

STAND. COM. REP. NO.

431

Honolulu, Hawaii

FEB 17 2017

RE: S.B. No. 854
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 854 entitled:

"A BILL FOR AN ACT RELATING TO LABOR,"

begs leave to report as follows:

The purpose and intent of this measure is to authorize the
Director of Labor and Industrial Relations or the Director's
designee to issue a stop-work order to an employer, until the
employer complies with chapter 388, Hawaii Revised Statutes,
relating to the payment of wages and other compensation.

Your Committee received testimony in support of this measure
from BKA Builders Inc., Allied Builders System, Hawai'i
Construction Alliance, Alan Shintani Inc., and Pacific Resource
Partnership. Your Committee received testimony in opposition to
this measure from the Subcontractors Association of Hawaii; Ocean
Tourism Coalition; Sea Paradise Scuba, Inc.; and Maui Dive Shop.
Your Committee received comments on this measure from the
Department of Labor and Industrial Relations, Chamber of Commerce
Hawaii, and General Contractors Association of Hawaii.

Your Committee finds that when an employer fails to pay wages
in accordance with chapter 388, Hawaii Revised Statutes, without
justification, the employer is liable for monetary penalties;
however, these penalties are not always effective deterrents, and
in some cases, employers continue to operate illegally.



Your Committee appreciates the seriousness of the issues that have given rise to the necessity of this measure; however, your Committee shares the concerns stated in the testimony of the Department of Labor and Industrial Relations (DLIR) that this measure, as introduced, may be problematic in achieving its intended purpose and may abrogate due process required prior to the imposition of penalties.

To address these concerns, your Committee has amended this measure by:

- (1) Deleting its contents and replacing it with language that is substantially similar to proposed language in the testimony of the DLIR, which allows the DLIR to issue notifications of stop-work orders to employers in violation of Chapter 388, Hawaii Revised Statutes, relating to the payment of wages and other compensation;
- (2) Inserting an effective date of January 7, 2059, to encourage further discussion; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

Your Committee notes that in this measure, as amended by your Committee, the number of days within which an appeal must be heard and within which a decision for that appeal will be rendered by a hearings officer have been left blank. As the measure moves forward, your Committee encourages the DLIR to discuss with stakeholders how the process proposed by this measure might be further refined.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 854, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 854, S.D. 1, and be referred to your Committee on Ways and Means.



Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,


GILBERT S.C. KEITH-AGARAN, Chair



The Senate
 Twenty-Ninth Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:	Committee Referral:	Date:		
SB 854	JDL, WAM	2/19/17		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KEITH-AGARAN, Gilbert S.C. (C)	✓			
RHOADS, Karl (VC)	✓			
GABBARD, Mike	✓			
KIM, Donna Mercado	✓			
THIELEN, Laura H.	✓			
TOTAL	5	0	0	0
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<i>Paul M...</i>				
Distribution:				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

*Only one measure per Record of Votes