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**A BILL FOR AN ACT**

RELATING TO CONTRACTOR SUSPENSION ON PUBLIC WORKS PROJECTS.

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

1           SECTION 1. The purpose of this Act is to provide the  
2 department of labor and industrial relations with the ability to  
3 immediately suspend and begin debarment proceedings against  
4 contractors that purposely defrauds the state on a public works  
5 project or do not cooperate with the department of labor and  
6 industrial relations in determining if there has been a  
7 violation of the prevailing wage law should not be allowed to  
8 bid on public works.

9           Currently, contractors can be suspended for failure to pay  
10 back wages and penalties, or after the third notice of violation  
11 if the second is within two years of the first and the third is  
12 within two years of the second. There is currently no method to  
13 debar contractors who cheat and get caught unless they fail to  
14 pay back wages, which rarely happens. State or county government  
15 agencies should not be in business with those who falsify  
16 payrolls or do not cooperate. Attaching suspension to the  
17 penalty provisions of section 104-22(b) will create a clear line  
18 for those who are not willing to comply with the law. Chapter

1 104, Hawaii Revised Statutes is a law imposed to even the  
2 playing field in bidding for public works jobs and pay a  
3 prevailing wage to workers. It is not unreasonable to impose a  
4 3-year suspension for those who are not willing to comply.

5 SECTION 2. Section 104-25, Hawaii Revised Statutes, is  
6 amended by amending subsection (a) to read as follows:

7 "(a) The director shall suspend a person or firm as  
8 follows:

9 (1) For a first or second violation, if a person or firm  
10 fails to pay wages found due, any penalty assessed, or  
11 both, the person or firm shall be immediately  
12 suspended from doing any work on any public work of a  
13 governmental contracting agency until all wages and  
14 penalties are paid in full; [~~and~~]

15 (2) For a third violation, the suspension shall be as  
16 prescribed in section 104-24(c); provided that, if the  
17 person or firm continues to violate this chapter or  
18 fails to pay wages found due or any penalty assessed,  
19 or both, then the contractor shall immediately be  
20 suspended from doing any work on any public work of a  
21 governmental contracting agency for a mandatory three-  
22 year period. If after the three-year suspension

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1 period the wages found due or penalties assessed are  
2 still unpaid, the suspension shall remain in force  
3 until payment is made in full[-]; or

4 (3) For interference with or delay of an investigation or  
5 falsification of records as cited under section  
6 104-22, the suspension shall remain in force for a  
7 period of three years."

8 SECTION 3. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

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

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INTRODUCED BY: \_\_\_\_\_

*Calvin K. Boy*

BY REQUEST

JAN 22 2008

**Report Title:**

Public works; falsification of records; suspension

**Description:**

Suspends contractors found to be in violation of Chapter 104 for falsification of records or delaying an investigation under the wage and hour statute, section 104-22(b).

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JUSTIFICATION SHEET

DEPARTMENT: Labor and Industrial Relations

TITLE: A BILL FOR AN ACT RELATING TO CONTRACTOR  
SUSPENSION ON PUBLIC WORKS PROJECTS.

PURPOSE: To suspend contractors who interferes or  
delays prevailing wage investigations under  
chapter 104, Hawaii Revised Statutes (HRS),  
from bidding on public works construction  
projects. Interference or delay is  
specified in section 104-22(b), HRS, and  
includes the failure to provide requested  
records; the failure to allow employees to  
be interviewed during working hours; and the  
falsification of records required under this  
chapter.

MEANS: Amend section 104-22(b), HRS.

JUSTIFICATION: A contractor who interferes with or delays a  
prevailing wage investigation should not be  
allowed to bid and work on public works  
construction projects.

Currently, contractors can be suspended from  
bidding and working on construction projects  
for the failure to pay back wages and the  
associated penalties assessed, or after the  
third notice of violation if the second is  
within two years of the first and the third  
is within two years of the second. There is  
currently no method to suspend a contractor  
who interferes with or delays an  
investigation unless the contractor also  
fails to pay the back wages found due or the  
statutory penalty that is assessed. State  
or county government agencies should not be  
in business with those who interfere with or  
delay a prevailing wage investigation.

Authorizing suspension for contractors found  
in violation of section 104-22(b), will  
create a clear line for those contractors  
who are not willing to comply with the law.

Hawaii's prevailing wage law requires the payment of the prevailing wage to the laborers and mechanics working on public works construction projects in order to level the playing field for contractors bidding on such projects. It is not unreasonable to impose a three-year suspension for those contractors who falsify records and fail to cooperate with an investigation.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: LBR-152

OTHER AFFECTED  
AGENCIES: Department of the Attorney General,  
Department of Accounting and General  
Services State Procurement Office,  
county building departments, Department of  
Education, University of Hawaii, and other  
governmental agencies involved with  
construction of public works.

EFFECTIVE DATE: Upon approval.