

SB1219 SD1

Measure Title: RELATING TO EMPLOYMENT SECURITY.

Report Title: Employment Security; Independent Contractor

Description: Allows the department of labor and industrial relations to set criteria for independent contractor status. Establishes criteria for when the department shall presume an individual is an independent contractor. Requires the department to certify independent contractors. Allows independent contractors to provide a written copy of certification to each customer. Places the burden of proving an employee-employer relationship on the certified independent contractor if the contractor files an unemployment insurance benefits claim against a customer. Effective January 7, 2059. (SD1)

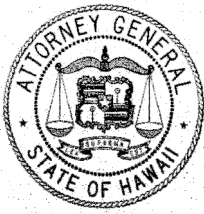
Companion: [HB1213](#)

Package: None

Current Referral: JDL, CPN

Introducer(s): BAKER, Kidani, Wakai

Sort by Date		Status Text
1/28/2015	S	Introduced.
1/28/2015	S	Passed First Reading.
1/28/2015	S	Referred to JDL, CPN.
2/5/2015	S	The committee(s) on JDL has scheduled a public hearing on 02-09-15 9:30AM in conference room 016.
2/9/2015	S	The committee(s) on JDL deferred the measure until 02-17-15 9:30AM in conference room 016.
2/17/2015	S	The committee(s) on JDL recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in JDL were as follows: 7 Aye(s): Senator(s) Keith-Agaran, Shimabukuro, Espero, Gabbard, Ihara, L. Thielen, Slom; Aye(s) with reservations: none ; 0 No(es): none; and 0 Excused: none.
2/20/2015	S	Reported from JDL (Stand. Com. Rep. No. 474) with recommendation of passage on Second Reading, as amended (SD 1) and referral to CPN.
2/20/2015	S	Report adopted; Passed Second Reading, as amended (SD 1) and referred to CPN.
2/20/2015	S	The committee(s) on CPN will hold a public decision making on 02-26-15 9:30AM in conference room 229.



TESTIMONY OF THE DEPARTMENT OF THE ATTORNEY GENERAL TWENTY-EIGHTH LEGISLATURE, 2015

ON THE FOLLOWING MEASURE:

S.B. NO. 1219, S.D. 1, RELATING TO EMPLOYMENT SECURITY.

BEFORE THE:

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

DATE: Thursday, February 26, 2015

TIME: 9:30 a.m.

LOCATION: State Capitol, Room 229

TESTIFIER(S): WRITTEN COMMENTS ONLY. For more information, call
Robyn M. Kuwabe, Deputy Attorney General at 586-1450

Chair Baker and Members of the Committee:

The Department of the Attorney General (the Department) has concerns about the provisions in this bill as originally proposed and as amended.

As introduced, this bill proposed to delete the criteria, commonly referred to as the “ABC test” in section 383-6, Hawaii Revised Statutes (HRS), currently used for determining the existence of an employer-employee relationship under Hawaii’s unemployment compensation laws. In its stead, the bill provides four criteria to be used in determining independent contractor status, requires the Department of Labor and Industrial Relations to certify an individual who meets the four criteria as an independent contractor, and, once certified, creates a presumption of independent contractor status that the individual has the burden to rebut if the individual files for unemployment benefits against the individual’s customer.

The U.S. Department of Labor (USDOL) has recently indicated that the bill as originally proposed raised two conformity issues. First, the bill appears to remove the requirement to determine if anyone has a right to control and direct the individual who performs the services. USDOL advised that states may not, consistent with the requirements of Federal law, use a test for independent contractors that is less rigorous than the Internal Revenue Service (IRS) test when determining coverage of services performed for 3309 entities (government entities, 501(c)(3) nonprofit organizations, and Indian tribes). Whether services are performed in an employer-employee relationship for purposes of the required coverage is governed by Federal law, specifically, section 3306(i), Federal Unemployment Tax Act (FUTA), which defines

“employee” by referring to the common law test found in section 3121(d) of the Internal Revenue Code. IRS regulations at 26 C.F.R. § 31.3306(i)-1 provide that every individual is an employee if the relationship between the individual and the person for whom services are performed has the legal relationship of employer and employee. Generally, such relationship exists when the person for whom services are performed has the right to control and direct the individual who performs the services; the person need not actually direct or control the manner in which service is performed, it is sufficient that the person has the right to do so. Second, the USDOL advised that because the proposed subsection (d) would place the burden of proof on workers to establish that they are employees and not independent contractors if the workers filed for unemployment benefits, such provision would not be in conformity with section 303(a)(1) of the Social Security Act. That section requires as a condition for a state to receive administrative grants for its unemployment compensation programs that the state law provide for “[s]uch methods of administration . . . as are found by the Secretary of Labor to be reasonably calculated to insure full payment of unemployment compensation when due.” The USDOL advised that it has long interpreted that provision to require state unemployment compensation agencies take the initiative in discovering information regarding the circumstances surrounding an individual’s unemployment and to obtain all the facts necessary to make the correct decision.

The Committee and Judiciary and Labor amended this bill to include the Internal Revenue Service’s recent formulation of its test for determining independent contractor status. S.D. 1 may, however, still raise the same concerns because S.D.1 provides that once a certification is provided to an individual, the individual may provide a copy of the certification to any customer to whom the individual provides services and such individual would be deemed to be an independent contractor of that customer whether or not the individual may be working under a different set of circumstances. When dealing with 3309 entities, the facts of the situation, not the possession of a certification is determinative. If there is an employer-employee relationship, the USDOL has advised that state law must provide that the services are covered as a condition for the state law to be certified for all employers in the state to be eligible to receive credit against FUTA tax. In addition, because S.D. 1 would continue to place the burden of proof on workers to establish that they are employees and not independent contractors if the

workers filed for unemployment benefits, such provision would not be in conformity with section 303(a)(1) of the Social Security Act.

For the reasons discussed above, we have concerns about the provision of the bill and request the bill be held.



**Before the Senate Committee on Commerce
and Consumer Protection**

DATE: Thursday, February 26, 2015

TIME: 9:30 A.M.

PLACE: Conference Room 229

Re: SB 1219, SD1 Relating to Employment Security

Testimony of Melissa Pavlicek for NFIB Hawaii

We are testifying on behalf of the National Federation of Independent Business (NFIB) in **SUPPORT** of **SB 1219, SD1** relating to employment security.

SB 1219, SD1 aims to allow the Department of Labor and Industrial Relations to set criteria for independent contractor status. The measure will establish criteria for applicable definitions that the department shall use to deem that an individual is an independent contractor. The language further charges the department to certify independent contractors and requires independent contractors to provide a written copy of certification to each customer. Finally, the measure places the burden of proving an employee-employer relationship on the certified independent contractor if the contractor files an unemployment insurance benefits claim against a customer.

This bill will address a chasm that exists within Hawai'i's current employment and labor law. The benefits of this measure are set to improve the working conditions, opportunities, and security of those who are self-employed and/or those seeking to utilize their services.

We look forward to engaging in continued conversation about the matter.

Mahalo nui to the legislature for its time, deliberation, and consideration.

THE SENATE

Committee on Commerce and Consumer Protection

Senator Rosalyn H. Baker, Chair

Senator Brian T. Taniguchi, Vice Chair

State Capitol, Conference Room 229

Thursday, February 26, 2015; 9:30 a.m.

**STATEMENT OF THE ILWU LOCAL 142 ON S.B. 1219, SD1
RELATING TO EMPLOYMENT SECURITY**

The ILWU Local 142 **opposes** S.B. 1219, SD1, which allows the Department of Labor and Industrial Relations to set criteria for independent contractor status and certify them, establishes criteria for when the Department shall presume an individual is an independent contractor, requires the Department to certify independent contractors, allows independent contractors to provide a written copy of certification to each customer, and places the burden of proving an employee-employer relationship on the certified independent contractor if the contractor files a claim for unemployment insurance.

