



EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

GOV. MSG. NO. 853

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 HB2641 HD1 SD2, without my approval, and with the statement of objections relating to the measure.

HB2641 HD1 SD2

A BILL FOR AN ACT RELATING TO
PUBLIC WORK PROJECTS.

Sincerely,

A handwritten signature in cursive script, appearing to read "Linda Lingle".

LINDA LINGLE

A BILL FOR AN ACT

RELATING TO PUBLIC WORK PROJECTS.

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

1 SECTION 1. Chapter 104, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§104- Public work requirements; private construction
5 contracts. (a) For purposes of this chapter, public work
6 includes a construction contract between private persons if more
7 than fifty per cent of the assignable square feet of a project
8 is leased or assigned for use by the State, any county, or any
9 agency of the State or any county, whether or not the property
10 is privately owned, and either:

11 (1) The lease or other agreement is entered into prior to
12 the construction contract becoming effective; or

13 (2) Construction work is performed according to a plan,
14 specifications, or criteria established by the State,
15 any county, or any agency of the State or any county.

16 (b) Prior to the start of construction on a project, the
17 construction project owner shall sign a lease or other agreement
18 with the State, county, or any agency of the State or county



1 that includes provisions that require compliance with this
2 chapter and certification that prevailing wages shall be paid as
3 provided under this chapter.

4 (c) Copies of the lease or other agreement under
5 subsection (b) shall be filed with the department and the
6 department of accounting and general services. The construction
7 project owner shall submit weekly certified payrolls to the
8 government leasing agency or the governmental agency accepting
9 the construction project for its use, which shall be the
10 governmental contracting agency for the construction project."

11 SECTION 2. This Act does not affect rights and duties that
12 matured, penalties that were incurred, and proceedings that were
13 begun, before its effective date.

14 SECTION 3. New statutory material is underscored.


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

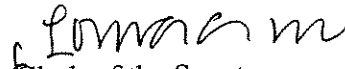
H.B. No. 2641, H.D. 1, S.D. 2

THE SENATE OF THE STATE OF HAWAII

Date: April 11, 2006
Honolulu, Hawaii 96813

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

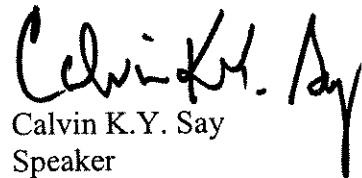

President of the Senate


Clerk of the Senate

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

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. 2641, entitled "A Bill for an Act Relating to Public Work Projects," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 2641 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. 2641 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.



LINDA LINGLE
Governor of Hawaii

EXECUTIVE CHAMBERS

HONOLULU

July 10, 2006

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 2641

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. 2641, entitled "A Bill for an Act Relating to Public Work Projects."

The purported intent of this bill is to mandate that a private construction project will be considered a public works project subject to chapter 104, Hawaii Revised Statutes, Hawaii's Wages and Hours of Employees on Public Works law, if the State or a political subdivision leases or is assigned more than fifty percent of the project. Copies of the lease agreement must be filed with the Department of Accounting and General Services and the construction project owner must submit weekly certified payrolls to the leasing governmental agency or the governmental agency using the leased or assigned space.

This bill also requires, prior to the start of construction, that the construction project owner sign an agreement with the leasing governmental entity agreeing to pay the prevailing wage to the laborers and mechanics working on this project and to otherwise comply with the requirements of chapter 104.

This bill is objectionable because it is an unwarranted expansion of the types of projects that could be subject to public works projects rules and statutes. Currently, section 12-22-1 of the Hawaii Administrative Rules defines a public work to encompass a private construction project when the State or a political subdivision leases the entire building or structure and where: (1) the lease was entered into prior to construction of the structure or building; and (2) the

construction work was performed according to plans, specifications, or criteria of the leasing governmental entity.

Expanding public works coverage to mixed public-private structures may inject confusion and needlessly increase the associated building costs of the project. Smaller owners in particular may not want to develop commercial space for lease to the government because of the additional burden of complying with unfamiliar labor laws. It is anticipated that this bill will limit or reduce the number of office buildings that will be available for lease to government agencies. Finally, this bill could impede the development of mixed use housing projects, wherein some of the units were for market sale or rental and others were leased to a public housing corporation for elderly, Section 8, or transitional housing.

Additionally, because this bill directs that certified payroll data shall be submitted to the government leasing agency, rather than the Department of Labor and Industrial Relations, this data will go to entities that have no authority to audit or enforce these payrolls, thereby inhibiting the enforcement of wage laws this bill attempts to impose on private projects.

For the foregoing reasons, I am returning House Bill No. 2641 without my approval.

Respectfully,



LINDA LINGLE
Governor of Hawaii