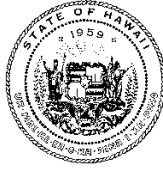


DAVID Y. IGE
GOVERNOR



DOUGLAS MURDOCK
Comptroller

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
P.O. BOX 119, HONOLULU, HAWAII 96810-0119

TESTIMONY
OF
DOUGLAS MURDOCK, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
HOUSE COMMITTEE
ON
LABOR & PUBLIC EMPLOYMENT
ON
MARCH 17, 2015
S.B. 728, S.D. 2

RELATING TO GOVERNMENT CONTRACTS

Chair Nakashima and members of the Committee, thank you for the opportunity to testify on S.B. 728, S.D. 2.

The Department of Accounting and General Services (DAGS) supports the intent of S.B. 728, S.D. 2, but opposes implementation through Chapter 103, Hawaii Revised Statutes (HRS).

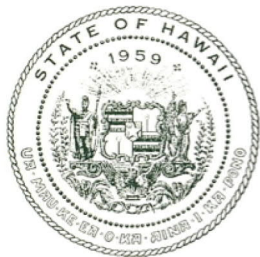
This bill creates a new administration and enforcement mechanism in Chapter 103, HRS, for equal pay in services contracts which would be supervised by DAGS. DAGS would need to build this new mechanism from scratch, including developing administrative rules, and requesting staff positions and funding in order to execute the bill should it become law.

The State has an existing framework for administering and enforcing wages and hours of employees on public works in Chapter 104, HRS, under the purview of the State Department of Labor and Industrial Relations (DLIR). The State also has an equal pay law in Chapter 387, HRS, also under DLIR.

In accordance with Chapter 104, HRS, Wages and Hours of Employees on Public Works Law, the wage rate schedule for public works construction projects is regulated and overseen by DLIR Wage Standards Division. Oversight and enforcement of this law requires that certified payroll affidavits for all worker classifications, regardless of gender, be submitted by all contractors, including their respective subcontractors, on all public works projects. Chapter 104, HRS, has provisions requiring employers to post the wage schedule [see section 104-2(d), HRS] and also has mechanisms to ensure the employees receive the correct pay [see section 104-24, HRS]. A small revision to Chapter 104, HRS, to add oversight of non-public works or services contracts, with reference to Chapter 387, HRS, would be more efficient and effective than creating a new parallel structure under Chapter 103, HRS.

Thank you for the opportunity to testify on this matter.

HAWAII
STATE
COMMISSION
ON THE
STATUS
OF
WOMEN



Chair
LESLIE WILKINS

COMMISSIONERS:

ELENA CABATU
CARMILLE LIM
AMY MONK
LISA ELLEN SMITH
MARILYN LEE
JUDY KERN

Executive Director
Catherine Betts, JD

Email:
Catherine.a.betts@hawaii.gov
Visit us at:
humanservices.hawaii.gov
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235 S. Beretania #407
Honolulu, HI 96813
Phone: 808-586-5758
FAX: 808-586-5756

March 17, 2015

To: Representative Mark Nakashima, Chair
Representative Jarrett Keohokalole, Vice Chair
Members of the House Committee on Labor and Public Employment

From: Cathy Betts
Executive Director, Hawaii State Commission on the Status of Women

Re: Testimony in Support, SB 728, SD2, Relating to Equal Pay

Thank you for this opportunity to testify in strong support of SB 728, SD2, which would bar gender based wage discrimination in government contracts. Currently, women in Hawaii still suffer from wage discrimination and our wage gap is not set to “close” until the year 2058. Over a 40-year working career, the average woman loses \$431,000 as a result of the wage gap. Several remedies have been identified as solid methods to alleviate the wage gap—raising the minimum wage, allowing for paid family leave, and allowing for solid comparable pay policies in government contract work.