We believe this bill is unnecessary and will further muddy the waters regarding independent contractor status. SD1 allows for the Department to establish and adopt criteria to determine independent contractor status, but the “ABC test” in current law should be sufficient. Under the current statute (HRS 383), an individual is deemed an independent contractor if: (A) he has been and will continue to be free from control or direction in the performance of his work; (B) his service is performed outside the employer’s usual course of business or places of business; and (C) he is contracted for the type of work that he is customarily engaged in as an independent contractor.

This bill appears to have been introduced in response to a misapplication of the guidelines in the unemployment insurance claim of an individual contracted for work by a Maui employer, who subsequently prevailed in Circuit Court to have two earlier decisions vacated. The Court’s decision should be incorporated into the Department’s procedures in applying the test for “control and direction” by the employer. However, the Court’s decision does not justify changing the definition of independent contractor, which will do nothing to make a bad situation better. In fact, it will make matters worse.

We understand that the U.S. Department of Labor has advised Hawaii’s Department of Labor that, if this bill is passed, Hawaii may not be in conformance with federal requirements as **our test for independent contractor status is less rigorous** than one applied by the federal government, namely the Internal Revenue Service. This non-conformance will jeopardize federal funds for the administration of Hawaii’s unemployment insurance program and may require all employers to be assessed more to cover the loss.

SD1 presumes independent contractor status if the individual has: (1) a valid employee identification number by IRS; (2) a current general excise tax license from the Department of Taxation; (3) entered into a formalized agreement of limited duration with a customer to perform specific services; and (4) fulfills the requirements for independent contractor status according to the IRS based on behavioral control, financial control, and relationship between the parties. This last requirement is intended to address the issue of control and assure conformance with federal requirements, but it poses a contradiction in the criteria.

Control and direction by the employer is an essential consideration in determining an employer-employee relationship. Yet, under the SD1 language, a person could be offered a job only on the condition that he meets the criteria to be an independent contractor. Desperate to be hired, the person may do everything necessary to meet the criteria—i.e., get a federal ID number and a GET license and agree to a contract for work—but he is technically not an independent contractor if the employer sets his hours of work, directs where and when he must work, controls how he accomplishes the tasks set for him, and can terminate his “hire” at any time. As independent contractors, these individuals will lose their entitlement to union representation, wage and hour protections, unemployment insurance, workers’ compensation, prepaid medical coverage, and any other benefits as an employee.

Currently, the presumption is that an employer-employee relationship exists unless independent contractor status can be proven. By placing the burden of proof on the individual, the law will allow employers to make independent contractors of all employees who are not protected by a union contract.

The ILWU respectfully urges that S.B. 1219, SD1 be held. Thank you for considering our views and concerns.

February 26, 2015

The Honorable Rosalyn H. Baker, Chair

Senate Committee on Commerce and Consumer Protection
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: S.B. 1219, S.D.1, Relating to Employment Security

HEARING: Thursday, February 26, 2015, at 9:30 a.m.

Aloha Chair Baker, Vice Chair Taniguchi and Members of the Committee:

I am Myoung Oh, Government Affairs Director, offering written testimony on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,400 members. HAR **offers comments and amendments** on S.B. 1219, S.D.1 which changes the definition of independent contractor.

The majority of our 8,400 members practice as independent contractors. The independent contractor relationships underpin the practice and business of real estate which is characterized by highly flexible, independent business professionals that provide individualized service to Hawaii's real estate consumers.

The current definition of independent contractor contained in Hawai'i Revised Statutes §383-6 (which this bill seeks to delete) is consistent with well-established legal standards for independent contractors, in particular the concept of control. In short, independent contractors are free to control the time spent, manner and nature of the services they provide consistent with applicable law.

Unfortunately, S.B. 1219, S.D.1 eliminates the stability and predictability of the definition and creates legal risks because it changes the well understood language of the statute and seeks to replace it with yet to be developed rules, in effect creating a new legal regime.

If this Committee is inclined to pass this measure, HAR respectfully requests that explicit language be inserted in this measure and the Committee Report to ensure that the rights, duties, and exemptions in HRS §383-7 *Excluded Service* continue to be clear exemptions from the definition of employment and amendments to independent contractor.

Mahalo for the opportunity to offer written testimony.

The Senate
Committee on Commerce and Consumer Protection
February 26, 2015 9:30 a.m.
Room 229

Statement of the Hawaii Regional Council of Carpenters on S.B. 1219, SD1

The Carpenters Union believes that the negative consequences of the Bill far outweigh seeking to right a Department ruling that was subsequently overturned in court.

Cost consequences of the Bill are important for the State and to employers, with a loss of Federal funds and a tenfold increase in payments into Unemployment Insurance by employers. We have watched hopefully as the Legislature continues to gradually rebuild the Department of Labor and Industrial Relations (DLIR) after deep staffing cuts. We question spending to add staff for a new function, that of processing certifications for independent contractors, rather than reinstating lost positions.

Instead of altering the law, the approach should be for DLIR to integrate the court's ruling, among other considerations, into its practices. Modifying or conditioning a long established and recognized standard of employee status not only has severe cost implications for the State, but it strips away a protection against a much larger problem of abuse.

Misclassification of employees as independent contractors, and circumventing taxation, benefit, safety, wage and hour, etc. laws, has become increasingly recognized for its negative impacts in recent years. Employers who do not pay into social security or medicare, withhold taxes, obey workers compensation law, pay overtime or for prepaid healthcare, etc., undercut competing employers who obey the laws and treat their workers with compassion. State (and other government) revenue is lost. Workers go without protections and credits towards benefits.

Establishing a presumption of independent contractor status will make it harder to close the door on intentional misclassification. The proposed certification system does not remove the need to evaluate the actual terms of employment for specific work. An individual may meet all the requirements for independent contracting for certain work, but work another job under completely different terms that are in actuality, employment. What a person does, and under what terms must still be determinative, not a label or title.

The bill should be held, rather than jeopardize the clearest, recognized standard that we have had thus far to determine employee status vs. that of an independent contractor.



Randy Perreira
President

HAWAII STATE AFL-CIO

345 Queen Street, Suite 500 • Honolulu, Hawaii 96813

Telephone: (808) 597-1441

Fax: (808) 593-2149

The Twenty-Eighth Legislature, State of Hawaii
Hawaii State Senate
Committee on Commerce and Consumer Protection

Testimony by
Hawaii State AFL-CIO
February 26, 2015

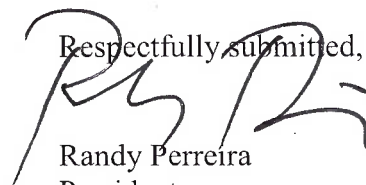
S.B. 1219 – RELATING TO
EMPLOYMENT SECURITY

The Hawaii State AFL-CIO opposes S.B. 1219 which allows the department of labor and industrial relations to set criteria for independent contractor status, establishes criteria for when the department shall presume an individual is an independent contractor, requires the department to certify independent contractors, allows independent contractors to provide a written copy of certification to each customer, and places the burden of proving an employee-employer relationship on the certified independent contractor if the contractor files an unemployment insurance benefits claim against a customer.

The Hawaii State AFL-CIO is concerned changing the independent contractor law will be detrimental to a number of workers in the state of Hawaii. Independent contractors have several disadvantages such as not having the ability to collect unemployment insurance or claim workers' compensation. If S.B. 1219 becomes law, many employees will be leveraged into accepting an independent contractor status and it will be up to them to prove they are employees and not independent contractors. Consequently, the Hawaii State AFL-CIO strongly urges the Committee on Commerce and Consumer Protection to defer S.B. 1219 indefinitely.

Thank you for the opportunity to testify.

Respectfully submitted,



Randy Perreira
President



Testimony to the Senate Committee on Commerce and Consumer Protection
Thursday, February 26, 2015
9:30 A.M.
State Capitol - Conference Room 229

RE: SENATE BILL 1219, SD1; RELATING TO EMPLOYMENT

Aloha Chair Baker, Vice Chair Taniguchi, and members of the committee:

We are Melissa Pannell and John Knorek, the Legislative Committee co-chairs for the Society for Human Resource Management – Hawaii Chapter ("SHRM Hawaii"). SHRM Hawaii represents nearly 1,000 human resource professionals in the State of Hawaii.

