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February 12, 2016

To: The Honorable Karl Rhoads, Chair,  
The Honorable Joy A. San Buenaventura, Vice Chair, and  
Members of the House Committee on Judiciary

Date: Tuesday, February 16, 2016  
Time: 2:00 p.m.  
Place: Conference Room 325, State Capitol

From: Linda Chu Takayama, Director  
Department of Labor and Industrial Relations (DLIR)

**Re: H.B. No. 2473, H.D. 1 Relating to Enforcement of Wage Laws**

**I. OVERVIEW OF PROPOSED LEGISLATION**

HB2473 HD1 proposes to amend chapter 104, Hawaii Revised Statutes (HRS), to change the penalties due for violations of Hawaii's prevailing wage law from the greater of ten percent of back wages due or \$25 per offense to for a first violation to ten percent of back wages and \$1,000 per offense. The penalties for second violations in the proposal change from the amount of back wages due or \$100 per offense to the amount of back wages due and \$10,000 per offense.

DLIR strongly supports increasing the penalties for violations of chapter 104, especially as restoration of the department's enforcement capacity after 2009 has not occurred.

**II. CURRENT LAW**

Act 251 (SLH, 1999) amended the penalty amounts in section 104-24, HRS, from, "... not more than \$1,000 for each offense." to a penalty of \$25 per offense or 10% of the back wages due for a first violation. Act 251 also changed the penalty amounts from 10% of the contract amount to \$100 for each offense or the amount of back wages due for a second violation. The penalty amount is the greater of the

two options, for a first or second violation.

### **III. COMMENTS ON THE HOUSE BILL**

The department strongly supports the increase in penalties for chapter 104 violations. Currently, making determinations and issuing any penalties complex can take up to three years in complex investigations. The Wages Standards Division (WSD) had twenty-eight (28) authorized positions when Act 251 changed the penalties for first and second violations in 1999. WSD currently has seventeen (17) authorized positions at a time when public works construction is booming.

In 2014, the Legislature recognized the lack of enforcement capacity in enacting Act 130. Act 130 increased the penalties imposed on a contractor who interferes with or delays an investigation from \$1,000 to \$10,000 and \$1,000 per day for continuing to obstruct an investigation as well as immediate suspension.

In the last five years, WSD has issued thirty-seven (37) Notice of Violations (NOVs) for violations of section 104-24(a) and four (4) 2<sup>nd</sup> NOVs for violations of section 104-24(b), and two (2) 3<sup>rd</sup> NOVs for violations of section 104-24(c). In addition, during that time nineteen (19) NOVs were issued that included suspension from working on public works for obstruction under section 104-25(a)(3).

During the last five years, the total amount of penalties issued was \$240,911. If this proposal were in effect during that time, the total amount of penalties issued would be approximately \$950,000. Penalties are paid into the general fund.

# Hawai'i Construction Alliance

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February 15, 2016

The Honorable Karl Rhoads, Chair  
The Honorable Joy A. San Buenaventura, Vice Chair  
and members  
House Committee on Judiciary  
Hawai'i State Legislature  
Honolulu, Hawai'i 96813

## **RE: Strong Support for HB2473 HD1, Relating to Enforcement of Wage Laws**

Dear Chair Rhoads, Vice Chair San Buenaventura, and members:

The Hawai'i Construction Alliance is comprised of the Hawai'i Regional Council of Carpenters; the Operative Plasterers' and Cement Masons' Union, Local 630; International Union of Bricklayers & Allied Craftworkers, Local 1; the Laborers' International Union of North America, Local 368; and the Operating Engineers, Local Union No. 3. Together, the member unions of the Hawai'i Construction Alliance represent 15,000 working men and women in the basic crafts of Hawai'i's construction industry.

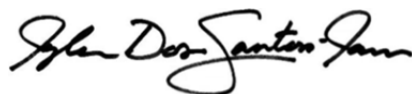
We **strongly support** **HB2473 HD1, relating to enforcement of wage laws**. This bill would change the penalties for contractors on public works projects who violate HRS Chapter 104, also known as the "Little Davis-Bacon Law," by increasing penalties to \$1,000 for a first offense and \$10,000 for a second offense, in addition to the separate payment of back wages owed.

As a result of our current fine structure, violations of HRS Chapter 104 are far too common, and the Department of Labor struggles to keep up with the numerous complaints which come in. With the current construction boom, and with the legislature's noble efforts to fund more public works and infrastructure projects, we fear that unscrupulous contractors will continue to violate the law, unless the fine structure is changed.

We firmly believe that contractors who bid on and win public works contracts should be held to the highest standard of responsibility when it comes to paying Hawai'i workers properly for their skills and labor. Increasing the fine structure will deter unscrupulous contractors from using public dollars to steal from the pockets of Hawai'i workers.

Therefore, we strongly urge you to pass **HB2473 HD1, relating to enforcement of wage laws**, and thank you for the opportunity to provide this testimony.

Mahalo,



Tyler Dos Santos-Tam  
Executive Director  
Hawai'i Construction Alliance



Chamber of Commerce HAWAII  
*The Voice of Business*

**Testimony to the House Committee on Judiciary  
Tuesday, February 16, 2016 at 2:00 P.M.  
Conference Room 325, State Capitol**

**RE: HOUSE BILL 2473 HD1 RELATING TO ENFORCEMENT OF WAGE LAWS**

Chair Rhoads, Vice Chair San Buenaventura, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **expresses concerns** regarding HB 2473 HD1, which changes the penalties for government contractors who violate wages and hours laws and increases penalties, in addition to the separate payment of back wages, to \$1,000 for the first offense and \$10,000 for the second offense.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,000 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 members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber understands the needs to look at changes in penalties, but has concerns on the proposed amounts. The penalty for the second offense is steep – \$10,000 is a significant amount, especially for smaller projects. We would like to see statistics on second violations – how many violators are there and how serious are the violations. While again we understand the need to adjust the penalties we believe that \$10,000 of the contract goes too far and is excessive.

Thank you for the opportunity to testify.

**Testimony to the House Committee on Judiciary.  
Tuesday, February 16, 2016  
2:00 PM.  
State Capitol - Conference Room 325**

**LATE**

**RE: HB 2473 HD1: Relating to Enforcement of Wage Laws.**

Dear Chair Rhoads, Vice-Chair Woodson, and members of the Committee:

My name is Gladys Marrone, Chief Executive Officer for the Building Industry Association of Hawaii (BIA-Hawaii), the Voice of the Construction Industry. We promote our members through advocacy and education, and provide community outreach programs to enhance the quality of life for the people of Hawaii. BIA-Hawaii is a not-for-profit professional trade organization chartered in 1955, and affiliated with the National Association of Home Builders.

BIA-Hawaii is in opposition to HB 2473 HD1. While we understand the need to look at changes in penalties, the proposed amounts are problematic. The penalty for the second offense - ten percent - is a significant amount, especially for smaller projects. Again, while we understand the need to adjust the penalties, we believe that ten percent of the contract goes too far and is excessive.

Thank you for the opportunity to express our views on this matter.

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