economic environment in gaining union representation for working people.

The employer/employee relationship is established a lot longer than the time they spend in a Union organizing campaign. The workers have tried to work out labor matters with the management and when they feel that they are not making any progress to resolve issues, is when they will turn to the Union for help. Happy workers who are treated fairly and feel that the relationship between the company and them are working fine for them don't call the Union, it's the workers who have tried to work things out on their own and are now frustrated and angry with the way they are being treated that ultimately contact us to organize them.

HB 952, HD1, SD1, also guarantees a first contract by putting negotiations on a schedule that may lead to mediation and then to binding arbitration if necessary to reach an arbitrated settlement good for up to two years.

The Hawaii Teamsters Local 996 strongly supports, HB 952, HD1, SD1, Relating to Labor.

Thank you for allowing me to testify on this important matter.



International Brotherhood of Electrical Workers

LOCAL UNION NO. 1186 • Affiliated with AFL-CIO

1935 HAU STREET, ROOM 401 • HONOLULU, HI 96819-5003
TELEPHONE (808) 847-5341 • FAX (808) 847-2224

TESTIMONY SUPPORTING HB952 HD1 SD1, RELATING TO LABOR

TO: SENATE JUDICIARY & GOVERNMENT OPERATIONS COMMITTEE
(VIA FAX 586-6659)

For Hearing on Thursday, April 2, 2009, at 10:15 a.m., in Conference Room 016

RE: SUPPORT FOR HB952 HD1 SD1

Honorable Chair Taniguchi, Vice Chair Takamine, and Committee members,

My name is **Damien Kim**, and I am the Business Manager – Financial Secretary of the International Brotherhood of Electrical Workers Local Union 1186 representing over 3,500 members of the electrical construction, telecommunication, Oceanic Cable; and civil service employees at Pearl Harbor Shipyard, Kaneohe Marine Base and Hickam. IBEW local 1186 also represents over 120 signatory electrical contractors that perform most of the electrical work in Hawaii.

HB952 HD1 SD1 has been drafted to fix the problems and difficulties faced by workers who are regularly pressured by their employers against voting to join a union. This bill will set a level playing field and allow workers to decide fairly on union representation without threats and delays from their employers, who often take advantage of their employees due to their unequal power relationship.

Thank you for providing me with this opportunity to testify in strong support for HB952 HD1 SD1.

Mahalo and aloha,

Damien Kim
Business Manager – Financial Secretary
International Brotherhood of
Electrical Workers, Local Union 1186

Comments to the Senate Committee on Labor
Thursday, April 2, 2009
10:15 a.m.
Conference Room 016

RE: HOUSE BILL NO. 952 HD1 SD1, HD1 RELATING TO LABOR

Chair Taniguchi, Vice Chair Takamine, and members of the committee:

My name is Jim Tollefson and I am the President and CEO of The Chamber of Commerce of Hawaii ("The Chamber"). I am here to state The Chamber's strong opposition to House Bill No. 952, HD1 SD1, relating to Labor.

The Chamber is the largest business organization in Hawaii, representing more than 1,100 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

This bill is also known as the "Card Check" bill.

Under current law, the decision of whether or not to form a union is usually left to the workers — through a secret ballot election. That means that workers can choose — in private — whether they want to join a union.

Although the election may not be the perfect system, it at least provides a level of protection and privacy for the employee without the employer or union knowing how he or she voted. Under Card Check, paid union organizers could unfairly pressure workers to publicly sign a card stating that they support the union. Furthermore, what about the 49% of employees who did not have an opportunity to cast their vote?

Just as questionable, the Card Check bill includes a "binding arbitration" provision that would let the state government appointed arbitrators dictate wages and benefits under a union contract, and then deprive workers of the chance to vote on that contract. This expansion of government power is almost like reestablishing wage and price controls in our economy, and could put many employers out of business, and eventually the lost of jobs. We cannot afford this type of legislation, especially as Hawaii weathers this economic storm.

Furthermore, at a time when the state is trying to become more self sufficient for food and produce this legislation is counter productive. Moreover, more of us are shopping at discount stores and cutting coupons due to the rising costs. There has been a 7.5 percent jump in the price of food consumed at home over the past 12 months. Prices for all foods and beverages are up an average of 5.9 percent. (Oct. 3, 2008 Gannett News Service).

The simple fact is that unionization would increase the cost of locally produced food, impair the growth and survival of Hawaii's shrinking agricultural industry and block new efforts to grow food locally.¹

The pending Legislation will impose fast track unionization on Hawaii's agricultural operations, as well as submit their business assets and operational procedures to the dictates of a government appointed arbitrator. That is not right nor fair, and we ask that in these difficult economic times further costs not be imposed on Hawaii's businesses, particularly those affected by the proposed legislation.

To summarize, the following are key points as to why The Chamber of Commerce of Hawaii is strongly opposed to HB 952, the "Card Check" bill.

- The heart of the current representation framework lies with the secret ballot. The bill would effectively disenfranchise thousands of Hawaii employees overnight, while we are simultaneously fighting for more democracy in the representation process overseas.
- There are rarely any "secrets" in connection with card-signing campaigns. Employees can easily be intimidated to sign a card to avoid confrontation with a union organizer. Employees cannot be expected to make a reasoned choice if they have heard only one side of the issue. The proposed legislation offers no safeguards for collateral investigation into revocation and coercion.
- There is no corresponding provision extending card check to the decertification process. If it is fair for unions to win representation rights in this fashion, it's fair for them to lose those rights the same way.
- There is little if any evidence to suggest that the current framework is broken to begin with. The Canadian model on which this kind of legislation is based has been a failure in its own country. In response, a majority of Canadian provinces have shifted back to a secret ballot model over the past twenty years. Half of the Provinces that retain card check require a supermajority of cards prior to certification.
- This represents the first occasion in peace-time history that our State government would convey authority to a third party to essentially decide what a private sector employer must provide in terms of wages and benefits, free from the checks and balances of unit ratification.