We are writing to respectfully SUPPORT SB 1219, SD1. We find that this measure serves as a means to address a critical gap in Hawai'i's employment and labor law. Incorporating definitions that the Department of Labor and Industrial relations can use to better determine the status of independent contractors will serve to improve the working conditions, opportunities, and security of those who are self-employed and/or those seeking to utilize their services.

Human resource professionals are keenly attuned to the needs of employers and employees. We are the frontline professionals responsible for businesses' most valuable asset: human capital. We truly have our employers' and employees' interests at heart. We respectfully support this measure for the potential benefit that this measure could have in fostering trust, accountability, and a generally stronger employee/employer relationship.

We will continue to review this bill and, if it advances, request to be a part of the dialogue concerning it. Thank you for the opportunity to testify.



Whalers Realty Management Company Inc.

2580 Kekaa Drive Suite 118

Lahaina, Hawaii 96761

Subject: Support of Original Version SB1219

Aloha,

I am writing on behalf of Whalers Realty Management Company Inc. in support of the Original Version of SB1219.

Our company has periodically hired Independent Contractors to perform specific services over a defined period of time. Therefore, we appreciate this opportunity to clarify who qualifies as an Independent Contractor with the State as more and more individuals are seeking contracts as sole proprietors and past rulings by the Department of Labor & Industrial Relations make it unclear as to how sole proprietors will be treated.

We are deeply concerned with the changes SD1 makes to SB1219 because it defeats the very purpose of the Bill as originally introduced.

The addition of Section 1(b)(4) in SD1 is contrary to the intent of the proposed law which seeks to quickly clarify who is an independent contractor in uncontested cases and avoid discretionary call by DLIR. The Department has not been following the IRS test which led to this circumstance in the first place. This requirement will delay certifications, add to the workload of DLIR, and result in continued litigation on uncontested cases. The only difference is that, with this language, the litigation would occur up front, rather than after the fact.

- SD1 Also makes certification optional to only those independent contractors who request it. I feel this language significantly weakens the original strength of the bill and conflicts with the clear intent and purpose of the certification process. I prefer the original certification language in the initial version of SB1219.
- SD1 opens with the phrases “circumstantial presumption” and “ optional certification” which immediately gives a sense of uncertainty to an otherwise clear and definitive certification process. I would like this language removed.

SD1 has an effective date of January 2059 which unrealistically delays any change contemplated by SB1219 to the existing law. I would like to see the effective date changed to January 1, 2016.

By passing this bill, all parties can move forward with the business relationship they agree to, knowing at the outset where they stand with the State.

Thank you for the opportunity to provide testimony and please Support SB1219 in its Original Version.

Sincerely,

Teresa Jeanine Cartwright

Aka Tess Cartwright

Co-Owner and Principal Broker

Whalers Realty Management Company Inc.

Cell Phone: 808-298-3031

Chris Bayot

Synergy Asia Pacific

1050 Bishop Street, Suite 176, Honolulu, HI 96813

February 24, 2015

SUBJ: Testimony in favor of the original version of SB1219

Sample Testimony for Companies/Industries That Hire Independent Contractors

Aloha, I am writing on behalf of Solvent Information Systems, Inc dba Synergy Asia Pacific in support of the original version of SB1219.

Our company has periodically hired Independent Contractors to perform specific services over a defined period of time. Therefore, we appreciate this opportunity to clarify who qualifies as an Independent Contractor with the State as more and more individuals are seeking contracts as sole proprietors and past rulings by the Department of Labor & Industrial Relations make it unclear as to how sole proprietors will be treated.

We are deeply concerned with the changes SD1 makes to SB1219 because it defeats the very purpose of the Bill as originally introduced.

- SD1 is contrary to the intent of the proposed law which seeks to quickly clarify who is an independent contractor in uncontested cases and avoid discretionary calls by the DLIR. This requirement will delay certifications and gives the DLIR the power to decide when and when not to issue IC certifications, which would result in continued litigation in uncontested cases – the very problem this Bill seeks to correct. The only difference between current law and SD1 is that, litigation would occur up front, rather than after the fact.
 - SD1 also makes certification optional to only those independent contractors who request it. I feel this language significantly weakens the original strength of the bill and conflicts with the clear intent and purpose of the certification process. I prefer the original certification language in the initial version of SB1219.
 - SD1 opens with the phrases “circumstantial presumption” and “optional certification” which immediately gives a sense of uncertainty to an otherwise clear and definitive certification process. I would like this language removed.

- SD1 has an effective date of January 2059 which unrealistically delays any change contemplated by SB1219 to the existing law. I would like to see the effective date changed to January 1, 2016.

We need to have an Independent Contractor presumption and, therefore, prefer the stronger language in the original Senate Bill HB1219.

We support taking out a DCCA registration, as sole proprietors are not required to register with the DCCA.

We would prefer to keep the one-time certification in as it makes it infinitely clearer that they are truly an independent contractor.

By passing this bill, all parties can move forward with the business relationship they agree to, knowing at the outset where they stand with the State.

Thank you for the opportunity to provide testimony and please support SB1219 in its original version.

Sincerely,

Chris Bayot

Hawaii Regional Manager

Synergy Asia Pacific

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: talktoturners@msn.com
Subject: Submitted testimony for SB1219 on Feb 26, 2015 09:30AM
Date: Wednesday, February 25, 2015 5:40:04 AM
Attachments: [HAW.Gov letter of disapproval for SB1219 SD1.doc](#)

SB1219

Submitted on: 2/25/2015

Testimony for CPN on Feb 26, 2015 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
melanie Turner	melanie Turner Landscape Maint. LLC	Oppose	No

Comments: Aloha, I am writing on behalf of (Melanie Turner landscape Maintenance LLC) in support of the original version of SB1219. Our company (may) periodically hire Independent Contractors to perform specific services over a defined period of time. Therefore, we appreciate this opportunity to clarify who qualifies as an Independent Contractor with the State as more and more individuals are seeking contracts as sole proprietors and past rulings by the Department of Labor & Industrial Relations make it unclear as to how sole proprietors will be treated. We are deeply concerned with the changes SD1 makes to SB1219 because it defeats the very purpose of the Bill as originally introduced. The addition of Section 1 (b) (4) in SD1 is contrary to the intent of the proposed law which seeks to quickly clarify who is an independent contractor in uncontested cases and avoid discretionary calls by DLIR. The Department has not been following the IRS test which led to this circumstance in the first place. This requirement will delay certifications, add to the workload of DLIR, and result in continued litigation on uncontested cases. The only difference is that, with this language, the litigation would occur up front, rather than after the fact. • SD1 also makes certification optional to only those independent contractors who request it. I feel this language significantly weakens the original strength of the bill and conflicts with the clear intent and purpose of the certification process. I prefer the original certification language in the initial version of SB1219. • SD1 opens with the phrases “circumstantial presumption” and “optional certification” which immediately gives a sense of uncertainty to an otherwise clear and definitive certification process. I would like this language removed. SD1 has an effective date of January 2059 which unrealistically delays any change contemplated by SB1219 to the existing law. I would like to see the effective date changed to January 1, 2016. [Consider adding these points: We need to have an Independent Contractor presumption and, therefore, prefer the stronger language in the original Senate Bill HB1219. We support taking out a DCCA registration, as sole proprietors are not required to register with the DCCA. While making the certification optional, and while we are okay with making the certification optional, we would prefer to keep the one-time certification in as it makes it infinitely more clear that they are truly an independent contractor.] By passing this bill, all parties can move forward with the business

relationship they agree to, knowing at the outset where they stand with the State.
Thank you for the opportunity to provide testimony and please support SB1219 in its original version. Sincerely, (Melanie A. Turner)

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov



T.M.C. General Contracting Inc.

Aloha, I am writing on behalf of my General Contracting Company that has been licensed on Maui for 25 years, **in support of the original version of SB1219**.

