
A BILL FOR AN ACT

RELATING TO PUBLIC PROCUREMENT.

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

1 SECTION 1. The legislature finds that state and local
2 spending on public works projects and construction procurement
3 drives a significant portion of Hawaii's economy. However,
4 because of Hawaii's higher cost of living, state contractors
5 often find it cheaper to employ non-residents to work on public
6 works projects and construction procurement contracts. As a
7 result, Hawaii residents face difficulties acquiring employment
8 in this important sector of the Hawaii's economy. Furthermore,
9 non-resident employees working on public works projects and
10 construction procurement contracts contribute very little to the
11 state's economy while they work in Hawaii, and return a
12 disproportionately large amount of their wages to their home
13 states upon the completion of their employment in Hawaii.

14 The legislature further finds that the inability of state
15 residents to acquire employment on public works projects and
16 construction procurement contracts contributes to unemployment
17 in the state, deprives the state of fiscal resources and
18 capital, and dampens the state's economic development. The



1 intent of this Act is to level the playing field for Hawaii
2 residents and to remedy the adverse effects of non-resident
3 employment on public works projects and construction procurement
4 contracts, while preserving contractors' flexibility to employ
5 non-residents where necessary.

6 The purpose of this Act is to require that state residents
7 compose eighty per cent of the labor force working on some
8 public works projects and construction procurement contracts.

9 SECTION 2. The Hawaii Revised Statutes is amended by
10 adding a new chapter to be appropriately designated and to read
11 as follows:

12 "CHAPTER

13 EMPLOYMENT OF STATE RESIDENTS ON PUBLIC WORKS PROJECTS AND
14 CONSTRUCTION PROCUREMENT CONTRACTS

15 § -1 Definitions. As used in this chapter:

16 "Contract" means public works contracts under chapter 103
17 and contracts for construction under chapter 103D.

18 "Contractor" has the same meaning as in section 103D-104
19 and as the term is applied to public works contracts under
20 chapter 103; provided that "contractor" includes a subcontractor
21 where applicable.



1 "Construction" has the same meaning as in section 103D-104
2 and includes public works and contracts under chapter 103.

3 "Procurement officer" has the same meaning as in section
4 103D-104 and as used for purposes of chapter 103.

5 "Resident" means a person who is physically present in the
6 state at the time the person claims to have established the
7 person's domicile in the state and shows the person's intent is
8 to make Hawaii the person's primary residence.

9 "Shortage trade" means a construction trade in which there
10 is a shortage of Hawaii residents qualified to work in the
11 trade.

12 § -2 Application of chapter. (a) This chapter shall
13 apply to all public works contracts under chapter 103 and to all
14 construction procurements under chapter 103D; provided that this
15 chapter shall not apply to procurements for professional
16 services under section 103D-304 and procurements for small
17 purchases under chapter 103D-305.

18 (b) This chapter shall apply to any subcontract of \$50,000
19 or more in connection with any general contract otherwise
20 covered by this chapter.

21 § -3 Requirements of contractor. (a) A contractor
22 awarded any contract shall ensure that Hawaii residents compose



1 not less than eighty per cent of the workforce employed to
2 perform the contract on a particular construction project, as
3 determined under subsection (b).

4 (b) The eighty per cent requirement under subsection (a)
5 shall be determined by dividing the total number of hours worked
6 on a contract by residents, by the total number of hours worked
7 by all employees of the contractor in the performance of the
8 contract. Hours worked for any subcontractor of the contractor
9 shall count towards the calculation for purposes of this
10 subsection. The hours worked by employees within shortage
11 trades, as determined by the department of labor and industrial
12 relations, shall not be included in the calculations for
13 purposes of this subsection.

14 (c) Every contractor shall comply with this chapter for
15 the entire duration of the contract. Certification of
16 compliance with this chapter shall be made under oath by an
17 officer of the contractor to the procurement officer on a
18 monthly basis.

19 (d) A contractor who fails to comply with this chapter
20 shall be subject to any of the following sanctions:



- 1 (1) Temporary suspension of work on the project until the
2 contractor or subcontractor complies with this
3 chapter;
- 4 (2) Withholding of payment on the contract or subcontract,
5 as applicable, until the contractor or subcontractor
6 complies with this chapter;
- 7 (3) Permanent disqualification of the contractor or
8 subcontractor from any further work on the project;
- 9 (4) Recovery by the State or county, as applicable, of any
10 moneys expended on the contract or subcontract, as
11 applicable; or
- 12 (5) Proceedings for debarment or suspension of the
13 contractor or subcontractor under section 103D-702.

14 § -4 Conflict with federal law. This chapter shall not
15 apply if the application of this chapter is in conflict with any
16 federal law, or if the application of this chapter will
17 disqualify any state or county agency from receiving federal
18 funds or aid."

19 SECTION 3. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.

22



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



Report Title:

Procurement; Construction Projects

Description:

Requires at least 80 percent of workers on public works and construction contracts to be Hawaii residents. (HB2736 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