In Hawaii, pay inequity is largely linked to poverty: if women’s hourly earnings rose to the level of similarly qualified men’s thereby eliminating the gender wage gap, poverty rates among families with working women would be reduced by half. In 2010, nearly 2/3 of families were headed by a mother as either the sole or majority breadwinner. Families’ incomes are significantly lowered when women’s wages are unequal because of gender discrimination

Pay secrecy has additionally added to wage inequity by preventing women from discussing pay—this allows wage inequity to continue. SB 728, SD2 allows for concrete and substantial ways to prevent wage discrimination from continuing. The Commission strongly supports this measure and respectfully urges this Committee to pass SB 728, SD2. Thank you for this opportunity to testify.



HAWAI'I CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 HONOLULU, HI 96813 • PHONE: 586-8636 FAX: 586-8655 TDD: 568-8692

March 17, 2015
Rm. 309, 10:00 a.m.

To: The Honorable Mark Nakashima, Chair
Members of the Senate Committee on Ways and Means

From: Linda Hamilton Krieger, Chair
and Commissioners of the Hawai'i Civil Rights Commission

S.B. No. 728, S.D.2

The Hawai'i Civil Rights Commission (HCRC) has enforcement jurisdiction over Hawai'i's laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state funded services. The HCRC carries out the Hawai'i constitutional mandate that no person shall be discriminated against in the exercise of their civil rights. Art. I, Sec. 5.

S.B. No. 728, S.D.2, if enacted, will require gender pay equity, equal pay for similar work, for employees working for state government contracts. The S.B. No. 728, S.D.2, amendment to HRS Chapter 103 will require state government agencies to include equal pay provisions in contracts, and state government contractors to report wages paid to employees by gender; and will also provide for penalties for violations of these equal pay requirements.

The HCRC supports S.B. No. 728, S.D.2.

Hawai'i currently does not have a state law corollary to the federal E.O. 11246, which charges the U.S. Secretary of Labor with responsibility for ensuring equal opportunity in federal contractors' recruitment, hiring, training and other employment practices. E.O. 11246 requires non-discrimination provisions in all federal contracts and mandates the filing of equal opportunity reports. The U.S. Department of Labor (USDOL) Office of Federal Contract Compliance (OFCCP) enforces E.O. 11246. Noncompliance with nondiscrimination clauses, rules, regulations, or orders can be cause for cancellation, termination, or

suspension of contracts, debarment from federal contracts, and other forms of relief to victims of discrimination.

S.B. No. 728, S.D.2, creates a state enforcement scheme similar to the federal model, in which the U.S. Equal Employment Opportunity Commission (EEOC) has jurisdiction over complaints of discrimination under Title VII of the Civil Rights Act of 1964 and the Equal Pay Act, which apply to all employers as defined under those laws, and OFCCP has jurisdiction over federal contractors for compliance with nondiscrimination reporting requirements of every federal contract. S.B. No. 728, S.D.2, sets up a state enforcement scheme, in which state contractors are required under HRS Chapter 103 to comply with equal pay and reporting requirements, subject to suspension from doing work on state contracts for noncompliance, and the HCRC continues to have jurisdiction over claims of gender-based pay discrimination under HRS Chapter 378, Part I, and the equal pay requirements of HRS § 378-2.3

The HCRC supports passage of S.B. No. 728, S.D.2.



Chamber of Commerce HAWAII

The Voice of Business

**Testimony to the House Committee on Labor & Public Employment
Tuesday, March 17, 2015 at 10:00 A.M.
Conference Room 309, State Capitol**

RE: SENATE BILL 728 SD2 RELATING TO GOVERNMENT CONTRACTS

Chair Nakashima, Vice Chair Keohokalole, and Members of the Committee:

The Chamber of Commerce of Hawaii ("The Chamber") **supports the intent of SB 728 SD2**, which requires equal pay for similar work for any employee performing services under certain government contracts and establishes a requirement for government contractors to report wages paid to employees, by gender. Further provides penalties for contractors found to be in violation of these practices, including liquidated damages and suspension from government contract work. Also prohibits contractors on certain government contracts from retaliating against employees who disclose wage information.