Our company (has or may) periodically hire Independent Contractors to perform specific services over a defined period of time. Therefore, we appreciate this opportunity to clarify who qualifies as an Independent Contractor with the State as more and more individuals are seeking contracts as sole proprietors and past rulings by the Department of Labor & Industrial Relations make it unclear as to how sole proprietors will be treated.

We are deeply concerned with the changes SD1 makes to SB1219 because it defeats the very purpose of the Bill as originally introduced.

The addition of Section 1 (b) (4) in SD1 is contrary to the intent of the proposed law which seeks to quickly clarify who is an independent contractor in uncontested cases and avoid discretionary calls by DLIR. The Department has not been following the IRS test which led to this circumstance in the first place. This requirement will delay certifications, add to the workload of DLIR, and result in continued litigation on uncontested cases. The only difference is that, with this language, the litigation would occur up front, rather than after the fact.

- SD1 also makes certification optional to only those independent contractors who request it. I feel this language significantly weakens the original strength of the bill and conflicts with the clear intent and purpose of the certification process. I prefer the original certification language in the initial version of SB1219.
- SD1 opens with the phrases “circumstantial presumption” and “optional certification” which immediately gives a sense of uncertainty to an otherwise clear and definitive certification process. I would like this language removed.

SD1 has an effective date of January 2059 which unrealistically delays any change contemplated by SB1219 to the existing law. I would like to see the effective date changed to January 1, 2016.

- 1- We need to have an Independent Contractor presumption and, therefore, prefer the stronger language in the original Senate Bill HB1219.
- 2- We support taking out a DCCA registration, as sole proprietors are not required to register with the DCCA.
- 3- While making the certification optional, and while we are okay with making the certification optional, we would prefer to keep the one-time certification in as it makes it infinitely clearer that they are truly an independent contractor.



T.M.C. General Contracting Inc.

By passing this bill, all parties can move forward with the business relationship they agree to, knowing at the outset where they stand with the State.

Thank you for the opportunity to provide testimony and **please support SB1219 in its original version.**

Sincerely,

Thomas M. Cook
President / RME
TMC General Contracting, inc

February 21, 2015

Aloha, I am writing on behalf of The Wright Company, LLC in support of SB1219 SD1.

Our company has periodically hire Independent Contractors to perform specific services over a defined period of time. Therefore, we appreciate this opportunity to clarify who qualifies as an Independent Contractor with the state as more and more individuals are seeking contracts as sole proprietors and past rulings by the Department of Labor & Industrial Relations make it unclear as to how sole proprietors will be treated.

By passing this bill, all parties can move forward with the relationship knowing where they stand.

We need to have an Independent Contractor presumption and prefer the stronger language in the original Senate Bill HB1219.

We support taking out a DCCA registration, as sole proprietors are not required to register with the DCCA.

While making the certification optional, and while we are okay with making the certification optional, we would prefer to keep the one-time certification in at \$10 as it just makes it infinitely more clear that they are truly an independent contractor.

Thank you for the opportunity to provide testimony and please support SB1219 SD1.

Sincerely,

Kurt R. Wright,

President

The Wright Company, LLC

STAR GAZE HAWAII

A DIVISION OF SOUND COMPUTER CENTER, INC.

P.O. Box 788, Kealahou, HI 96750-0788

PHONE: (808) 323-3481 FAX: (808) 323-9516

February 24, 2015

Aloha, I am writing in support of the original version of SB1219.

I currently choose to perform Commercial Astronomy services as an independent contractor under the name Star Gaze Hawaii a dba of Sound Computer Center, Inc. Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc.

In a changing economic environment, being an independent contractor allows me to:

1. Innovate and develop new ways to view Astronomical Objects to attract market share including Visual, Photographic and Video means.
2. Purchase, customize, calibrate and maintain telescope equipment to very high standards to produce high quality visual stargazing entertainment for guests.
3. Take original Astronomy Photographs of Deep Space Objects and sell the images or use them to promote my business.
4. Set my own hours which very often run far past midnight to observe the sky and take photographs of stars, galaxies, planets, and nebulae.
5. Contract with all of the Hotels, local and international entertainment companies and destination management companies that perform on the Big Island of Hawaii.
6. Set my own Fees for different stargazing options on "per telescope" or "per person" basis depending on the custom program.
7. Research the history and produce lectures on Astronomy in general and the specific contributions of Hawaii to Astronomy to Hotel Guests.

We are deeply concerned with the changes SD1 makes to SB1219 because it defeats the very purpose of the Bill as originally introduced.

- SD1 is contrary to the intent of the proposed law which seeks to quickly clarify who is an independent contractor in uncontested cases and avoid discretionary calls by the DLIR. This requirement will delay certifications and gives the DLIR the power to decide when and when not to issue IC certifications, which would result in continued litigation in uncontested cases – the very problem this Bill seeks to correct. The only difference between current law and SD1 is that, litigation would occur up front, rather than after the fact.

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- SD1 opens with the phrases “circumstantial presumption” and “optional certification” which immediately gives a sense of uncertainty to an otherwise clear and definitive certification process. I would like this language removed.
- SD1 has an effective date of January 2059 which unrealistically delays any change contemplated by SB1219 to the existing law. I would like to see the effective date changed to [January 1, 2016](#).

We need to have an Independent Contractor presumption and, therefore, prefer the stronger language in the original Senate Bill HB1219.

We support taking out a DCCA registration, as sole proprietors are not required to register with the DCCA.

While making the certification optional, and while we are okay with making the certification optional, we would prefer to keep the one-time certification in as it makes it infinitely clearer that they are truly an independent contractor.

Therefore, I support SB1219 in its original version to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the State.

Thank you for the opportunity to provide testimony and please support the original version of SB1219.

Sincerely,

Wayne M. Fukunaga, President

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: Wayne@EnvisionsEntertainment.com
Subject: Submitted testimony for SB1219 on Feb 26, 2015 09:30AM
Date: Tuesday, February 24, 2015 4:36:51 PM

SB1219

Submitted on: 2/24/2015

Testimony for CPN on Feb 26, 2015 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Wayne Hikiji	Envisions Entertainment	Support	No

Comments: I am testifying in support of the original version of SB1219, not SB1219, SD1. My written Testimony includes supporting documents, so I am emailing it directly to the committee clerk as instructed. Mahalo!

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: vonbaron@vonbaronmusic.com
Subject: Submitted testimony for SB1219 on Feb 26, 2015 09:30AM
Date: Tuesday, February 24, 2015 9:38:30 PM

SB1219

Submitted on: 2/24/2015

Testimony for CPN on Feb 26, 2015 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Adam "Von" Baron	Von Baron Music, LLC	Comments Only	No

Comments: Aloha, I am writing on behalf of Von Baron Music, LLC in support of the original version of SB1219. My company periodically hires Independent Contractors to perform specific services over a defined period of time. Therefore, we appreciate this opportunity to clarify who qualifies as an Independent Contractor with the State as more and more individuals are seeking contracts as sole proprietors and past rulings by the Department of Labor & Industrial Relations make it unclear as to how sole proprietors will be treated. I am concerned with the changes SD1 makes to SB1219 because it defeats the very purpose of the Bill as originally introduced. · SD1 is contrary to the intent of the proposed law which seeks to quickly clarify who is an independent contractor in uncontested cases and avoid discretionary calls by the DLIR. This requirement will delay certifications and gives the DLIR the power to decide when and when not to issue IC certifications, which would result in continued litigation in uncontested cases – the very problem this Bill seeks to correct. The only difference between current law and SD1 is that, litigation would occur up front, rather than after the fact. SD1 also makes certification optional to only those independent contractors who request it. I feel this language significantly weakens the original strength of the bill and conflicts with the clear intent and purpose of the certification process. I prefer the original certification language in the initial version of SB1219. SD1 opens with the phrases “circumstantial presumption” and “optional certification” which immediately gives a sense of uncertainty to an otherwise clear and definitive certification process. I would like this language removed. · SD1 has an effective date of January 2059 which unrealistically delays any change contemplated by SB1219 to the existing law. I would like to see the effective date changed to January 1, 2016. [Please consider adding these points: We need to have an Independent Contractor presumption and, therefore, prefer the stronger language in the original Senate Bill HB1219. While making the certification optional, and while I am okay with making the certification optional, I would prefer to keep the one-time certification in as it makes it infinitely more clear that they are truly an independent contractor.] By passing this bill, all parties can move forward with the business relationship they agree to, knowing at the outset where they stand with the State. Thank you for the opportunity to provide testimony and please support SB1219 in its original version. Sincerely, Adam "Von" Baron