¹ Unionization can affect cost of production through increases in compensation, through shifts in technologies, and through deviations from the least-cost combination of inputs. Working Paper 8701 "Unionization And Cost Of Production: Compensation, Productivity, And Factor-Use Effects by Randall W. Eberts and Joe A. Stone, (Working papers of the Federal Reserve Bank of Cleveland January 1987). Union work rules and employment restrictions have the primary effect of distortions from the least-cost combination of inputs, or in other words, labor unions increase firms' costs of equity by decreasing their operating flexibility. "Labor Unions, Operating Flexibility, and the Cost of Equity", Huafeng (Jason) Chen, Marcin Kacperczyk, and Hernán Ortiz-Molina (May 2008).

- Dictated terms of an initial agreement give rise to the likelihood of decreased stability, as employers seek to recoup losses during renewal bargaining, only to be met with increased strike probability.
- There is a dearth of any legislative guidance pertaining to the proposed arbitration process, the method for choosing an appropriate arbitrator, and the manner for challenging any rendered decision.
- The arbitrary deadline for imposing interest arbitration is unreasonable in light of numerous surveys establishing the average length of first-contract negotiations.
- This is a time when local establishments need the flexibility with their business plans to adjust to the current economic climate. This measure will be counter-productive in the effort to stay afloat and save jobs.
- In a national survey taken on the federal “Card Check” bill, three out of four voters (74%) oppose the bill. Union households also strongly oppose the bill, 74% oppose to only 20% support.

It is simply the wrong time for such legislation to be imposed on Hawaii’s fledgling agricultural industry and some small businesses. It is recommended to await legislation on the federal level to evolve so that Hawaii’s system would at least resemble the process used on the national level and benefit from the greater time and effort and developing a workable model that protects the rights of workers and employers alike.

Thus, The Chamber respectfully requests HB 952 be held.

Thank you for the opportunity to testify.



Hawaii Agriculture Research Center

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TESTIMONY BEFORE THE SENATE COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

HOUSE BILL 952, HD1, SD1

RELATING TO LABOR

April 2, 2009

Chair Taniguchi, Vice-Chair Takamine, and Members of the Committee,

My name is Stephanie Whalen. I am Executive Director of the Hawaii Agriculture Research Center (HARC). I am testifying today on behalf of the center and our research and support staff.

HARC opposes **HB 952 HD1, SD1 Relating to Labor**, for the following reasons:

The SD1 changes made this measure even more onerous than before as it includes very small businesses with less than 100 employees. Some of the committees remarks suggested that employers had unfair advantage in the existing process; however, pitting well-organized, well-funded union organizations against small business owners with limited resource support is a serious over kill.

The measure is very bad for small businesses, including agriculture. Unionization is not appropriate for all businesses and will cause some already struggling operations to give up the struggle. It will increase the cost of locally produced products at a time when all of us in Hawaii are grasping to find ways to lessen our dependence on mainland and foreign imports and become more self-sufficient.

The measure is also bad for Hawaii farm workers, who are some of the highest paid in the nation, in that it will strip them of their right to exercise their vote in private, opening the door to undue pressure and coercion, and forcing them to turn over a portion of their paycheck for union membership that is unnecessary and potentially detrimental. **There has already been reports of intimidation which are highly inappropriate in society today. This is encouraging more of that irresponsible behavior. Many of our lower skilled workers have poor language skills and are easily intimidated.**

Legislation that promotes improved communication and reduces the chance for intimidation would be more appropriate than taking away the rights to secret and personal choice in a voting process.

Thank you for the opportunity to comment.



Chair, Senator Brian Taniguchi
Vice-chair, Senator Dwight Takamine
Committee: Judiciary and Government Operations
Society for Human Resource Management (SHRM) Hawaii
Testimony date: Thursday, April 2, 2009

Opposition to HB952 HD1 SD1 Relating to Labor.

SHRM Hawaii is the local chapter of a National professional organization of Human Resource professionals. Our 1,200+ Hawaii membership includes those from small and large companies, local, mainland or internationally owned - tasked with meeting the needs of employees and employers in a balanced manner, and ensuring compliance with laws affecting the workplace. We (HR Professionals) are the people that implement the legislation you pass, on a day-to-day front line level.

SHRM Hawaii strongly opposes **House Bill 952 HD1 SD1**. The two step process of union organization is vital for employees. Secret voting protects employees against retaliation from those who disagree with their position on unionization. "Coercion" and "intimidation" are charges made again both union organizers and business owners – secret ballot is the only way to ensure coercive and intimidating tactics are neutralized, and employees' choices are protected.

Elimination of the two-step process would:

- Take away the additional time needed for employees to ask questions of multiple sources, consider the options, and make an informed choice.
- Encourage coercion and/or intimidation by those who are for and/or against union representation.

Because elimination of the secret ballot portion of the two-step certification process holds nothing redeeming for employees, SHRM Hawaii respectfully urges the committee to hold HB 952 HD1 SD1 to protect an employee's right to choose union or non-union with the protection of their identity.

Thank you for the opportunity to testify. SHRM Hawaii offers the assistance of the Legislative Committee in discussing this matter further.



Before the Senate Committee on Judiciary and Government Operations

DATE: April 2, 2009
TIME: 10:15 a.m.
PLACE: Conference Room 016
State Capitol
415 South Beretania Street

Re: HB 952 HD1 SD1 Relating to Labor Testimony of Melissa Pavlicek for NFIB Hawaii

Thank you for the opportunity to testify. On behalf of the thousands of business owners who make up the membership of the National Federation of Independent Businesses in Hawaii, we ask that you reject HB 952 HD1 SD1. NFIB opposes this measure in its current form.

