



EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

GOV. MSG. NO. 849

July 11, 2006

The Honorable Robert Bunda, President  
and Members of the Senate  
Twenty-Third State Legislature  
State Capitol, Room 003  
Honolulu, Hawaii 96813

Dear Mr. President and Members of the Senate:

I am transmitting herewith HB2692 HD1 SD1 CD1, without my approval, and with the statement of objections relating to the measure.

HB2692 HD1 SD1 CD1

A BILL FOR AN ACT RELATING TO  
PUBLIC WORKS.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

# VETO

HOUSE OF REPRESENTATIVES  
TWENTY-THIRD LEGISLATURE, 2006  
STATE OF HAWAII

H.B. NO. 2692  
H.D. 1  
S.D. 1  
C.D. 1

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## A BILL FOR AN ACT

RELATING TO PUBLIC WORKS.

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

1           SECTION 1. Chapter 39A, Hawaii Revised Statutes, is  
2 amended by adding a new section to part I to be appropriately  
3 designated and to read as follows:  
4           "§39A-    Public work project; issuance of special purpose  
5 revenue bonds; report to department of labor and industrial  
6 relations required. Any issuance of special purpose revenue  
7 bonds pursuant to this chapter for a public work project that is  
8 subject to chapter 104, but not directly caused by a  
9 governmental contracting agency, shall be promptly reported to  
10 the department of labor and industrial relations so that the  
11 department of labor and industrial relations may expeditiously  
12 carry out its duties under chapter 104. The report shall be in  
13 a form and contain such information as the director of labor and  
14 industrial relations may prescribe."

15           SECTION 2. Section 104-2, Hawaii Revised Statutes, is  
16 amended to read as follows:

17           "§104-2   Applicability; wages, hours, and other  
18 requirements. (a) This chapter shall apply to every contract



1 in excess of \$2,000 for construction of a public work project to  
2 which a governmental contracting agency is a party; provided  
3 that this chapter shall not apply to experimental and  
4 demonstration housing developed pursuant to section 46-15 or  
5 housing developed pursuant to chapter 201G or chapter 201H if  
6 the cost of the project is less than \$500,000 and the eligible  
7 bidder or eligible developer is a private nonprofit corporation.

8 For the purposes of this subsection:

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

12 "Governmental contracting agency" includes any person or  
13 entity that causes either directly or indirectly the building or  
14 development of a public work.

15 "Party" includes eligible bidders for and eligible  
16 developers of any public work and any housing under chapter  
17 201G[+] or 201H; provided that this subsection shall not apply  
18 to any housing developed under section 46-15 or chapter 201G or  
19 201H if the entire cost of the project is less than \$500,000 and  
20 the eligible bidder or eligible developer is a private nonprofit  
21 corporation.



1 specifications shall not be a defense of the contractor or  
2 subcontractor for noncompliance with the requirements of this  
3 chapter.

4 (g) For any public work project that is subject to this  
5 chapter but not directly caused by a governmental contracting  
6 agency, the director shall be responsible for enforcement of  
7 this chapter, including the collection and maintenance of  
8 certified copies of all payrolls that are subject to this  
9 chapter. The director shall adopt rules pursuant to chapter 91  
10 to effectuate the purposes of this section."

11 SECTION 3. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

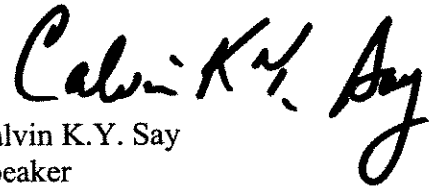
13 SECTION 4. This Act shall take effect upon its approval.

HB No. 2692 HD 1 SD 1 CD 1

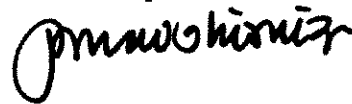
THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 2, 2006  
Honolulu, Hawaii

We hereby certify that the foregoing Bill on this day passed Final Reading in the House of Representatives of the Twenty-Third Legislature of the State of Hawaii, Regular Session of 2006.



Calvin K.Y. Say  
Speaker  
House of Representatives



Patricia Mau-Shimizu  
Chief Clerk  
House of Representatives

THE SENATE OF THE STATE OF HAWAII

Date: May 2, 2006  
Honolulu, Hawaii

We hereby certify that the foregoing Bill on this day passed Final Reading in the Senate of the Twenty-Third Legislature of the State of Hawaii, Regular Session of 2006.



Robert Bunda  
President of the Senate



Paul Kawaguchi  
Clerk of the Senate

P R O C L A M A T I O N

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 2692, entitled "A Bill for an Act Relating to Public Works," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 2692 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 2692 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu,  
State of Hawaii, this 26th day  
of June, 2006.



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LINDA LINGLE  
Governor of Hawaii

EXECUTIVE CHAMBERS

HONOLULU

July 11, 2006

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 2692

Honorable Members  
Twenty-Third Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 2692, entitled "A Bill for an Act Relating to Public Works."

The purpose of this bill is to make projects financed by special purpose revenue bonds and housing projects financed through Section 201(H) subject to Chapter 104, Hawaii Revised Statutes, Hawaii's Wages and Hours of Employees on Public Works Law.

This bill is objectionable because it is likely to increase the actual costs of constructing projects using special purpose revenue bonds. Special purpose revenue bonds are used to build hospitals, schools, early childhood education centers, county pollution control projects and related works deemed to be in the best interests of the general public. Often it is non-profit organizations that seek special purpose revenue bonds to finance a new structure. This funding tool is used to lower interest costs of the financing for such projects. No taxpayer funds are used and taxpayers are not responsible for a default on the bonds.

While these projects may meet the narrow definition of public works projects, they do not meet the test of having a governmental organization responsible for the monitoring required to meet Chapter 104 applicability.

Subjecting these projects to Chapter 104 runs counter to the intent and spirit of using special purpose revenue bonds to help reduce expenses incurred by strictly private and non-profit entities and may actually act as a deterrent to using this

STATEMENT OF OBJECTIONS  
HOUSE BILL NO. 2692  
Page 2

financing mechanism and decrease the number of projects on behalf of the general community.

Additionally, this bill would place enforcement and monitoring functions on the Department of Labor and Industrial Relations without the commensurate resources to carry out these duties.

For the foregoing reasons, I am returning House Bill No. 2692 without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read "L. Lingle", written in a cursive style.

LINDA LINGLE  
Governor of Hawaii