
A BILL FOR AN ACT

RELATING TO PREVAILING WAGES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the purpose of
2 chapter 104, Hawaii Revised Statutes, is to ensure that
3 prevailing wages are paid to, and reasonable work hours are
4 required of, laborers and mechanics on all public work projects
5 where the contract for construction of the public work project
6 exceeds \$2,000.

7 The legislature also finds that there have been instances
8 where laborers and mechanics performing construction on state
9 land have not been paid prevailing wages in accordance with
10 chapter 104, Hawaii Revised Statutes. The failure to pay
11 prevailing wages to laborers and mechanics performing
12 construction on state land is contrary to the intent of chapter
13 104, Hawaii Revised Statutes.

14 It is the intent of the legislature that all development,
15 construction, renovation, and maintenance upon state land or the
16 use of state land to secure financing for development,
17 construction, renovation, or maintenance shall constitute a



1 "public work" to the extent the term is used in chapter 104,
2 Hawaii Revised Statutes.

3 The purpose of this Act is to ensure that all contracts in
4 excess of \$2,000 for construction upon state land, unless
5 otherwise exempt, are subject to the requirements of chapter
6 104, Hawaii Revised Statutes.

7 SECTION 2. Section 104-1, Hawaii Revised Statutes, is
8 amended by amending the definition of "public work" to read as
9 follows:

10 "Public work" means any project, including development of
11 any housing pursuant to section 46-15 or chapter 201H and
12 development, construction, renovation, and maintenance related
13 to refurbishment of any real or personal property, where ~~the~~:

14 (1) The funds or resources required to undertake the
15 project are to any extent derived, either directly or
16 indirectly, from public revenues of the State or any
17 county, or from the sale of securities or bonds whose
18 interest or dividends are exempt from state or federal
19 taxes [-];

20 (2) The project for development, construction, renovation,
21 or maintenance is done on public lands regardless of



1 whether or not the work is paid for from funds or
2 resources derived from public revenues of the State or
3 any county, or from the sale of securities or bonds
4 whose interest or dividends are exempt from state or
5 federal law; or
6 (3) Public lands are secured as collateral or used to
7 obtain financing for the development, construction,
8 renovation, or maintenance of the project."

9 SECTION 3. Section 104-2, Hawaii Revised Statutes, is
10 amended as follows:

11 1. By amending subsection (a) to read:

12 "(a) This chapter shall apply to every contract in excess
13 of \$2,000 for construction of a public work project to which a
14 governmental contracting agency is a party; provided that this
15 chapter shall not apply to ~~[experimental]~~;

16 (1) Experimental and demonstration housing developed
17 pursuant to section 46-15 ~~[or housing]~~;

18 (2) Housing developed pursuant to chapter 201H if the cost
19 of the project is less than \$500,000 and the eligible
20 bidder or eligible developer is a private nonprofit
21 corporation~~[-]~~;



1 (3) Projects for the development, construction,
 2 renovation, or maintenance of a single-family dwelling
 3 or multi-family unit on public lands contracted for by
 4 a private lessee of the State where the work on a per
 5 dwelling or unit basis is de minimis in nature, and in
 6 no event greater than \$100,000 in value; or

7 (4) Projects for the development, construction,
 8 renovation, or maintenance of farm dwellings and
 9 related accessory improvements on state-owned
 10 agricultural zoned property or within a state
 11 agricultural park facility if the total cost of the
 12 project is less than \$500,000.

13 For the purposes of this ~~[subsection+]~~ section:

14 "Contract" includes but is not limited to any agreement,
 15 purchase order, or voucher in excess of \$2,000 for construction
 16 of a public work project.

17 "Governmental contracting agency" includes [+

18 ~~(1) Any]~~ any person or entity that causes either directly
 19 or indirectly the building or development of a public
 20 work[+] or holds title to public lands; and

21 (2) Any public-private partnership.



1 "Party" includes eligible bidders for and eligible
2 developers of any public work and any housing under chapter
3 201H; provided that this subsection shall not apply to any
4 housing developed under section 46-15 or chapter 201H if the
5 entire cost of the project is less than \$500,000 and the
6 eligible bidder or eligible developer is a private nonprofit
7 corporation.