The National Federation of Independent Business is the largest advocacy organization representing small and independent businesses in Washington, D.C., and all 50 state capitals. In Hawaii, NFIB represents more than 1,000 members. NFIB's purpose is to impact public policy at the state and federal level and be a key business resource for small and independent business in America. NFIB also provides timely information designed to help small businesses succeed.

More and more, employers are being forced to recognize labor unions without first holding a private-ballot employee election -- the election process that is guaranteed in law and administered by the National Labor Relations Board. To prevent intimidation or harassment, the law establishes that neither a union nor an employer may coerce, harass or restrain employees in exercising their right to choose whether or not to support the union. Each employee's choice is made in the privacy of a voting booth, with neither the employer nor the union knowing how any individual voted. We believe that a secret ballot process is fair to both employers and employees and essential. We ask that you do not advance this measure.

April 2, 2009

HEARING BEFORE THE
SENATE COMMITTEE ON JUDICIARY &
GOVERNMENT OPERATIONS

TESTIMONY ON
HB 952, HD 1, SD 1

Chair Taniguchi and committee members:

My name is Fred Perlak and I am the Vice-President of Research and Business Operations for Monsanto in Hawaii. I ask that you consider my testimony in strong opposition to HB 952.

My company is part of the corn seed industry here in Hawaii. This industry has grown significantly in Hawaii in recent years, over 40% from 2007 to 2009. We are now the leading agricultural component in the state with over \$146 million in direct spending in Hawaii. It is the faint flicker of light in a darkening and increasingly difficult economy both here in Hawaii and on the mainland.

A big part of our success has been our highly motivated workforce. Everyday, I see how hard everyone works. All of us have demonstrated commitment to our company with dedication, efficiency and a willingness to consistently produce high quality seed. We are proud of our workforce and what we have accomplished. In return, our company provides us with an excellent wage and benefits package, a very safe workplace environment where safety is not compromised and our company's appreciation and respect for employees.

All of the legislation proposed this session to simplify the unionization process has one common theme, the elimination of the secret ballot during the consideration of unionization. I strongly believe our workers have the right to secret ballot, to choose in confidence whether to accept unionization or not. It is their right, a right they have had for decades, a right that has been and should be protected. In a state that prides itself on the protection of the rights of all, I find it wrong and inconsistent that legislation could be adopted that so casually removes the rights of these workers.

Many familiar with the unions do not understand our opposition. Everyone at Monsanto works hard for their pay and our workers should safely and privately, decide whether or not they want to give 2% of their salary for union representation.

When considering this legislation, please consider the rights of our co-workers to choose the issue of unionization safely, privately and secretly. Please do not take that right away. Thank you.

BIA-HAWAII

BUILDING INDUSTRY ASSOCIATION

April 2, 2009

Senator Brian Taniguchi, Chair
Committee on Judiciary and Government Operations
State Capitol, Room 224
Honolulu, HI 96813

RE: HB 952, HD1, SD1 Relating to Labor

Chair Taniguchi and Members of the Committee on Judiciary and Government Operations:

I am Karen Nakamura, Chief Executive Officer of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-Hawaii is strongly opposed to HB 952, HD1, SD1 Relating to Labor, otherwise known as the "Card Check" bill. We are opposed to the feature of this bill that eliminates the secret ballot for employees in an election for unionization because we believe that it takes away a fundamental right to make one's choice free from coercion or harassment. Proponents of this bill paint a picture that it is only employers who pressure employees against organizing; however, we contend this "pressure" is exerted by unions more than by employers. We believe that in order to have a "fair" election, the secret ballot must be utilized.

BIA-Hawaii also objects to the binding arbitration feature of this bill whereby an arbitration panel will decide the terms of the parties' first contract if there is no agreement is reached within 90 days of initial bargaining. The employees who voted for unionization would not even have the opportunity to ratify the contract.

We respectfully request that this bill be held.

Thank you for the opportunity to share our views with you.



Chief Executive Officer
BIA-Hawaii



The Senate
The Twenty-Fifth Legislature
Regular Session of 2009

Committee on Judiciary and Government Operations
Senator Brian T. Taniguchi, Chair
Senator Dwight Y. Takamine, Vice Chair

Thursday, April 2, 2009 at 10:15 a.m.
Conference Room 016, State Capitol

Re: H.B. 952, HD1, SD1 - RELATING TO LABOR

The Screen Actors Guild Hawaii Branch *strongly supports* the purpose and intent of H.B. 952, HD1, SD1 and the proposed amendments to Chapter 377, HRS (The Hawaii Employment Relations Act). Presently, an employer does not have to recognize majority sign-up and can insist on a secret ballot election, resulting in numerous delays, threats, coercion and any other tactics to ensure union organizing drives fail. In fact, nationwide, over 86,000 workers have been fired over the past eight years for trying to unionize.

According to Kate Bronfenbrenner from Cornell University, "employers fire workers in a quarter of all campaigns, threaten workers with plant closings or outsourcing in half and employ mandatory one-on-one meetings where workers are threatened with job loss in two-thirds." Undeniably, employees are fearful of losing their jobs and therefore, vote no when the election finally occurs. This type of coercion needs to stop, and the employee free choice act can help prevent these horrible tactics from occurring.

Furthermore, opponents contend the employee free choice act would take away the sanctity of the secret ballot and as a result oppose the bill. However, opponents should try and compare a union election to a political election. In a political election, candidates have equal access to the voters, whereas in a union election, the employers have access to the employees while the union does not. This is an unfair disadvantage for unions.

In addition, the suggested additions to Chapter 377, HRS will prevent efforts by employers to stall negotiations indefinitely. The parties are required to make every reasonable effort to conclude and sign a collective bargaining agreement. If the parties are not successful after ninety days of negotiations, either party can request conciliation through the Hawaii Labor Relations Board. This will help thwart the numerous delays that employers use.

