

JAN 28 2009

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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 104-2, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3           "(b) Every laborer and mechanic performing work on the job  
4 site for the construction of any public work project shall be  
5 paid no less than prevailing wages; provided that:

6           (1) The prevailing wages shall be established by the  
7 director as the sum of the basic hourly rate and the  
8 cost to an employer of providing a laborer or mechanic  
9 with fringe benefits. In making prevailing wage  
10 determinations, the following shall apply:

11           (A) The director shall make separate findings of:

12                   (i) The basic hourly rate; and

13                   (ii) The rate of contribution or cost of fringe  
14 benefits paid by the employer when the  
15 payment of the fringe benefits by the  
16 employer constitutes a prevailing practice.

17           The cost of fringe benefits shall be



1 reflected in the wage rate scheduled as an  
2 hourly rate;

3 (B) The rates of wages [~~which~~] that the director  
4 shall regard as prevailing in each corresponding  
5 classification of laborers and mechanics shall be  
6 the rate of wages paid to the greatest number of  
7 those employed in the State, the modal rate, in  
8 the corresponding classes of laborers or  
9 mechanics on projects that are similar to the  
10 contract work; and

11 (C) The prevailing cost of fringe benefits shall be  
12 determined according to a biannual survey, using  
13 a standardized reporting form supplied by the  
14 department, of all general contractors and their  
15 subcontractors who have been party to a contract  
16 subject to this chapter in the six months prior  
17 to the date of the survey. The reporting form  
18 shall specify costs paid for:

19 (i) Health and welfare benefits;

20 (ii) Pension and annuity benefits;

21 (iii) Vacation benefits;



- 1                    (iv) Continuing education and training benefits;
- 2                    and
- 3                    (v) Other fringe benefit costs paid by the
- 4                    general contractor or subcontractor;

5            (2) The prevailing wages shall be not less than the wages  
6            payable under federal law to corresponding classes of  
7            laborers and mechanics employed on public works  
8            projects in the State that are prosecuted under  
9            contract or agreement with the government of the  
10           United States; and

11           (3) Notwithstanding the provisions of the original  
12           contract, the prevailing wages shall be periodically  
13           adjusted during the performance of the contract in an  
14           amount equal to the change in the prevailing wage as  
15           periodically determined by the director."

16           SECTION 2. Section 104-3, Hawaii Revised Statutes, is  
17           amended to read as follows:

18           **"§104-3 Payrolls and payroll records.** (a) Every [~~such~~]  
19           contract subject to this chapter and the specifications for  
20           [~~such contract~~] those contracts shall contain a provision that a  
21           certified copy of all payrolls and a certified copy of a fringe  
22           benefit reporting form supplied by the department shall be

1 submitted weekly to the governmental contracting agency for  
2 review. The general contractor shall be responsible for the  
3 submission of certified copies of the payrolls of all  
4 subcontractors. The certification shall affirm that the  
5 payrolls are correct and complete, that the wage rates contained  
6 therein are not less than the applicable rates contained in the  
7 wage determination decision of the director of labor and  
8 industrial relations attached to the contract, and that the  
9 classifications set forth for each laborer or mechanic conform  
10 with the work the laborer or mechanic performed. Any  
11 certification discrepancy found by the contracting agency shall  
12 be reported to the general contractor and the director to effect  
13 compliance.

14 (b) Payroll records for all laborers and mechanics working  
15 at the site of the work shall be maintained by the general  
16 contractor and the general contractor's subcontractors, if any,  
17 during the course of the work and preserved for a period of  
18 three years thereafter. The records shall contain the name of  
19 each employee, the employee's correct classification, rate of  
20 pay, an itemized list of fringe benefit costs paid for each  
21 employee by the general contractor or subcontractor, daily and



1 weekly number of hours worked, deductions made and actual wages  
2 paid.

3 (c) The contractor shall make payroll records available  
4 for examination within ten days from the date of a written  
5 request by a governmental contracting agency, director, or any  
6 authorized representatives thereof. Any contractor who:

7 (1) Fails to make payroll records accessible within ten  
8 days;

9 (2) Fails to provide information requested for the proper  
10 enforcement of this chapter within ten days; or

11 (3) Fails to keep or falsifies any record required under  
12 this chapter,

13 shall be assessed a penalty as provided in section 104-22(b)."

14 SECTION 3. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 4. This Act shall take effect July 1, 2009.

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INTRODUCED BY:                     *[Signature]*                    

*Carol Fukushima*  
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**Report Title:**

Little Davis Bacon Act; Fringe Benefits; Department of Labor and Industrial Relations

**Description:**

Requires the department of labor and industrial relations to use a standard reporting form to report the fringe benefit rate paid to both union and non-union laborers who perform work for the construction, alteration, or repair of public buildings and public works.