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: jdpmaui@gmail.com
Subject: Submitted testimony for SB1219 on Feb 26, 2015 09:30AM
Date: Saturday, February 21, 2015 12:32:13 PM

SB1219

Submitted on: 2/21/2015

Testimony for CPN on Feb 26, 2015 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Joe Dalessandro	Marry Me Maui Wedding Planners	Support	No

Comments: Aloha, I am writing on behalf of Marry Me Maui Wedding Planners in support of SB1219 SD1. Our company periodically hires Independent Contractors to perform specific services over a defined period of time. Therefore, we appreciate this opportunity to clarify who qualifies as an Independent Contractor with the state as more and more individuals are seeking contracts as sole proprietors and past rulings by the Department of Labor & Industrial Relations make it unclear as to how sole proprietors will be treated. By passing this bill, all parties can move forward with the relationship knowing where they stand. Thank you for the opportunity to provide testimony and please support SB1219 SD1.

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: kika@kikainc.com
Subject: Submitted testimony for SB1219 on Feb 26, 2015 09:30AM
Date: Tuesday, February 24, 2015 10:50:35 AM

SB1219

Submitted on: 2/24/2015

Testimony for CPN on Feb 26, 2015 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
caterina matsumoto	kika inc	Support	Yes

Comments: Aloha, I am writing on behalf of Kika Inc. in support of the original version of SB1219. My company periodically hires Independent Contractors to perform specific services over a defined period of time. Therefore, we appreciate this opportunity to clarify who qualifies as an Independent Contractor with the State as more and more individuals are seeking contracts as sole proprietors and past rulings by the Department of Labor & Industrial Relations make it unclear as to how sole proprietors will be treated. We are deeply concerned with the changes SD1 makes to SB1219 because it defeats the very purpose of the Bill as originally introduced. · SD1 is contrary to the intent of the proposed law which seeks to quickly clarify who is an independent contractor in uncontested cases and avoid discretionary calls by the DLIR. This requirement will delay certifications and gives the DLIR the power to decide when and when not to issue IC certifications, which would result in continued litigation in uncontested cases – the very problem this Bill seeks to correct. The only difference between current law and SD1 is that, litigation would occur up front, rather than after the fact. SD1 also makes certification optional to only those independent contractors who request it. I feel this language significantly weakens the original strength of the bill and conflicts with the clear intent and purpose of the certification process. I prefer the original certification language in the initial version of SB1219. SD1 opens with the phrases “circumstantial presumption” and “optional certification” which immediately gives a sense of uncertainty to an otherwise clear and definitive certification process. I would like this language removed. · SD1 has an effective date of January 2059 which unrealistically delays any change contemplated by SB1219 to the existing law. I would like to see the effective date changed to January 1, 2016. [Consider adding these points: We need to have an Independent Contractor presumption and, therefore, prefer the stronger language in the original Senate Bill HB1219. We support taking out a DCCA registration, as sole proprietors are not required to register with the DCCA. While making the certification optional, and while we are okay with making the certification optional, we would prefer to keep the one-time certification in as it makes it infinitely more clear that they are truly an independent contractor.] By passing this bill, all parties can move forward with the business relationship they agree to, knowing at the outset where they stand with the State. Thank you for the opportunity to provide testimony and please support SB1219 in its original version. Sincerely, Caterina Matsumoto

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: deantaba@earthlink.net
Subject: Submitted testimony for SB1219 on Feb 26, 2015 09:30AM
Date: Tuesday, February 24, 2015 10:33:21 PM

SB1219

Submitted on: 2/24/2015

Testimony for CPN on Feb 26, 2015 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Dean Taba	Individual	Support	No

Comments: Aloha, I am writing in support of the original version of SB1219. I currently choose to perform musician services as an independent contractor under the name Dean Taba. Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc. In a changing economic environment, being an independent contractor allows me to schedule my work freely and not be dependent on one company/client. We are deeply concerned with the changes SD1 makes to SB1219 because it defeats the very purpose of the Bill as originally introduced. · SD1 is contrary to the intent of the proposed law which seeks to quickly clarify who is an independent contractor in uncontested cases and avoid discretionary calls by the DLIR. This requirement will delay certifications and gives the DLIR the power to decide when and when not to issue IC certifications, which would result in continued litigation in uncontested cases – the very problem this Bill seeks to correct. The only difference between current law and SD1 is that, litigation would occur up front, rather than after the fact. SD1 also makes certification optional to only those independent contractors who request it. I feel this language significantly weakens the original strength of the bill and conflicts with the clear intent and purpose of the certification process. Therefore, I prefer the original certification language in the initial version of SB1219. SD1 opens with the phrases “circumstantial presumption” and “optional certification” which immediately gives a sense of uncertainty to an otherwise clear and definitive certification process. I would like this language removed. · SD1 has an effective date of January 2059 which unrealistically delays any change contemplated by SB1219 to the existing law. I would like to see the effective date changed to January 1, 2016. We need to have an Independent Contractor presumption and, therefore, prefer the stronger language in the original Senate Bill HB1219. We support taking out a DCCA registration, as sole proprietors are not required to register with the DCCA. While making the certification optional, and while we are okay with making the certification optional, we would prefer to keep the one-time certification in as it makes it infinitely more clear that they are truly an independent contractor. Therefore, I support SB1219 in its original version to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the State. Thank you for the opportunity to provide testimony and

please support the original version of SB1219. Sincerely, Dean Taba

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February 23, 2015

Aloha, I am writing on behalf of The Maui Closet Company in support of the original version of SB 1219.

Our company may in the future have a need to periodically hire Independent Contractors to perform specific services over a defined short period of time. Therefore, we appreciate this opportunity to clarify who qualifies as an Independent Contractor with the State along with the Department of Labor & Industrial Relations.

We are deeply concerned with the changes SD1 makes to SB 1219 because it defeats the very purpose of the Bill as original introduced.

SD 1 makes certification optional to only those independent contractors who request it. I feel this language significantly weakens the original strength of the bill and the clarification of an Independent Contractor, I prefer the original certification language in the initial version of SB 1219.

SD 1 opens with the phrases "circumstantial presumption" and "optional certification" which immediately gives a sense of uncertainty to an otherwise clear and definitive certification process. I would like this language removed

SD 1jhas an effective date of January 2059 which unrealistically delays any change contemplated by SB 1219 to the existing law. I would like to see the effective date changes to January 1, 2016.

Added points to consider:

We need to have an Independent Contractor presumption and, therefore, prefer the stronger language in the original Senate Bill HB 1219.

We support taking out a DCCA registration, as sole proprietors are not required to register with the DCCA.

By passing this bill, all parties can move forward with the business relationship, with a clear definition of an Independent Contractor as set by the State.

Thank you for the opportunity to provide testimony and please support SB 1219 in its original version

Aloha with blessings.