It is time to give the working class a break. The economy is nearing depression levels, unemployment numbers are up and each month more and more of our working class struggle to stay in their homes. Meanwhile, CEO's, executives, and others continue to receive multi-million dollar bonuses while the working class is laid off and or their pay and benefits continues to decline. It is time to pass the employee free choice act and level the playing field. It is the working class that will revitalize our economy and get us out of the economic crisis we are facing today. Passage of the employee free choice act is a step in the right direction.

Thank you for the opportunity to testify in support of H.B. 952, HD1, SD1.

Glenn Cannon, President
Brenda Ching, Executive Director

SCREEN ACTORS GUILD

949 KAPIOLANI BLVD., SUITE 105, HONOLULU, HI 96814 ★ Tel. 808.596.0388 ★ Fax 800.305.8146

www.sag.org



**HAWAI'I HOTEL & LODGING
ASSOCIATION**

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www.charitywalkhawaii.org

**TESTIMONY OF MURRAY TOWILL
PRESIDENT
HAWAI'I HOTEL & LODGING ASSOCIATION
April 2, 2009**

RE: HB 952 HD 1 SD 1 Relating to Labor

Good morning Chairman Taniguchi and members of the Senate Committee on Judiciary & Government Operations. I am Murray Towill, President of the Hawai'i Hotel & Lodging Association.

The Hawai'i Hotel & Lodging Association is a statewide association of hotels, condominiums, timeshare companies, management firms, suppliers, and other related firms and individuals. Our membership includes over 170 hotels representing over 47,300 rooms. Our hotel members range from the 2,523 rooms of the Hilton Hawaiian Village to the 4 rooms of the Bougainvillea Bed & Breakfast on the Big Island.

The Hawai'i Hotel & Lodging Association opposes HB 952 HD1 SD1 Relating to Labor. This bill would allow for the certification of a labor organization without an election.

We do not believe it is appropriate to remove an employee's right to a secret ballot in determining their representation by a labor organization. Each individual should have the right to choose representation without being subject to pressure from either management or a labor organization.

We urge you to hold this bill. Mahalo again for this opportunity to testify.

Filipinos for Affirmative Action

3432 B-1 Kalihi Street Honolulu, HI 96819

TESTIMONY IN STRONG SUPPORT FOR HB 952 HD 1 SD 1

Senate Committee on Judiciary and Government Operations

April 2, 2009

10:15 a.m.

Hawai'i State Capitol | Room 016

To: Sen. Brian T. Taniguchi, Chair and Sen. Dwight Y. Takamine, Vice Chair
Members of the Senate Committee on Judiciary and Government Operations

From: Amy Agbayani, Ph.D., Filipinos for Affirmative Action

Measure Title: Relating to Labor

Report Title: Labor Unions; Private Sector

Description: Certifies entities as exclusive representatives without an election where no other representatives are certified as the exclusive bargaining representatives. Requires immediate collective bargaining between parties once entities are certified as exclusive representatives. Makes it a violation for an employer to commit unfair or prohibited practices interfering with an employee's statutory rights or discriminating against an employee for exercising protected conduct, subject to a civil penalty of up to \$20,000 per violation. Effective July 1, 2020. (SD1)

My name is Amy Agbyani. As Co-Chair of Filipinos For Affirmative Action, I submit strong support for this bill. The mission of Filipinos For Affirmative Action is to advocate for civil rights for all.

Now more than ever, working people need support for fair labor practices and leveraged representation to ensure that accountability, recourse, and workers' equity are intact. This bill is an integral step in that direction, especially for workers whose first language is not English. Community voices are necessary, as the majority of entry level workers are intimidated to testify amidst the sheer numbers of employers, who oppose this bill.

Thank you for the opportunity to provide our strong support for this bill. Please consider voting yes at this critical juncture in Hawai'i's economic recovery.

Sincerely,

Amy Agbayani, Ph.D.
Filipinos For Affirmative Action



Nursing Advocates & Mentors, Inc.

... a non-profit organization with a mission to address the global nursing shortage by providing guidance and assistance for nursing colleagues to obtain their professional license in nursing.

P.O. Box 2034 Aiea, HI 96701
E-mail: bramosrazon@aol.com

Beatrice Ramos-Razon,
RN, FACDONA
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Ramon Sumibcay, CPT, AN

TESTIMONY IN STRONG SUPPORT FOR HB 952 HD 1 SD 1

Senate Committee on Judiciary and Government Operations
April 2, 2009, 10:15 a.m., Hawai'i State Capitol, Room 016

To: Sen. Brian T. Taniguchi, Chair
Sen. Dwight Y. Takamine, Vice Chair
Members of the Senate Committee on Judiciary and Government Operations

From: Beatrice Ramos-Razon, RN, FACDONA
President, Nursing Advocates and Mentors, Inc. (NAMI)
Executive Director, Philippine Nurses Association Hawaii

Measure Title: Relating to Labor

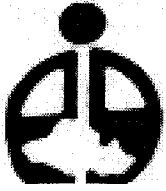
My name is Beatrice Ramos-Razon. As the founder and President of NAMI (Nursing Advocates & Mentors, Inc.), we are in strong support of this bill. NAMI's membership is comprised of over 75 volunteer nurses, instructors, allied health care professionals, and Filipino leaders, who are dedicated to improve the health of Hawai'i's people by addressing not only a statewide, but worldwide nursing shortage, through the training and mentoring of foreign graduate nurses, many of whom come from underprivileged backgrounds, to pass Hawai'i's nurses board exams.

NAMI strongly supports the provisions and intent of this bill. Union representation has been good for immigrant workers by providing them with an advocate for work-related and other issues. Without union representation, workers will be at the mercy of their employers, who may be fair in many cases, but who also may exploit the workers' limited English skills, education, and knowledge of the law.

Thank you for the opportunity to support this bill. Please support workers equity and vote yes to enact this into law.

