

Honolulu, Hawaii
March 19, 2014

RE: S.B. No. 2260
S.D. 2
H.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawaii

Sir:

Your Committee on Labor & Public Employment, to which was referred S.B. No. 2260, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO WAGES AND HOURS ON PUBLIC WORKS, "

begs leave to report as follows:

The purpose of this measure is to assist the Department of Labor and Industrial Relations in the enforcement of the prevailing wage law under Chapter 104, Hawaii Revised Statutes, by:

- (1) Clarifying that the effective date of suspension is on the later of the 21st day after the sending of the notification or violation or the issuance of a decision of an appeal;
- (2) Clarifying that the first, second, or third violation refers to each investigation involving one or more projects, rather than each project, in which a contractor has failed to comply;
- (3) Increasing the suspension period from three to five years for a third violation by a person or firm who violates the state law relating to wages and hours of employees on public works;



- (4) Specifying that the suspension for falsification of records or delay or interference with an investigation is immediate for a period of five years; and
- (5) Adding a governmental contracting agency and the general contractor, in the case of a suspended subcontractor, as entities that the Director of Labor and Industrial Relations is required to notify of any suspension order.

The Hawaii Operating Engineers Industry Stabilization Fund; Building Industry Association of Hawaii; Laborers' International Union of North America, Local 368; and Hawaii Laborers-Employers Cooperation and Education Trust provided testimony in opposition to this measure. The Department of Labor and Industrial Relations; the Department of Accounting and General Services, General Contractors Association of Hawaii; and Hawaii Building and Construction Trades Council, AFL-CIO provided comments on this measure.

Your Committee has amended this measure by:

- (1) Specifying that no provision of the wages and hours of employees on public works law, Chapter 104, Hawaii Revised Statutes, may be in any way contravened or set aside by private contract;
- (2) Amending section 104-1, Hawaii Revised Statutes, by amending the definition of "basic hourly rate", adding a new definition for "contractor", and moving the definition of "public work" from section 104-2, Hawaii Revised Statutes;
- (3) Increasing the penalty for interference or delay with an investigation by the Department of Labor and Industrial Relations to determine compliance with the wages and hours of employees on public works law to \$10,000 per project and \$1,000 per day;
- (4) Specifying that a general contractor shall be secondarily liable for the payment of back wages and penalties assessed against any of the contractors on a public works construction project that remain unpaid on a specified date and specifies notice provisions;



- (5) Specifying that any payment made by the governmental contracting agency shall not be deemed to be a breach of contract and shall not excuse the contractor from completing the project for the contract price and by the contract completion deadline;
- (6) Specifying that a notification of violation shall be final and conclusive unless the contractor files a written notice of appeal with the Director of Labor and Industrial Relations within 21 days after a copy was sent to the contractor;
- (7) Deleting the provision that clarifies that the first, second, or third violation refers to each investigation involving one or more projects, rather than each project, in which a contractor has failed to comply;
- (8) Amending its effective date to apply to contracts entered into after its effective date; and
- (9) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2260, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2260, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Respectfully submitted on
behalf of the members of the
Committee on Labor & Public
Employment,



MARK M. NAKASHIMA, Chair