Debbie Finkiewicz

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: sugah@me.com
Subject: Submitted testimony for SB1219 on Feb 26, 2015 09:30AM
Date: Tuesday, February 24, 2015 10:58:59 AM

SB1219

Submitted on: 2/24/2015

Testimony for CPN on Feb 26, 2015 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Erin Wellbrock	Individual	Support	No

Comments: Aloha, I am writing in support of the original version of SB1219. I currently choose to perform services as an independent under the name Erin Wellbrock. Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc. In a changing economic environment, being an independent contractor allows me to (list benefits to you of being an independent contractor, such as: the ability to be your own boss, have flexibility in your schedule, work on a part-time basis, work for multiple companies, earn more money, etc.). We are deeply concerned with the changes SD1 makes to SB1219 because it defeats the very purpose of the Bill as originally introduced. · SD1 is contrary to the intent of the proposed law which seeks to quickly clarify who is an independent contractor in uncontested cases and avoid discretionary calls by the DLIR. This requirement will delay certifications and gives the DLIR the power to decide when and when not to issue IC certifications, which would result in continued litigation in uncontested cases – the very problem this Bill seeks to correct. The only difference between current law and SD1 is that, litigation would occur up front, rather than after the fact. SD1 also makes certification optional to only those independent contractors who request it. I feel this language significantly weakens the original strength of the bill and conflicts with the clear intent and purpose of the certification process. Therefore, I prefer the original certification language in the initial version of SB1219. SD1 opens with the phrases “circumstantial presumption” and “optional certification” which immediately gives a sense of uncertainty to an otherwise clear and definitive certification process. I would like this language removed. · SD1 has an effective date of January 2059 which unrealistically delays any change contemplated by SB1219 to the existing law. I would like to see the effective date changed to January 1, 2016. [Consider adding these points: We need to have an Independent Contractor presumption and, therefore, prefer the stronger language in the original Senate Bill HB1219. We support taking out a DCCA registration, as sole proprietors are not required to register with the DCCA. While making the certification optional, and while we are okay with making the certification optional, we would prefer to keep the one-time certification in as it makes it infinitely more clear that they are truly an independent contractor.] Therefore, I support SB1219 in its original version to make it clear that I

am an Independent Contractor to the clients who are interested in hiring me, as well as the State. Thank you for the opportunity to provide testimony and please support the original version of SB1219. Sincerely, Erin Wellbrock

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Aloha, I am writing in support of the original version of SB1219.

I currently choose to perform entertainment services as an independent contractor under the name Kalalea. Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc.

In a changing economic environment, being an independent contractor allows me to work for multiple companies and set our own schedule. We are also able to keep our work part time with Kalalea. As my husband and I also run an art business, Sol Art Studios works as independent contractors as we show our work at various hotels throughout Kauai.

We are deeply concerned with the changes SD1 makes to SB1219 because it defeats the very purpose of the Bill as originally introduced.

- SD1 is contrary to the intent of the proposed law which seeks to quickly clarify who is an independent contractor in uncontested cases and avoid discretionary calls by the DLIR. This requirement will delay certifications and gives the DLIR the power to decide when and when not to issue IC certifications, which would result in continued litigation in uncontested cases – the very problem this Bill seeks to correct. The only difference between current law and SD1 is that, litigation would occur up front, rather than after the fact.

- SD1 also makes certification optional to only those independent contractors who request it. I feel this language significantly weakens the original strength of the bill and conflicts with the clear intent and purpose of the certification process. Therefore, I prefer the original certification language in the initial version of SB1219.

- SD1 opens with the phrases “circumstantial presumption” and “optional certification” which immediately gives a sense of uncertainty to an otherwise clear and definitive certification process. I would like this language removed.

- SD1 has an effective date of January 2059 which unrealistically delays any change contemplated by SB1219 to the existing law. I would like to see the effective date changed to January 1, 2016.

- We need to have an Independent Contractor presumption and, therefore, prefer the stronger language in the original Senate Bill HB1219.
-
- We support taking out a DCCA registration, as sole proprietors are not required to register with the DCCA.

- While making the certification optional, and while we are okay with making the certification optional, we would prefer to keep the one-time certification in as it makes it infinitely more clear that they are truly an independent contractor.

Therefore, I support SB1219 in its original version to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the State.

Thank you for the opportunity to provide testimony and please support the original version of SB1219.

Sincerely,

Hellen Cameron

Director,

Kalalea

Sol Art Studios

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: naultjm@hotmail.com
Subject: Submitted testimony for SB1219 on Feb 26, 2015 09:30AM
Date: Tuesday, February 24, 2015 11:43:34 AM

SB1219

Submitted on: 2/24/2015

Testimony for CPN on Feb 26, 2015 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
janice Nault	Individual	Support	No

Comments: Aloha, I am writing in support of the original version of SB1219. I currently choose to perform delivery and support services as an independent contractor. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc. In a changing economic environment, being an independent contractor allows me to have flexibility in my schedule and work on a part-time basis when needed. My husband is 100% disabled. He has medical issues that require me to work around his treatments and other medical appointments. I would not be able to do this if I was not an independent contractor with control over my schedule. We are deeply concerned with the changes SD1 makes to SB1219 because it defeats the very purpose of the Bill as originally introduced. - SD1 is contrary to the intent of the proposed law which seeks to quickly clarify who is an independent contractor in uncontested cases and avoid discretionary calls by the DLIR. This requirement will delay certifications and gives the DLIR the power to decide when and when not to issue IC certifications, which would result in continued litigation in uncontested cases – the very problem this Bill seeks to correct. The only difference between current law and SD1 is that, litigation would occur up front, rather than after the fact. SD1 also makes certification optional to only those independent contractors who request it. I feel this language significantly weakens the original strength of the bill and conflicts with the clear intent and purpose of the certification process. Therefore, I prefer the original certification language in the initial version of SB1219. SD1 opens with the phrases “circumstantial presumption” and “optional certification” which immediately gives a sense of uncertainty to an otherwise clear and definitive certification process. I would like this language removed. - SD1 has an effective date of January 2059 which unrealistically delays any change contemplated by SB1219 to the existing law. I would like to see the effective date changed to January 1, 2016. [Consider adding these points: We need to have an Independent Contractor presumption and, therefore, prefer the stronger language in the original Senate Bill HB1219. We support taking out a DCCA registration, as sole proprietors are not required to register with the DCCA. While making the certification optional, and while we are okay with making the certification optional, we would prefer to keep the one-time certification in as it makes it infinitely more clear that they are truly an independent contractor.] Therefore, I support SB1219 in its original version to make it clear that I am an Independent Contractor to

the clients who are interested in hiring me, as well as the State. Thank you for the opportunity to provide testimony and please support the original version of SB1219. Sincerely, Janice Nault

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Aloha,

I am writing in support of the original version of SB1219.

I currently choose to perform musical services as an independent contractor under the name Kolivas Productions. Through this business, I serve several clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc.

In a changing economic environment, being an independent contractor allows me the ability to be my own boss, have flexibility in my schedule, work on a part-time basis, work for multiple companies, and earn more money.

We are deeply concerned with the changes SD1 makes to SB1219 because it defeats the very purpose of the Bill as originally introduced.

I support SB1219 in it's original form.

Mahalo,

John Kolivas

John S. Bayot dba John Valentine

95-560 Nawenewene Circle, Mililani, HI 96789

john@johnvalentine.biz 808.753.0345

February 24, 2015

SUBJ: Testimony in favor of the **original version** of SB1219

Aloha, I am writing in support of the original version of SB1219.

I currently choose to perform musical services as an independent contractor under the name John Valentine. Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc.

In a changing economic environment, being an independent contractor allows me to perform throughout Hawaii at a variety of venues, to provide musical services to private individuals for special occasions, the ability to be my own boss, have flexibility in my schedule in order to be available to my family, just to name a handful of benefits.

We are deeply concerned with the changes SD1 makes to SB1219 because it defeats the very purpose of the Bill as originally introduced.

- SD1 is contrary to the intent of the proposed law which seeks to quickly clarify who is an independent contractor in uncontested cases and avoid discretionary calls by the DLIR. This requirement will delay certifications and gives the DLIR the power to decide when and when not to issue IC certifications, which would result in continued litigation in uncontested cases – the very problem this Bill seeks to correct. The only difference between current law and SD1 is that, litigation would occur up front, rather than after the fact.
 - SD1 also makes certification optional to only those independent contractors who request it. I feel this language significantly weakens the original strength of the bill and conflicts with the clear intent and purpose of the certification process. Therefore, I prefer the original certification language in the initial version of SB1219.
 - SD1 opens with the phrases “circumstantial presumption” and “optional certification” which immediately gives a sense of uncertainty to an otherwise clear and definitive certification process. I would like this language removed.