Sincerely,

Beatrice Ramos-Razon, RN, FACDONA
President, Nursing Advocates and Mentors, Inc
Executive Director, Philippine Nurses Association Hawaii



OAHU FILIPINO COMMUNITY COUNCIL

P.O. Box 17531 • Honolulu • Hawaii 96817

Unit Organizations

Alliance of Residential
Carehome Administrators
Aloha Saguibsib Cultural
Foundation, Inc.
Annac ti Bado iti Hawaii
Annac ti Batac
Annac ti Caoayan 2002
Annak ti Kailokuan iti
America
Annak ti Sinaiti iti Hawaii
Asingan Organization of
Hawaii
Badoc-Pinili Aid
Association of Hawaii
Banna Association of
Hawaii
Bannatiran Association of
Hawaii
Batangas Association of
Hawaii
Bulacan Circle of Hawaii
Caballeros de Dimasalang
Cabugao Sons & Daughters
of Hawaii
Candonians of Hawaii
Caoayan ISAH
Cavitenians of Hawaii
Dingras Association of
Hawaii
Divine Word College
Alumni Association
FilAm Sports USA
Fil American Citizens
League
Filipino Business Women's
Club
Filipino Nurses Organization
of Hawaii
Filipino Women's Civic
Club
GUMIL Hawaii
GUMIL Oahu
Hawaii Filipino Women's
Club
Hawaii Council of Bilingual
Educators
ILAH
Ilocos Nortenians of
America
INCAT Alumni Association
of Hawaii
International Filipino
Society of Hawaii
Kalayaan Phil.-Hi. Int.
La Union Circle of
Hawaii
Lingayen Gulf Club of
Hawaii

TESTIMONY IN STRONG SUPPORT FOR HB 952 HD 1 SD 1

Senate Committee on Judiciary and Government Operations

April 2, 2009, 10:15 a.m.

Hawai'i State Capitol, Room 016

To:

Sen. Brian T. Taniguchi, Chair and Sen. Dwight Y. Takamine, Vice Chair
Members of the Senate Committee on Judiciary and Government
Operations

From:

Cirvalina Longboy
President, Oahu Filipino Community Council

Measure Title: Relating to Labor

My name is Cirvalina Longboy, president of the Oahu Filipino
Community Council. OFCC is an umbrella organization that
represents a network of non-profit civic groups with a unified vision
to improve the lives of our Filipino communities. I submit this
testimony to strongly support this bill.

While most OFCC members and our families came to Hawai'i as
immigrants, as naturalized citizens and registered voters today, we
do not take our democratic privileges and obligation of civic duty for
granted. We understand that we must speak up to help protect the
rights of workers, who cannot openly say what they want about
labor relations or risk putting their job at stake. They deserve our
respect and the equal protection to choose whether they would like
to be unionized through card check, and to have representation in
negotiating a fair contract.

OFCC hopes that you will vote to support economic justice for
Hawai'i's working people by passing this bill. We are committed to
our OFCC resolution to advocate for workers equity. Thank you for
hearing this bill, and for the opportunity to testify.

Sincerely,

Cirvalina Longboy, President
Oahu Filipino Community Council

Unit Organizations

Magsingal Association of
Hawaii
Narvacan/San Antonio Club of
Hawaii
Nueva Vizcaya Association of
Hawaii
Pasuquinos Association of
Hawaii
Philippine Cultural Foundation
Philippine Nurses
Association of Hawaii
Piddig Association of Hawaii
Sanchez Mira Association of
Hawaii
San Manuel Pangasinan
Association of Hawaii
San Nicolaneos USA
San Nicolas Goodwill
Foundation
San Nicolas Teachers of
Hawaii
Santa Lucia Association of
Hawaii
Sarrat Association of Hawaii
Sarrat International Inc.
Sinait Mt. High School Alumni
of Hawaii
Solsona of Hawaii
Tarlac Mutual Club of Hawaii
TPCP
Kalihi Ballroom, Inc.
Sadiri ti San Nicolas iti Hawaii
Samar Leyte Association of
Hawaii
Sampaguita/Sunflower Club of
Hawaii
San Juan Association of
Hawaii
San Nicolas Nat. High
Santa Marians of Hawaii
School Alumni
Santa Nicolas Nat. High
School Bingao Annex
Tagalog Association of Oahu
United Bacarreneos of Hawaii
United Group of Home
Operators
United Pangasinan of Hawaii
United Urdaneta Club of
Hawaii
United Vintarinians of Hawaii
Vigan Association of Hawaii

Hawai'i Alliance for Retired Americans

An affiliate of the Alliance for Retired Americans
c/o AFSCME · 888 Mililani Street, Suite 101 · Honolulu, Hawaii 96813

AFT Hawaii Retirees
HGEA Retirees
HSTA – Retired
ILWU Retirees
Kokua Council
Machinists Union Retirees
UPW Retirees
ADA/Hawaii
Hawaii Family Caregivers Coalition

(Submitted by email to: JGOTestimony@Capitol.hawaii.gov March 31, 2009)

Comments of Al Hamai, President, Supporting HB 952, HD1, SD1, Relating to
Labor

Hearing of the Senate Committee on Judiciary and Government Operations

April 2, 2009 10:15 a.m. Conference Room 016

Chair Brian T. Taniguchi, Vice Chair Dwight Y. Takamine and members of the
Committee,

HARA concurs with HB 952, as amended, and reiterates its strong support of HB 952, HD1, SD1. It's the right thing to do now. HARA has nine affiliates, listed on this letterhead, representing 21,000 seniors and community members.

The purpose of this bill is to streamline union certification and facilitate initial collective bargaining agreements. Approval of this bill will be a big step toward enabling workers, who want to belong to unions, a fairer chance to belong to a union, and secure a collective bargaining contract. A worker by himself alone is helpless on the job. He needs the strength of union to get better wages and working conditions for himself, for his family and for his community.

The NY Times editorial of December 28, 2008, entitled "The Labor Agenda" in support of the national Employee Free Choice Act in 2009 stated in part: "Even modest increases in the share of the unionized labor force push wages upward, because non union workplaces must keep up with unionized ones that collectively bargain for increases. By giving employees a bigger say in compensation issues, unions also help to establish corporate norms, the absence of which has contributed to unjustifiable disparities between executive pay and rank-and-file pay."