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 supports the intent of this bill to establish equal pay for government contracts. At the same time, we do have a concern regarding the employer's need for latitude in compensation. There are many cases where latitude is necessary. For example, where an employee with a higher level of experience enters the company at the same time that an employee with a lower level of experience is hired for the same position type, there may be a need for the compensation to the first employee to be slightly more than that of the second employee. Another possibility is an employee who has better performance at the company over another employee in the same position may be penalized under this bill.

While the bill allows for differential in pay other than gender, in the practice it will end up with employers having more administrative burden and possibly legal costs.

Thank you for the opportunity to testify.

To: Hawaii State House of Representatives Committee on Labor and Public
Employment
Hearing Date/Time: Tuesday, March 17, 2015, 10:00 a.m.
Place: Hawaii State Capitol, Rm. 309
Re: Testimony of Planned Parenthood of Hawaii in support of S.B. 728, SD2

Dear Chair Nakashima and Members of the Committee on Labor & Public Employment,

Planned Parenthood of Hawaii (“PPHI”) writes in support of S.B. 728, SD2, which seeks to require equal pay for equal work for any employee performing services under certain government contracts.

Planned Parenthood of Hawaii is dedicated to providing Hawaii’s people with high quality, affordable and confidential sexual and reproductive health care, education, and advocacy and we know that equal pay for equal work is a social justice issue that directly impacts many of the women and men of all income levels who come through our doors seeking health care. S.B. 728 will take a step towards remedying this long-time injustice and ensuring that women in state government –contracted workplaces will be treated equally.

Back in the early 1960s, American women working full-time, year-round got paid only 60 percent of what men earned. By 2012, the gender pay gap had shrunk by a little less than half. Full-time, year-round working women’s earnings are 78.6 percent of their male counterparts. That means that a woman in Hawaii – a daughter, a niece, a single mother struggling to provide for her children – may very well get paid less than a man doing the same job. This pay gap affects women and their families from all backgrounds, ages, and at all levels of education — and it’s unacceptable.

You might assume that any woman who’s getting paid less than a man in the same job will either get her employer to fix the problem or got to court and win a lawsuit. Under Hawaii law, that’s easier said than done. Fear of retaliation – getting fired – may prompt the woman to stay silent, especially when good jobs are still scarce. Employers may be able to justify the lesser pay for women by citing education and experience requirements that are not related to the needs of the job. And savvy employers can keep the whole problem under wraps by imposing a gag rule, prohibiting workers from talking to each other about their pay. S.B. 728 seeks to close unfair loopholes and ensure that women are provided an equal playing field from the start. Thank you for this opportunity to testify in support of S.B. 728.

Sincerely,
Laurie Field
Director of Public Affairs & Government Relations

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1350 S. King Street, Suite 310
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Education & Outreach
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Phone: 808-833-1681 FAX: 839-4167
Email: info@gcahawaii.org
Website: www.gcahawaii.org



GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

Uploaded via Capitol Website

March 17, 2015

TO: HONORABLE MARK NAKASHIMA, CHAIR, HONORABLE JARRETT
KEOHOKALO, VICE CHAIR, AND MEMBERS OF THE HOUSE COMMITTEE
ON LABOR

SUBJECT: **CONCERNS REGARDING S.B. 728, SD2, RELATING TO
GOVERNMENT CONTRACTS.** Requires equal pay for similar work for any
employee performing services under certain government contracts. Establishes a
requirement for government contractors to report wages paid to employees, by
gender. Provides penalties for contractors found to be in violation of these
practices, including liquidated damages and suspension from government contract
work. Also prohibits contractors on certain government contracts from retaliating
against employees who disclose wage information. Effective 07/01/2050. (SD2)

HEARING

DATE: Tuesday, March 17, 2015
TIME: 10:00 a.m.
PLACE: Capitol Room 309

Dear Chair Nakashima, Vice Chair Keohokalole and Members of the Committee,

The GCA is an organization comprised of over approximately 580 general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is the largest construction association in the State of Hawaii. The mission is to represent its members in all matters related to the construction industry, while improving the quality of construction and protecting the public interest.