- SD1 has an effective date of January 2059 which unrealistically delays any change contemplated by SB1219 to the existing law. I would like to see the effective date changed to January 1, 2016.

There needs to be an Independent Contractor presumption and, therefore, I prefer the stronger language in the original Senate Bill HB1219.

I support taking out a DCCA registration, as sole proprietors are not required to register with the DCCA.

I prefer to keep the one-time certification in as it makes it infinitely clearer that I am truly an independent contractor.

Therefore, I support SB1219 in its original version to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the State.

Thank you for the opportunity to provide testimony and please support the original version of SB1219.

Sincerely,

John 'Valentine' Bayot

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: pluta@maui.net
Subject: Submitted testimony for SB1219 on Feb 26, 2015 09:30AM
Date: Tuesday, February 24, 2015 10:21:52 AM

SB1219

Submitted on: 2/24/2015

Testimony for CPN on Feb 26, 2015 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Joseph D Pluta	Individual	Oppose	No

Comments: Aloha, I am writing on behalf of my company, Joseph D Pluta Realty LLC in support of the original version of SB1219. My company has periodically hired Independent Contractors to perform specific services over a defined period of time. Therefore, I appreciate this opportunity to clarify who qualifies as an Independent Contractor with the State as more and more individuals are seeking contracts as sole proprietors and past rulings by the Department of Labor & Industrial Relations make it unclear as to how sole proprietors will be treated. We are deeply concerned with the changes SD1 makes to SB1219 because it defeats the very purpose of the Bill as originally introduced. The addition of Section 1 (b) (4) in SD1 is contrary to the intent of the proposed law which seeks to quickly clarify who is an independent contractor in uncontested cases and avoid discretionary calls by DLIR. The Department has not been following the IRS test which led to this circumstance in the first place. This requirement will delay certifications, add to the workload of DLIR, and result in continued litigation on uncontested cases. The only difference is that, with this language, the litigation would occur up front, rather than after the fact. • SD1 also makes certification optional to only those independent contractors who request it. I feel this language significantly weakens the original strength of the bill and conflicts with the clear intent and purpose of the certification process. I prefer the original certification language in the initial version of SB1219. • SD1 opens with the phrases "circumstantial presumption" and "optional certification" which immediately gives a sense of uncertainty to an otherwise clear and definitive certification process. I would like this language removed. SD1 has an effective date of January 2059 which unrealistically delays any change contemplated by SB1219 to the existing law. I would like to see the effective date changed to January 1, 2016. Please note that we need to have an Independent Contractor presumption and, therefore, prefer the stronger language in the original Senate Bill HB1219. I support taking out a DCCA registration, as sole proprietors are not required to register with the DCCA. While making the certification optional, and while I am okay with making the certification optional, I would prefer to keep the one-time certification in as it makes it infinitely more clear that they are truly an independent contractor. By passing this bill, all parties can move forward with the business relationship they agree to, knowing at the outset where they stand with the State. Thank you for the opportunity to provide testimony and please support SB1219 in its original version. Warm Regards, Joseph

D Pluta, Principal Broker/Owner/Realtor JOSEPH D PLUTA REALTY LLC 181
Lahainaluna Road, Suite I Lahaina, HI 96761 (808) 661-7990

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distributed to the committee prior to the convening of the public hearing.

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webmaster@capitol.hawaii.gov

Aloha, I am writing in support of the original version of SB1219.

I currently choose to perform musician services as an independent contractor under the name Maui Harps. Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc.

In a changing economic environment, being an independent contractor allows me to work for multiple companies, have flexible hours, be my own boss, and make more money.

We are deeply concerned with the changes SD1 makes to SB1219 because it defeats the very purpose of the Bill as originally introduced.

- SD1 is contrary to the intent of the proposed law which seeks to quickly clarify who is an independent contractor in uncontested cases and avoid discretionary calls by the DLIR. This requirement will delay certifications and gives the DLIR the power to decide when and when not to issue IC certifications, which would result in continued litigation in uncontested cases – the very problem this Bill seeks to correct. The only difference between current law and SD1 is that, litigation would occur up front, rather than after the fact.
- SD1 also makes certification optional to only those independent contractors who request it. I feel this language significantly weakens the original strength of the bill and conflicts with the clear intent and purpose of the certification process. Therefore, I prefer the original certification language in the initial version of SB1219.
- SD1 opens with the phrases “circumstantial presumption” and “optional certification” which immediately gives a sense of uncertainty to an otherwise clear and definitive certification process. I would like this language removed.
- SD1 has an effective date of January 2059 which unrealistically delays any change contemplated by SB1219 to the existing law. I would like to see the effective date changed to [January 1, 2016](#).

We need to have an Independent Contractor presumption and, therefore, prefer the stronger language in the original Senate Bill HB1219.

We support taking out a DCCA registration, as sole proprietors are not required to register with the DCCA.

While making the certification optional, and while we are okay with making the certification optional, we would prefer to keep the one-time certification in as it makes it infinitely more clear that they are truly an independent contractor.]

Therefore, I support SB1219 in its original version to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the State.

Thank you for the opportunity to provide testimony and please support the original version of SB1219.

Sincerely,

Kristine Snyder

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: makaislala@gmail.com
Subject: Submitted testimony for SB1219 on Feb 26, 2015 09:30AM
Date: Tuesday, February 24, 2015 2:40:14 PM
Attachments: [Testimony #3](#)

SB1219

Submitted on: 2/24/2015

Testimony for CPN on Feb 26, 2015 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Laura Bollinger	Individual	Oppose	No

Comments: Please note: I oppose SB1219 SD1, but am IN FAVOR of the original SB1219. Mahalo, Laura Bollinger

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: lbarrie@mac.com
Subject: Submitted testimony for SB1219 on Feb 26, 2015 09:30AM
Date: Tuesday, February 24, 2015 10:04:49 PM

SB1219

Submitted on: 2/24/2015

Testimony for CPN on Feb 26, 2015 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Lorraine Barrie	Individual	Support	No

Comments: I am writing in support of the ORIGINAL version of SB1219.

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: luly.unemori2@hawaiiantel.net
Subject: Submitted testimony for SB1219 on Feb 26, 2015 09:30AM
Date: Friday, February 20, 2015 7:28:12 PM

SB1219

Submitted on: 2/20/2015

Testimony for CPN on Feb 26, 2015 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Luly Unemori	Individual	Support	No

Comments: Aloha Honorable Senators, I'm writing in support of SB1219 SD1. Years ago, I chose to leave my company position and become an independent contractor because I wanted greater schedule flexibility to raise my two small children and tend to my family's needs. I knew that meant giving up my company's health coverage and other benefits, but it was worth it for me. I have multiple customers and do not consider myself an employee, and that works for me as well as for my clients. I support good legislation that makes it clear that I'm an independent contractor for my clients. Mahalo for your support, Luly Unemori Maui

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Marilyn Chapman
535 Kaiolohia Street
Kihei, HI 96753

February 24, 2015

Aloha, I am writing on behalf of myself in support of the original version of SB1219.

Many companies on Maui may periodically hire Independent Contractors to perform specific services over a defined period of time. Therefore, I appreciate this opportunity to clarify who qualifies as an Independent Contractor with the State as more and more individuals are seeking contracts as sole proprietors and past rulings by the Department of Labor & Industrial Relations make it unclear as to how sole proprietors will be treated.

I am deeply concerned with the changes SD1 makes to SB1219 because it defeats the very purpose of the Bill as originally introduced.

The addition of Section 1 (b) (4) in SD1 is contrary to the intent of the proposed law which seeks to quickly clarify who is an independent contractor in uncontested cases and avoid discretionary calls by DLIR. The Department has not been following the IRS test which led to this circumstance in the first place. This requirement will delay certifications, add to the workload of DLIR, and result in continued litigation on uncontested cases. The only difference is that, with this language, the litigation would occur up front, rather than after the fact.