HARA urges your Committee to approve HB952, HD1, SD1. Mahalo.

HARA is a strong voice for Hawaii's retirees and seniors; a diverse community-based organization with national roots; a grassroots organizer, educator, and communicator; and a trusted source of information for decision-makers.

We support HB 366 to protect Hawaii's manta rays. As scuba divers, we have been able to experience Hawaii's manta rays up close and personal. They are awesome, graceful animals and it is always a joy to see them. The Kona Manta Night Dive is widely known in the diving community as one of the top ten dives in the world. Divers come to Hawaii just to make this dive. Our mantas generate income for Hawaii.

The mantas need protection because:

- While manta rays have been fished for years in Indonesia, Baja, the Philippines, Africa, and throughout Asia, no fishery has ever existed in Hawaii.
- However, Hawaii has now been targeted by aquariums as a location where they can capture manta rays for husbandry experiments and for display in tanks. This may start as soon as this year. Without legislative protection, these aquariums would be able to take as many individuals from the population as they want, and not have to report on the fate of the individuals they take.
- Hawaii has a healthy population of manta rays, but information on the life history and movement rates suggest that they would be highly susceptible to overfishing. If we are going to protect manta rays in Hawaii, we need to do it now before fishing starts.
- There is no reason we should allow our local manta rays to be sold to generate income for outside parties. They are worth much more to Hawaii alive and swimming in our local waters than dead or stuck in a tank on the mainland.

Please protect our manta rays now before it is too late.

Georgia and Jim Struhsaker
Kona Kailua, HI



SENATE COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS
Senator Brian Taniguchi, Chair

Conference Room 016
April 2, 2009 at 10:15 a.m.

Opposing HB 952 HD 1 SD 1.

The Healthcare Association of Hawaii advocates for its member organizations that span the entire spectrum of health care, including acute care hospitals, two-thirds of the long term care beds in Hawaii, as well as home care and hospice providers. Thank you for this opportunity to oppose HB 952 HD 1 SD 1, which creates an alternate means of certifying a union.

The procedure created by the bill for certifying a union as a collective bargaining representative contradicts the time-honored use of the secret ballot. The secret ballot assures that the choice made by each employee is anonymous. It ensures that employees may vote their conscience without intimidation, coercion, or fear of retaliation from either management or the union. The secret ballot is democratic and should be retained.

For the foregoing reasons, the Healthcare Association opposes HB 952 HD 1 SD 1.



Randy Ferreira
President

HAWAII STATE AFL-CIO

320 Ward Avenue, Suite 209 • Honolulu, Hawaii 96814

Telephone: (808) 597-1441

Fax: (808) 593-2149

The Twenty-Fifth Legislature, State of Hawaii
Hawaii State Senate
Committee on Judiciary and Government Operations

Testimony by
Hawaii State AFL-CIO
April 2, 2009

H.B. 952 HD1, SD1 – RELATING TO LABOR

The Hawaii State AFL-CIO strongly supports the purpose and intent of H.B. 952 HD1, SD1 and the proposed amendments to Chapter 377 (The Hawaii Employment Relations Act). As drafted, the bill would allow employees to unionize through majority sign-up. Presently, an employer does not have to recognize majority sign-up and can insist on a secret ballot election, resulting in numerous delays, threats, coercion and any other tactics to ensure union organizing drives fail. In fact, nationwide, over 86,000 workers have been fired over the past eight years for trying to unionize.

According to Kate Bronfenbrenner from Cornell University, “employers fire workers in a quarter of all campaigns, threaten workers with plant closings or outsourcing in half and employ mandatory one-on-one meetings where workers are threatened with job loss in two-thirds.” Undeniably, employees are fearful of losing their jobs and therefore, vote no when the election finally occurs. This type of coercion needs to stop, and the employee free choice act can help prevent these hideous tactics from occurring.

Further, opponents claim the employee free choice act would take away the sanctity of the secret ballot and as a result oppose the bill. However, opponents should try and compare a union election to a political election. In a political election, candidates have equal access to the voters, whereas in a union election, the employers have access to the employees while the union does not. This is obviously not fair and a complete advantage to the employer. Additionally, the employee free choice act does not abolish the secret ballot election. Rather, H.B. 952 HD1, SD1 empowers workers by giving them the ability to choose an established procedure in which workers sign cards to indicate their support for a union, or staging an HLRB election.

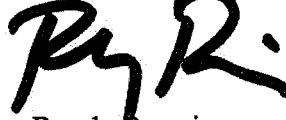
In addition, the other suggested additions to Chapter 377, HRS will prevent efforts by employers to stall negotiations indefinitely. The parties are required to make every reasonable effort to conclude and sign a collective bargaining agreement. If the parties are not successful after ninety days of negotiations, either party can request conciliation through the Hawaii Labor Relations Board. This will help put a stop to the numerous delays that employers use.

It is time to give middle class workers and their family a fair shake. Over the last eight years, workers have struggled to maintain parity with a rising cost of living; meanwhile, CEO's and

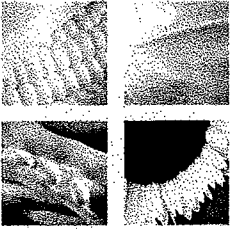
other executives continue to receive multi-million dollar bonuses and large six to seven digit salaries. Even today, as many of these businesses have been bailed out by the Federal government, the working class continues to receive pay cuts. That is not the way to fix our ailing economy. It is time to pass the employee free choice act and level the playing field once and for all. It is our working class that will help revitalize our economy and get us out of this economic crisis we are currently in. Passage of the employee free choice act is step in the right direction.

Thank you for the opportunity to testify in support of H.B. 952 HD1, SD1.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Randy Ferreira', written in a cursive style.

