

Honolulu, Hawaii  
April 4, 2014

RE: S.B. No. 2260  
S.D. 2  
H.D. 2

Honorable Joseph M. Souki  
Speaker, House of Representatives  
Twenty-Seventh State Legislature  
Regular Session of 2014  
State of Hawaii

Sir:

Your Committee on Finance, to which was referred S.B. No. 2260, S.D. 2, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO WAGES AND HOURS ON PUBLIC WORKS,"

begs leave to report as follows:

The purpose of this measure is to assist the Department of Labor and Industrial Relations (Department) in the enforcement of the wages and hours of employees on public works law under Chapter 104, Hawaii Revised Statutes, by, among other things:

- (1) Specifying that no provision of the wages and hours of employees on public works law may be in any way contravened or set aside by private contract;
- (2) Increasing the penalty for a contractor's interference or delay with a Department investigation to determine compliance with the wages and hours of employees on public works law to \$10,000 per project and \$1,000 per day that the contractor fails to cooperate;
- (3) Holding a general contractor secondarily liable for the payment of back wages and unpaid penalties assessed against contractors on a public works construction project, subject to time and notice provisions;



- (4) Specifying that any payment for back wages and penalties owed by the contractor made by the governmental contracting agency from amounts due to the contractor shall not be deemed to be a breach of contract and shall not excuse the contractor from completing the project for the contract price and by the contract completion deadline;
- (5) Specifying that a notification of violation shall be final and conclusive unless the contractor files a written notice of appeal with the Director of Labor and Industrial Relations (Director) within 20 days after a copy of the notice has been sent to the contractor;
- (6) Increasing the suspension period from three to five years for a third violation, within two years of a second notification of a violation, of the wages and hours of employees on public works law;
- (7) Clarifying what triggers a suspension to become effective; and
- (8) Requiring the Director to give immediate notice of the suspension order to the governmental contracting agency and to the general contractor in the case of a suspended subcontractor.

The Hawaii Building and Construction Trades Council, AFL-CIO and Hawaii Iron Workers Stabilization Fund provided testimony in support of this measure. The Building Industry Association of Hawaii; Hawaii Operating Engineers Industry Stabilization Fund; General Contractors Association of Hawaii; LYZ, Inc.; Ralph S. Inouye Co., Ltd.; S&M Sakamoto, Inc.; Robert M. Kaya Builders, Inc.; Healy Tibbitts Builders, Inc.; Waltz Engineering, Inc.; Swinerton Builders; Warrior Contracting, LLC; Tom's Backhoe & Excavation Co., Inc.; TOMCO CORP.; and Laborers' International Union of North America, Local 368 provided testimony in opposition to this measure. The Department of Labor and Industrial Relations and Department of Accounting and General Services provided comments.

Your Committee has amended this measure by:

- (1) Deleting the provision holding a general contractor secondarily liable for the payment of penalties assessed

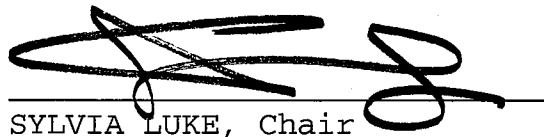


against contractors on a public works construction project;

- (2) Requiring the Department to submit a report to the Legislature no later than 20 days prior to the convening of the Regular Sessions of 2015, 2016, 2017, and 2018 that provides enforcement information regarding the suspensions and back wages and fines imposed and collected;
- (3) Deleting the savings clause;
- (4) Inserting a sunset provision for the:
  - (A) Increase to the suspension period from three to five years for a third violation of the state law relating to wages and hours of employees on public works; and
  - (B) Requirement that the Director notify the governmental contracting agency and general contractor, in the case of a suspended subcontractor, of any suspension order; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2260, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2260, S.D. 2, H.D. 2.

Respectfully submitted on  
behalf of the members of the  
Committee on Finance,

  
SYLVIA LUKE, Chair



State of Hawaii  
House of Representatives  
The Twenty-seventh Legislature

HSCR 1664-14

**Record of Votes of the Committee on Finance**

<b>Bill/Resolution No.:</b> SB 2260, SD2, HD1	<b>Committee Referral:</b> LAB, FIN	<b>Date:</b> 4/2/2014		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
<b>The recommendation is to:</b> <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
FIN Members	Ayes	Ayes (WR)	Nays	Excused
1. LUKE, Sylvia (C)	/			
2. NISHIMOTO, Scott Y. (VC)	/			
3. JOHANSON, Aaron Ling (VC)	/			
4. CULLEN, Ty J.K.	/			
5. HASHEM, Mark J.				/
6. ING, Kaniela	/			
7. JORDAN, Jo	/			
8. KOBAYASHI, Bertrand	/			
9. LOWEN, Nicole E.	/			
10. MORIKAWA, Dee		/		
11. ONISHI, Richard H.K.	/			
12. TAKAYAMA, Gregg	/			
13. TOKIOKA, James Kunane	/			
14. WOODSON, Justin H.	/			
15. YAMASHITA, Kyle T.	/			
16. FUKUMOTO, Beth	/			
17. WARD, Gene	/			
<b>TOTAL (17)</b>	15	1		1
<b>The recommendation is:</b> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <div style="text-align: center; font-size: 0.8em;">committee acronym(s)</div>				
<b>Vice Chair's or designee's signature:</b> _____				
<b>Distribution:</b> Original (White) – Committee      Duplicate (Yellow) – Chief Clerk's Office      Duplicate (Pink) – HMSO				