- SD1 also makes certification optional to only those independent contractors who request it. I feel this language significantly weakens the original strength of the bill and conflicts with the clear intent and purpose of the certification process. I prefer the original certification language in the initial version of SB1219.
- SD1 opens with the phrases “circumstantial presumption” and “optional certification” which immediately gives a sense of uncertainty to an otherwise clear and definitive certification process. I would like this language removed.

SD1 has an effective date of January 2059 which unrealistically delays any change contemplated by SB1219 to the existing law. I would like to see the effective date changed to January 1, 2016. By passing this bill, all parties can move forward with the business relationship they agree to, knowing at the outset where they stand with the State.

Thank you for your consideration of my testimony.

Sincerely,

Marilyn Chapman

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: elamm001@hawaii.rr.com
Subject: Submitted testimony for SB1219 on Feb 26, 2015 09:30AM
Date: Saturday, February 21, 2015 11:06:36 AM

SB1219

Submitted on: 2/21/2015

Testimony for CPN on Feb 26, 2015 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
michael elam	Individual	Support	No

Comments: Aloha, I am writing in support of SB1219 SD1. I currently choose to perform music services as an independent contractor under the name Michael Elam Music. Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc. In a changing economic environment, being an independent contractor allows me the ability to be my own boss, have flexibility in my schedule, work on a part-time basis, work for multiple companies, earn more money, etc.). Therefore, I support SB1219 SD 1 to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the state Thank you for the opportunity to provide testimony and please support SB1219 SD1.
Sincerely, Michael Elam

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TO: Members of the Committee on Commerce and Consumer Protection

FROM: Natalie Iwasa
Honolulu, HI 96825
808-395-3233

HEARING: 9:30 a.m. Thursday, February 26, 2015

SUBJECT: SB1219, SD1, Relating to Employment Security - **OPPOSED**

Aloha Chair and Committee Members,

Thank you for allowing me the opportunity to provide testimony on SB1219, SD1, which would add another layer of bureaucracy for small business owners who are independent contractors. Hawaii is consistently noted as one of the worst states in the U.S. to do business, and this bill would add to the reasons for that determination.

If you would like to protect business owners from contractors who claim to be employees after their service has been terminated, please limit the bill to just paragraph 4(d). The other sections needlessly create more bureaucracy for small businesses.

Please also note that the Hawaii Department of Taxation provides a search for general excise tax (GET) licenses at <https://dotax.ehawaii.gov/tls/app>. Any customer who is concerned about the status of an independent contractor can easily check to see if that person has a license.

Please do not make it harder for small businesses to operate in Hawaii. Vote "NO" on this bill.

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: paolino@hawaii.rr.com
Subject: Submitted testimony for SB1219 on Feb 26, 2015 09:30AM
Date: Tuesday, February 24, 2015 10:59:39 AM
Attachments: [SB1219](#)

SB1219

Submitted on: 2/24/2015

Testimony for CPN on Feb 26, 2015 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Paul Marchetti	Individual	Support	No

Comments: Aloha, I am writing in support of SB1219. I currently choose to perform Music services as an independent contractor under the name Paolino Productions LLC, Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc. In a changing economic environment, being an independent contractor allows me to work as a Musician in the same way musicians work all over the world, such as the ability to be my own boss, have flexibility in my schedule as it is always changing, work for multiple companies, hire independent contractors if I need to for temporary work situations, and earn more money. I have performed music on 5 continents. If I and other musicians could not work as independent contractors we would not be able to survive as musicians in Hawaii. I think Music is a great thing for Hawaii. I have worked as an independent contractor in Hawaii for 35 years and I have always paid my taxes. Therefore, I support SB1219 to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the state. Thank you for the opportunity to provide testimony and please support SB1219. Sincerely, Paul Marchetti

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: paulette457@gmail.com
Subject: Submitted testimony for SB1219 on Feb 26, 2015 09:30AM
Date: Tuesday, February 24, 2015 12:06:19 PM

SB1219

Submitted on: 2/24/2015

Testimony for CPN on Feb 26, 2015 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
paulette carson	Individual	Comments Only	No

Comments: I am in support of the original version of SB1219 and not the amended version of SD1.

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: bob@whalersrealty.com
Subject: Submitted testimony for SB1219 on Feb 26, 2015 09:30AM
Date: Tuesday, February 24, 2015 3:41:59 PM

SB1219

Submitted on: 2/24/2015

Testimony for CPN on Feb 26, 2015 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Robert J Cartwright	Whalers Realty Inc	Support	No

Comments: Aloha, I am writing on behalf of Whalers Realty Inc in support of the original version of SB1219. Our company (has or may) periodically hire Independent Contractors to perform specific services over a defined period of time. Therefore, we appreciate this opportunity to clarify who qualifies as an Independent Contractor with the State as more and more individuals are seeking contracts as sole proprietors and past rulings by the Department of Labor & Industrial Relations make it unclear as to how sole proprietors will be treated. We are deeply concerned with the changes SD1 makes to SB1219 because it defeats the very purpose of the Bill as originally introduced. The addition of Section 1 (b) (4) in SD1 is contrary to the intent of the proposed law which seeks to quickly clarify who is an independent contractor in uncontested cases and avoid discretionary calls by DLIR. The Department has not been following the IRS test which led to this circumstance in the first place. This requirement will delay certifications, add to the workload of DLIR, and result in continued litigation on uncontested cases. The only difference is that, with this language, the litigation would occur up front, rather than after the fact. • SD1 also makes certification optional to only those independent contractors who request it. I feel this language significantly weakens the original strength of the bill and conflicts with the clear intent and purpose of the certification process. I prefer the original certification language in the initial version of SB1219. • SD1 opens with the phrases “circumstantial presumption” and “optional certification” which immediately gives a sense of uncertainty to an otherwise clear and definitive certification process. I would like this language removed. SD1 has an effective date of January 2059 which unrealistically delays any change contemplated by SB1219 to the existing law. I would like to see the effective date changed to January 1, 2016. By passing this bill, all parties can move forward with the business relationship they agree to, knowing at the outset where they stand with the State. Thank you for the opportunity to provide testimony and please support SB1219 in its original version. Sincerely, Robert J Cartwright

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: roxannedarling@gmail.com
Subject: Submitted testimony for SB1219 on Feb 26, 2015 09:30AM
Date: Saturday, February 21, 2015 11:05:36 AM

SB1219

Submitted on: 2/21/2015

Testimony for CPN on Feb 26, 2015 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Roxanne Darling	Individual	Support	No

Comments: I strongly support this bill, having both owned a business and served as an independent contractor for other businesses over the years.

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Aloha, I am writing in support of the original version of SB1219.

I currently choose to perform musical services as an independent contractor under the name Sharene Taba. Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc.

In a changing economic environment, being an independent contractor allows me to set my own work schedule and balance that with my family's needs.

We are deeply concerned with the changes SD1 makes to SB1219 because it defeats the very purpose of the Bill as originally introduced.

- SD1 is contrary to the intent of the proposed law which seeks to quickly clarify who is an independent contractor in uncontested cases and avoid discretionary calls by the DLIR. This requirement will delay certifications and gives the DLIR the power to decide when and when not to issue IC certifications, which would result in continued litigation in uncontested cases – the very problem this Bill seeks to correct. The only difference between current law and SD1 is that, litigation would occur up front, rather than after the fact.
- SD1 also makes certification optional to only those independent contractors who request it. I feel this language significantly weakens the original strength of the bill and conflicts with the clear intent and purpose of the certification process. Therefore, I prefer the original certification language in the initial version of SB1219.
- SD1 opens with the phrases “circumstantial presumption” and “optional certification” which immediately gives a

sense of uncertainty to an otherwise clear and definitive certification process. I would like this language removed.

- SD1 has an effective date of January 2059 which unrealistically delays any change contemplated by SB1219 to the existing law. I would like to see the effective date changed to [January 1, 2016](#).

Therefore, I support SB1219 in its original version to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the State.

Thank you for the opportunity to provide testimony and please support the original version of SB1219.

Sincerely,

Sharene Taba