Randy Ferreira
President



Hawaii Crop Improvement Association

Growing the Future of Worldwide Agriculture in Hawaii

Testimony By: Alicia Maluafiti
HB 952sd1, Relating to Labor
Sen JGO Committee
Thursday, April 2, 2009
Room 016, 10:15 am

**HCIA 2008-2009
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Past President

Sarah Styan

Executive Director

Alicia Maluafiti

Position: Strong Opposition

Chair Taniguchi and Members of the Sen JGO Committee:

My name is Alicia Maluafiti, Executive Director of the Hawaii Crop Improvement Association. The Hawaii Crop Improvement Association (HCIA) is a nonprofit trade association representing the agricultural seed industry in Hawaii. Now the state's largest agricultural commodity, the seed industry contributes to the economic health and diversity of the islands by providing high quality jobs in rural communities, keeping important agricultural lands in agricultural use, and serving as responsible stewards of Hawaii's natural resources.

HCIA strongly supports our workers' rights to secret ballot, to the inalienable privilege and right to vote in private for union certification. The current process provides this worker right, and we wholeheartedly endorse it. HCIA member companies provide competitive benefit packages, good wages and job environments where safety of the worker is the first priority. A few years ago, a union certification process was attempted on one of our member companies. In the end, after the secret ballot process, nearly 81% of the employees did not want to be union certified.

Union members themselves don't seem to want card check, according to two recent polls. A 2004 Zogby poll conducted for the Mackinac Center for Public Policy found that 71 percent of union members believe that the current private-ballot process is fair, versus only 13 percent who disagree. Nor do union members want to lose their right to a private vote. Fully 78 percent of union members favor keeping the current system over replacing it with one that provides less privacy. (See Joseph Lehman, "Union Members' Attitudes Towards Their Unions' Performance," Mackinac Center for Public Policy, www.mackinac.org/archives/2004/s2004-05.pdf.)

Government should also protect the right of workers and employers to bargain freely. Binding arbitration via an arbitration panel would impose employment contracts on newly organized companies. Workers would not have the option of voting down the contract, and companies would have no recourse if an arbitrator imposed uncompetitive terms that would drive it into bankruptcy. Hawaii state policy should not impose these kinds of wage controls, particularly in this economy.

HB 952sd1, like the federal Employee Free Choice Act does not do what its sponsors contend that it would do. In reality, it strips workers of their rights and their privacy while exposing them to abuse and intimidation and taking away their ability to bargain with their employers.

We urge you to hold this bill in committee. Please see the attached article for additional information. Thank you for the opportunity to testify.

honoluluadvertiser.com

March 29, 2009

New economy calls for more flexibility

Con: Union do's and don'ts

By Dean Okimoto

The Hawaii Farm Bureau Federation recognizes the role unions and union workers have played in Hawaii and the support they have given to our agriculture industry. At the same time, everyone must recognize that the world economy has changed and agriculture is changing with it. To compete in the global economy, Hawaii's agriculture industry needs dynamic companies, innovative farmers and flexible workers who can adapt quickly to changes in the market. That's why it's disturbing to see legislation, referred to as "card check," pending in the Hawaii Legislature and in the U.S. Congress.

The major benefit of a union is to improve the plight of the worker. Hawaii's low unemployment rate means that employers are competing for a limited workforce. According to the Hawaii Department of Agriculture, the average wage paid for the period of Jan. 11-17, 2009, was \$12.69 per hour in Hawaii. This compares to \$11.16 per hour in California and \$10.93 per hour nationally (excluding Alaska).

Our farmers and ranchers often compete against other economic sectors for their workers and pay higher salaries and benefits to not only get but to retain workers. Hawaii's prepaid medical laws provide benefits to workers that may not be the norm in other areas of the country.

According to The Chamber of Commerce of Hawaii, a recent national survey showed that three out of four voters (74 percent) oppose the "The Employee Free Choice Act"; 74 percent of union households also strongly oppose the measure.

The bill in the state Legislature would have a broad impact. It would apply to workers covered by the Hawaii Employment Relations Act, Chapter 377.

In addition to most agricultural workers, it affects non-retail businesses with less than \$50,000 in annual sales; retail businesses with less than \$500,000 in annual sales; small nonprofit organizations; daycare centers with less than \$250,000 in gross annual revenues; and hotels, motels, apartments and condominiums with less than \$500,000 in annual revenues. It also will impact taxicab companies with less than \$500,000 in total annual revenues; law firms and legal-aid programs with less than \$250,000 in gross annual revenue; some art museums; and colleges, universities, and secondary schools with less than \$1 million in annual revenue.

Agriculture in Hawaii is already at a competitive disadvantage due to the cost and availability of land and water, transportation costs, and the impact of invasive species. Worker productivity is key to viability.

If passed, this bill will stall our efforts to become more self-sufficient in food production and will lessen opportunities for agricultural workers. Technology is changing rapidly and workers must be able to do different tasks at different times and in different ways without having to check in with a supervisor or union boss. The days of extensive labor-intensive operations are gone — maximum productivity equals mechanization, and automation involving skill sets that require continuous learning.

The only common element at farms large and small across the state today is diversity. Although some of the seed companies in Hawaii today approach the size of what were our smaller sugar cane and pineapple operations, these companies and their workers are highly flexible and must remain so to compete.

We must empower Hawaii's workers by giving them the training they need to help grow the agricultural industry in our state. Unions can have a seat at the table as we discuss the way forward, but the traditional union model can't be part of the deal. I know what we are suggesting is difficult. But all of us in the business world are making difficult decisions. We need to set the stage for the new tomorrow.

The future of Hawaii's agriculture industry is in question and the card check measure will thwart the progress we've made. Legislators should oppose this bill so that agriculture can continue to evolve into a strong, sustainable industry for Hawaii's future.

