

LINDA LINGLE  
GOVERNOR



DARWIN L.D. CHING  
DIRECTOR

COLLEEN Y. LaCLAIR  
DEPUTY DIRECTOR

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

830 PUNCHBOWL STREET, ROOM 321  
HONOLULU, HAWAII 96813  
www.hawaii.gov/labor  
Phone: (808) 586-8842 / Fax: (808) 586-9099  
Email: dlir.director@hawaii.gov

March 19, 2009

To: The Honorable Karl Rhoads, Chair  
and Members of the House Committee on Labor & Public Employment

Date: Friday, March 20, 2009

Time: 9:30 a.m.

Place: Conference Room 309  
State Capitol

From: Darwin L.D. Ching, Director  
Department of Labor and Industrial Relations

**Re: S.B. No. 1181, S.D. 2 – Relating to Labor**

**I. OVERVIEW OF PROPOSED LEGISLATION**

S.B. No. 1181, S.D. 2 amends the Wages and Hours of Employees on Public Works, Chapter 104, Hawaii Revised Statutes (“HRS”) to require an itemized list of fringe benefits be included on the certified payroll submitted to the contracting agency.

This Act is effective July 1, 2050.

**II. CURRENT LAW**

Specific fringe benefit information is already reported and recorded, but kept confidential as proprietary information.

**III. HOUSE BILL**

The Department does not support S.B. 1181, S.D. 2:

1. The Department has always treated the reporting of fringe benefits confidential as proprietary information of the business. This measure changes that policy. All

certified payrolls will require a listing of fringe benefits paid to each laborer or mechanic. The Department regularly reviews this information from contractors and subcontractors on public works during investigations.

2. This measure is not needed as indicated by an extensive random review involving contractors and subcontractors on public works jobs in fiscal year 2007. One hundred and seven random investigations of contractors and subcontractors on public works resulted in only four 1st Notices of Violations (NOV) issued with a total of \$8,236 in wages, overtime and penalties found due. In comparison to the nine Notices of Violations (six 1<sup>st</sup> NOV, three 2<sup>nd</sup> NOV) were issued as a result of the 26 complaints investigated yielding a total \$211,208 in wages, overtime and penalties. This translates to less than 4% of those randomly reviewed had violations, as opposed to 35% of complaint investigations. Even in the complaint environment we find mostly compliance. Figures in fiscal 2008 support this data.
3. Adding this additional requirement of listing specific fringe benefits to each laborer and mechanic on the public certified payroll will be an undue burden to most contractors and subcontractors on public works, especially small business. Adding yet another requirement to this already complicated law that already treats common overtime and wage payment issues differently than the rest of the Hawaii's employees does not support the economy during this particular economic downturn. With the mandatory penalty structure in Chapter 104, Wages and Hours of Employees on Public Works, this requirement is sure to cause an increase in penalties to both union and non-union contractors.

Testimony In **Support** of  
SB1181 SD2  
Relating To Labor

To the Committee on Labor and Public Employment  
Friday, March 20, 2009, 9:30 a.m.  
State Capitol, Room 309

By Al Lardizabal, Director  
Government Relations  
Laborers' International Union of North America Local 368

Honorable Karl Rhoads, Chair; Honorable Kyle T. Yamashita, Vice Chair  
and Members of the Committee:

SB1181, SD2 requires the Department of Labor and Industrial Relations to include certified payroll records a fringe benefit reporting form which itemizes the cost of fringe benefits paid to both union and non-union laborers who perform work for construction, alteration, or repair of public building and public works.

The Laborers' Union supports this measure with a slight recommendation that the information be provided on the same payroll form, if there exists sufficient space, rather than a new and separate form to avoid further work and processing. However, we defer to the department on this item.

Thank you for the opportunity to present this testimony in **SUPPORT** of SB1181, SD2.

1065 Ahua Street  
Honolulu, HI 96819  
Phone: 808-833-1681 FAX: 839-4167  
Email: [info@gcahawaii.org](mailto:info@gcahawaii.org)  
Website: [www.gcahawaii.org](http://www.gcahawaii.org)



**GCA of Hawaii**

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

March 18, 2009

TO: THE HONORABLE REPRESENTATIVE KARL RHOADS, CHAIR AND  
MEMBERS OF COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

SUBJECT: S.B. 1181, SD2, RELATING TO LABOR

NOTICE OF HEARING

DATE: Friday, March 20, 2009  
TIME: 9:30 a.m.  
PLACE: Conference Room 309

Dear Chair Rhoads 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, **supports** the passage of S.B.1181, SD2, Relating to Labor.

The bill as amended will require the general contractor and subcontractor to submit an itemized list of fringe benefits that are paid to each employee. Currently, the fringe benefits are reported as a total dollar amount, which makes it difficult for the DLIR to determine if the total fringe benefit reported is actually fringe benefits.

Passage of this bill will enable the DLIR to quickly determine if the correct fringe benefits are being paid as part of the prevailing wage.

The GCA **supports** the passage of S.B.1181, SD2, and recommends its passage.

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

March 20, 2009

To: The Honorable Karl Rhoads, Chair  
And members of the Labor Committee

Date: March 20, 2009  
Time: 9:30 AM  
Place: Conference room 309  
State Capitol

From: Myles Miyasato Big Island Representative  
Operating Engineers Union Stabilization

**Re: S.B. 1181 S.D.2**

I would like to speak in support of the purpose and intent of S.B. 1181 S.D.2. This bill will keep our public monies accountable and be available for public records as it should be. Presently all that is required is a check mark in a box to state that you are in compliance with the payment of fringe benefit wages. Only the hourly wages are listed as itemized payments to prove compliance.

The current fringe wages for our trade is \$22.13 an hour which comes out to \$885.20 per week in fringes only. If employers are using this for state required benefits which are not eligible this gives them a huge advantage in the bidding process.

I have had employees call me after being released from employment and not receiving any information about their supposed pension that the employer had been contributing into. Because there is no public record I cannot help them and can only tell them to go to the labor board and file a complaint. The problem is they are afraid to do this because they know there will be no chance for future employment with that company. So if there are no complaints the labor department feels there is no problem with the current rules.

According to Administrative Rules 12-22-1 cost of a fringe benefit means the rate of contribution irrevocably made by a contractor to a trustee or to a third person pursuant to a fund, plan, or program in providing benefits. Irrevocable would mean that there is no possibility for proprietary infringement. This is the employee's money not the employer.

I urge the committee to pass S.B. 1181 S.D.2. Thank you for this opportunity to testify.