
A BILL FOR AN ACT

RELATING TO PUBLIC WORKS.

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 part to read as follows:

3 **"PART . PUBLIC WORKS; OTHER REQUIREMENTS**

4 **§104-A Definitions.** For the purposes of this part, unless
5 the context otherwise requires:

6 "Contract" has the same meaning as in section 104-2.

7 "New work on any public work" means any work at the job
8 site that is under contract by the suspended party or contractor
9 that has not commenced before the date of the suspension order.

10 "Public work" has the same meaning as in section 104-2.

11 **§104-B Status of employees.** All parties as defined in
12 section 104-2 and contractors who bid on a public work shall
13 employ only regular employees, as defined in section 393-3, who
14 shall not be classified as independent contractors.

15 **§104-C Apprenticeship program.** (a) All parties and
16 contractors who bid on a public work shall maintain an
17 apprenticeship program certified by the State.



1 (b) The director shall adopt rules under chapter 91 to
2 implement this section.

3 **§104-D Apprenticeship use on public works; requirements.** (a)
4 All public works projects that cost one million dollars or more
5 shall include a requirement that no less than fifteen per cent
6 of labor hours on the project be performed by individuals
7 enrolled in an apprenticeship program established under section
8 104-C.

9 For the purposes of this subsection, "labor hours" means
10 the total number of hours worked by employees receiving an
11 hourly wage who are directly employed on the site of a public
12 works project, including hours performed by individuals employed
13 by the contractor and all subcontractors working on the project.
14 "Labor hours" does not include hours worked by foremen,
15 superintendents, owners, clerical staff, and other workers not
16 subject to prevailing wage requirements.

17 (b) The director shall adopt rules under chapter 91 to
18 implement this section.

19 **§104-E Violations; penalties.** (a) Where the department
20 finds that a violation of this part has been committed, the
21 department, after proper notice and opportunity for hearing,



1 shall order the governmental contracting agency, as defined in
2 section 104-2, to:

3 (1) Suspend all work being conducted by the party or
4 contractor on the public work where the violation has
5 occurred;

6 (2) Withhold any further payments to the party or
7 contractor found to have committed the violation; and

8 (3) Assess a weekly penalty equivalent to one-tenth of one
9 per cent of the contract, or \$1,000, whichever is
10 greater,

11 until compliance with section 104-B, 104-C, or both is obtained.

12 (b) Where the department finds that compliance with this
13 part is not obtained within 20 days after notification, the
14 department shall order the governmental contracting agency to
15 permanently remove the party or contractor from any further work
16 on the public work. The department, after proper notice and
17 opportunity for hearing, shall order the party or contractor in
18 violation to be suspended from performing any new work on any
19 public work of a governmental contracting agency for a period of
20 six months.

21 (c) Where the department finds that a second violation of
22 this part has been committed, whether on the same contract or



1 another, within two years of the first notification of
2 violation, the department, after proper notice and opportunity
3 for hearing, shall order the party or contractor in violation to
4 be suspended from performing any new work on any public work of
5 a governmental contracting agency for a period of three years.

6 (d) Where the department finds that a third violation of
7 this part has been committed, whether on the same contract or
8 another, within two years of the second notification of
9 violation, the department, after proper notice and opportunity
10 for hearing, shall order the party or contractor in violation to
11 be suspended permanently from performing any new work on any
12 public work of a governmental contracting agency.

13 SECTION 2. Chapter 104, Hawaii Revised Statutes, is
14 amended as follows:

15 1. By amending its title to read:

16 "CHAPTER 104
17 [~~WAGES AND HOURS OF EMPLOYEES ON~~] PUBLIC WORKS"

18 2. By amending the title of part I to read:

19 "PART I. WAGES AND HOURS OF EMPLOYEES ON PUBLIC WORKS -
20 GENERAL PROVISIONS"

21 3. By amending the title of part II to read:



1 **"PART II. WAGES AND HOURS OF EMPLOYEES ON PUBLIC WORKS -**
2 **ADMINISTRATION AND ENFORCEMENT"**

3 SECTION 3. In codifying the new sections added by section
4 1 of this Act, the revisor of statutes shall substitute
5 appropriate section numbers for the letters used in designating
6 the new sections in this Act.

7 SECTION 4. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 5. This Act shall take effect on January 1, 2010.



Report Title:

Employees; Contractors

Description:

Establishes requirements for contractors who bid on state construction projects. Establishes penalties for non-compliance with such requirements. (HB826 HD1)

