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## A BILL FOR AN ACT

RELATING TO LABOR.

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

1 SECTION 1. Section 103-55, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§103-55 Wages, hours, and working conditions of employees**  
4 **of contractors performing services.** (a) Before any offeror  
5 enters into a contract to perform services in excess of \$25,000  
6 for any governmental agency, the offeror shall certify that the  
7 services to be performed will be performed under the following  
8 conditions:

9 Wages. The services to be rendered shall be performed by  
10 employees paid at wages or salaries not less than the wages paid  
11 to public officers and employees for similar work.

12 Compliance with labor laws. All applicable laws of the  
13 federal and state governments relating to workers' compensation,  
14 unemployment compensation, payment of wages, and safety will be  
15 fully complied with.

16 (b) No contract to perform services for any governmental  
17 contracting agency in excess of \$25,000 shall be granted unless  
18 all the conditions of this section are met. Failure to comply



1 with the conditions of this section during the period of  
2 contract to perform services shall result in cancellation of the  
3 contract, unless such noncompliance is corrected within a  
4 reasonable period as determined by the procurement officer.  
5 Final payment of a contract or release of bonds or both shall  
6 not be made unless the procurement officer has determined that  
7 the noncompliance has been corrected.

8 It shall be the duty of the governmental contracting agency  
9 awarding the contract to perform services in excess of \$25,000  
10 to enforce this section.

11 (c) This section shall apply to all contracts to perform  
12 services in excess of \$25,000, including contracts to supply  
13 ambulance service and janitorial service.

14 This section shall not apply to:

- 15 (1) Managerial, supervisory, or clerical personnel~~[+]~~;
- 16 (2) Contracts for supplies, materials, or printing~~[+]~~;
- 17 (3) Contracts for utility services~~[+]~~;
- 18 (4) Contracts to perform personal services under  
19 paragraphs (2), (3), (12), and (15) of section 76-16,  
20 paragraphs (7), (8), and (9) of section 46-33, and  
21 paragraphs (7), (8), and (12) of section 76-77~~[+]~~;
- 22 (5) Contracts for professional services~~[+]~~;



1 (6) Contracts to operate refreshment concessions in public  
2 parks, or to provide food services to educational  
3 institutions[-]; and

4 (7) Contracts with nonprofit institutions.

5 (d) Any bid specification offered or contract entered into  
6 by a governmental body under this section shall contain the  
7 following:

8 (1) A provision requiring the contractor to ensure the  
9 right of all employees under relevant state or federal  
10 law to form, join, or assist labor organizations, to  
11 bargain collectively through representatives of their  
12 own choosing, and to exercise these legal rights  
13 without interference;

14 (2) A provision that, if at any time during the contract  
15 period, a labor organization or any employee of the  
16 contractor seeks to organize employees of the  
17 contractor, the contractor shall commit no act or make  
18 any statement that will directly or indirectly state  
19 or imply the contractor's preference or non-preference  
20 for unionization of its employees in general or for  
21 recognition of any bona fide labor organization as the



1 exclusive representative of the employees working on  
2 contracts covered by this section;

3 (3) A provision that, if at any time during the contract  
4 period, a labor organization or any employee of the  
5 contractor seeks to organize employees of the  
6 contractor, the contractor shall grant access to its  
7 employees by any bona fide labor organization in the  
8 employee lunchrooms, lounges, or other non-public  
9 areas on the contractor's premises during employee  
10 off-work periods, for organizational purposes;  
11 provided that there is no interference with normal  
12 work operations; and

13 (4) A provision that, if during the contract period, a  
14 bona fide labor organization requests recognition  
15 within an appropriate bargaining unit, a disinterested  
16 neutral party selected by the director of labor and  
17 industrial relations shall conduct a review of  
18 employee authorization cards submitted by any labor  
19 organization in support of its claim to represent a  
20 majority of employees in an appropriate bargaining  
21 unit. If a majority of employees within a unit has  
22 designated the signatory labor organization to



1           represent them, the contractor shall recognize that  
2           labor organization as the exclusive representative of  
3           the designated bargaining unit and negotiations will  
4           commence for a collective bargaining agreement.

5           (e) Any contractor found in violation of this section  
6           shall pay a fine of \$5,000 per violation to the governmental  
7           body, in addition to attorney's fees and costs, to the  
8           governmental body or the affected employees.

9           (f) Any employer who violates any provision of this  
10          section shall be liable to the employee or employees affected  
11          for the amount of their unpaid wages or compensation, and in  
12          case of wilful violation, for an additional amount equal to the  
13          liquidated damages."

14          SECTION 2. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16          SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: Mark Caldwell

JAN 23 2008



**Report Title:**

Labor unions; organization

**Description:**

Requires that contracts subject to certain wage requirements contain provisions allowing employees to organize.