The GCA is concerned regarding the language in S.B. 728, SD2, Relating to Government Contracts, as it would unnecessarily apply to construction workers subject to prevailing wage, commonly referred to as "Little Davis Bacon" for public works construction. The prevailing wage requirement on all government public works contracts already ensures that all wages paid are gender neutral. The additional requirement to report payment by gender is unnecessary in public works construction and will impose additional administrative burdens and cost on construction contracts.

The construction firms that currently bid on public works contracts submit competitive sealed bids for state construction projects based on specifications developed by the state, under the provisions of Chapter 103D. Wages and working hours are regulated under Chapter 103-55.5, HRS, and all contractors must pay prevailing wages as determined by the State Department of Labor. Union contractors may also pay more than the state's prevailing wage if the terms of collective bargaining contract provide for greater benefits. Currently contractors file payroll affidavits with the Department of Labor to certify compliance with Chapter 103D. We believe that the requirements for public works contracts under Chapter 103D ensure that wages paid to our workers are fair and exceed what is paid to government employees, regardless of gender.

Under the provisions of Chapter 103-55, HRS, bidders are already required to certify that wages paid are comparable or greater than that paid to government employees for similar work. The requirement to submit a report prior to completion of the contract of a summary of work identifying gender imposes another additional requirement that will add time and cost to bids on government contracts for public works construction projects.

GCA requests waiving this requirement for public works construction projects as it is not necessary, will cause undue burden and will increase costs for the state.

The GCA believes that the current laws are adequate to ensure compliance with Chapter 103 and 103D and therefore this bill is not necessary in its applicability to public works construction projects.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 17, 2015 12:01 AM
To: LABtestimony
Cc: annsfreed@gmail.com
Subject: Submitted testimony for SB728 on Mar 17, 2015 10:00AM

SB728

Submitted on: 3/17/2015

Testimony for LAB on Mar 17, 2015 10:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Ann S Freed	Hawaii Women's Coalition	Support	No

Comments: Aloha Chair, Vice Chair and members. The Hawaii Women's Coalition is in support of this measure. Sadly women are still earning 20% less than their male counterparts in Hawaii. Our wage gap is not set to “close” until the year 2058. SB 728,SD2 would bar such gender-based wage discrimination in government contracts. Several remedies have been identified as solid methods to alleviate the wage gap. For example, raising the minimum wage, allowing for paid family leave, and allowing for solid comparable pay policies in government contract work. In Hawaii, pay inequity is largely linked to poverty: if women’s hourly earnings rose to the level of similarly qualified men’s thereby eliminating the gender wage gap, poverty rates among families with working women would be reduced by half. In 2010, nearly 2/3 of families were headed by a mother as either the sole or majority breadwinner. Families’ incomes are significantly lowered when women’s wages are unequal because of gender discrimination. Pay secrecy has additionally added to wage inequity by preventing women from discussing pay—this allows wage inequity to continue. SB 728,SD2 allows for concrete and substantial ways to prevent wage discrimination. Again, The Coalition supports this legislation. Mahalo, Ann S. Freed Co-Chair, Hawaii Women's Coalition.

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

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 15, 2015 3:56 PM
To: LABtestimony
Cc: amybrinker@mac.com
Subject: *Submitted testimony for SB728 on Mar 17, 2015 10:00AM*

SB728

Submitted on: 3/15/2015

Testimony for LAB on Mar 17, 2015 10:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Amy Brinker	Individual	Support	No

Comments:

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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Testimony in SUPPORT of SB728
House Committee on Labor and Employment
Tuesday, March 17, 2015
10:00AM
House Conference Room 309

I am writing in **SUPPORT of SB728**. Requiring equal pay for similar work performed under a government contract, we will be taking meaningful steps in the right direction.

Leading the way in equal pay is important in empowering and equalizing the workforce in Hawaii.

Mahalo,
Gloria