8 "Private lessee" includes any person or entity, other than
9 a federal, state, or county agency or instrumentality, that
10 holds a leasehold interest in public lands.

11 "Public lands" means all lands or interests therein in the
12 State, classified as government or crown lands prior to
13 August 15, 1895, or acquired or reserved by the government upon
14 or subsequent to that date by purchase, exchange, escheat, or
15 the exercise of the right of eminent domain, or in any other
16 manner; including lands accreted after May 20, 2003, and not
17 otherwise awarded, submerged lands, and lands beneath tidal
18 waters that are suitable for reclamation, together with
19 reclaimed lands that have been given the status of public lands
20 under chapter 171; and shall also include lands to which any



1 state or county agency, department, branch, or authority holds
2 title."

3 2. By amending subsections (g) and (h) to read:

4 "(g) For any public work project that is subject to this
5 chapter but not directly caused by a governmental contracting
6 agency, including but not limited to a public work project
7 caused, initiated, or contracted for by a private lessee of the
8 State or the private lessee's contractor, for the development,
9 construction, renovation, or maintenance of any real or personal
10 property located on public lands, the director shall be
11 responsible for enforcement of this chapter, including the
12 collection and maintenance of certified copies of all payrolls
13 that are subject to this chapter. The director shall adopt
14 rules pursuant to chapter 91 to effectuate the purposes of this
15 section.

16 (h) When:

17 (1) The department of budget and finance enters a project
18 agreement with a project party, as those terms are
19 defined in chapter 39A, to finance or refinance a
20 project with the proceeds of special purpose revenue
21 bonds;



1 (2) The private lessee of public lands enters into a
 2 contract for the development, construction,
 3 renovation, or maintenance of any real or personal
 4 property where the public work project is located on
 5 public lands;

6 [~~2~~] (3) The project party or contractor of the public
 7 work project has entered into a collective bargaining
 8 agreement with a bona fide labor union governing the
 9 project party's or contractor's workforce; and

10 [~~3~~] (4) The collective bargaining agreement has been
 11 properly submitted to the director under section
 12 104-34,
 13 the terms of the collective bargaining agreement and associated
 14 provisions shall be deemed the prevailing wages and terms
 15 serving as the basis of compliance with this chapter for work on
 16 the [~~project by the project party's~~] public work project by the
 17 contractor's workforce; provided that this subsection does not
 18 affect the director's enforcement powers contained in subsection
 19 (g)."

20 SECTION 4. Section 104-4, Hawaii Revised Statutes, is
 21 amended to read as follows:



1 "§104-4 Termination of work on failure to pay agreed
2 wages; completion of work; contract and specifications
3 provision. Every contract and the specifications for such
4 contract shall contain a provision that if the governmental
5 contracting agency or director finds that any laborer or
6 mechanic employed on the job site by the contractor or any
7 subcontractor has been or is being paid wages at a rate less
8 than the required rate by the contract or the specifications, or
9 has not received the laborer's or mechanic's full overtime
10 compensation, the governmental contracting agency or director
11 may, by written notice to the contractor, terminate the
12 contractor's right, or the right of any subcontractor, to
13 proceed with the work or with the part of the work in which the
14 required wages or overtime compensation have not been paid and
15 may complete such work or part by contract or otherwise, and the
16 contractor and the contractor's sureties shall be liable to the
17 governmental contracting agency or director, on behalf of the
18 department, for any excess costs occasioned thereby."

19 SECTION 5. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.



1 SECTION 6. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 7. This Act shall take effect on January 7, 2059.

4



Report Title:

Public Works; Wages

Description:

Expands the types of projects that must comply with wage and hour requirements under chapter 104, HRS, including construction projects on public lands regardless of whether the work is paid from public funds, and projects for which public lands are used as security for financing. Exempts certain projects from chapter 104, HRS. Establishes requirements that apply in situations involving private lessees of public land who contract for certain projects on public land. Effective January 7, 2059. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