Dean Okimoto is the president of the Hawaii Farm Bureau Federation. He wrote this commentary for The Advertiser. Jim Tollefson, president and CEO of The Chamber of Commerce of Hawaii, contributed to this commentary.

The Twenty-Fifth Legislature
Regular Session of 2009

THE SENATE
Committee on Judiciary and Government Operations
Senator Brian T. Taniguchi, Chair
Senator Dwight Y. Takamine, Vice Chair

State Capitol, Conference Room 016
Thursday, April 2, 2009; 10:15 a.m.

**STATEMENT OF THE ILWU LOCAL 142 ON H.B. 952, HD1, SD1
RELATING TO LABOR**

The ILWU Local 142 strongly supports H.B. 952, HD1, SD1, which: (1) certifies entities as exclusive representatives without an election where no other representatives are certified as the exclusive bargaining representatives; (2) requires immediate collective bargaining between parties once entities are certified as exclusive representatives; and (3) makes it a violation for an employer to commit unfair or prohibited practices interfering with an employee's statutory rights or discriminating against an employee for exercising protected conduct, subject to a civil penalty of up to \$20,000 per violation.

At issue is the employee's right to join a union, as guaranteed by federal and state law and affirmed by the State Constitution. The basic intent of this bill is to facilitate the process for workers to join a union. The right to join a union is a decision for the worker alone to make, without fear of retaliation.

Opponents of the bill make a big issue of the "secret ballot" and "democracy." But a secret ballot does not guarantee democracy, as numerous unfair labor practice charges filed and won by unions throughout the country and in Hawaii will attest. There is no level playing field in the current system. Employers have an inherent advantage in the contest. They control the livelihood of the workers and have ultimate power over the worker's job. The union has no such power to intimidate or coerce.

Yet opponents say that unions will coerce workers into signing cards. However, in 60 years, only 42 cases *throughout the country* have been ruled against unions for any type of coercive behavior. That is compared with hundreds, even thousands, of cases where employers, even under Republican-appointed boards, have been found guilty of labor law violations.

This bill will ensure that the workers have the right to decide how they declare their desire to join a union. If they want a union, they will sign a card saying they want union representation. If they don't, they will not sign.

An argument has been raised that local people cannot say no to a union organizer and will sign an authorization card even if they are unsure about union representation. Calling this coercion and intimidation is far different than the real coercion and intimidation that the employer can exercise over the worker's livelihood.

Opponents may say that workers, especially agricultural workers who the State Department of Agriculture has said do not use English as their first language, will not understand the difference between signing a card and voting in an election. Aside from the fact that most unions employ organizers who speak the language of the employees, the workers themselves know about their own working conditions, their pay, the benefits they may or may not receive, and know if they want a better workplace or not. That is the main question for them.

One of the reasons that the system must be corrected is the weak enforcement of the current law, both state and federal. Unions have to fight uphill battles to win justice for workers who are fired or otherwise intimidated for union activity. The law is permissive in allowing employers to delay negotiation of first contracts, which ultimately weakens the union's ability to maintain majority support. The provisions under H.B. 952, HD1, SD1 for mediation and, ultimately, binding arbitration of a first contract will help to remedy the huge problems unions face in negotiating a first contract.

As Professor Gordon Lafer of the University of Oregon earlier testified before the House Labor Committee, penalties under the current law are akin to saying that the penalty for a person who goes into someone's house and steals a television set is to require the thief to put the T.V. back. No fine, no jail time, no criminal record. If you're caught, just put it back. Under current labor law, if an employer violates the law, the employer at most may be required to pay back wages--but with deductions for unemployment insurance and other employment. Since most workers fired by an employer for union activity will try to find another source of income immediately, the cost for an employer to violate the law will be relatively minimal. Any employer will gladly pay that nominal price to keep his workers from being unionized.

We believe that unionizing a workplace can actually be good for both the company and the worker by providing stability and structure through a collective bargaining agreement. In addition, unions can be an ally to companies by promoting their business--just as the ILWU itself has done on many occasions. In addition, fair wages through collective bargaining will help to lift the standard of living overall and allow unionized workers to contribute to the economy. Indeed, Hawaii's agricultural workers are the highest paid in the U.S. because many of them have the benefit of union representation and a union contract.

The ILWU urges passage of H.B. 952, HD1, SD1. Thank you for the opportunity to testify.

1065 Ahua Street
Honolulu, HI 96819
Phone: 808-833-1681 FAX: 839-4167
Email: info@gcahawaii.org
Website: www.gcahawaii.org



GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

April 1, 2009

TO: THE HONORABLE SENATOR BRIAN T. TANIGUCHI, CHAIR AND
MEMBERS OF COMMITTEE ON JUDICIARY AND GOVERNMENT
OPERATIONS

SUBJECT: H.B. 952, HD1, SD1, RELATING TO LABOR

NOTICE OF HEARING

DATE: Thursday, April 2, 2009
TIME: 10:15 A.M.
PLACE: Conference Room 016

Dear Chair Taniguchi and Committee Members:

The General Contractors Association of Hawaii (GCA), an organization comprised of over five hundred and sixty (560) general contractors, subcontractors, and construction related firms, **opposes** the passage of H.B. 952, HD1, SD1, Relating to Labor.

The proposed bill allows and encourages labor organizers to pressure employees to sign up against their will.

We believe that if the majority of the employees favor organization then they will vote that way in a secret ballot. The right of self organization is thus preserved without taking away the right of those who wish to refrain.

The Bill as written is also very broad and would apply to every business large or small. It would apply to businesses with thousands of employees and also to every other small business in town with a handful of employees. It would also compel arbitration and a contract binding for two years if the business last that long. It is also unclear who will have to pay for an expensive binding arbitration to determine the contract terms.

This bill does away with the employees' right to a secret ballot and is tilted in favor of union certification.

The GCA **opposes** the passage of H.B. 952, HD1, SD1, and recommends that this bill not be passed.

Thank you for the opportunity to provide our views on this issue.