

Honolulu, Hawaii

FEB 27 2014

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

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 2260, S.D. 1, entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to assist the
Department of Labor and Industrial Relations in the enforcement of
the prevailing wage law under chapter 104, Hawaii Revised
Statutes, by:

- (1) Increasing the suspension period from three to five years for a third violation of a person or firm who violates the state law relating to wages and hours of employees on public works;
- (2) Clarifying that the effective date of suspension is on the later of the twenty-first day after the sending of the notification or violation or the issuance of a decision of an appeal;
- (3) Specifying that suspension for falsification of records or delay or interference with an investigation is immediate for a period of five years; and
- (4) Adding a governmental contracting agency and the general contractor, in the case of a suspended subcontractor, as



entities that the Director of Labor and Industrial Relations is required to notify of any suspension order.

Your Committee received testimony in support of this measure from the Department of Labor and Industrial Relations; Department of Accounting and General Services; Plumbers and Fitters UA, Local 675; The Pacific Resource Partnership; and one individual. Testimony in opposition to this measure was submitted by the General Contractors Association of Hawaii.

Your Committee finds that under chapter 104, Hawaii Revised Statutes, the suspension period for a third violation of prevailing wage law, falsification of records, or delay or interference with an investigation is three years. Due to the length of time needed for an investigation and the due process procedures available for a contractor, the Department of Labor and Industrial Relations testified that a contractor could delay these proceedings to the point that a three year suspension period is of little consequence. This measure assists the Department of Labor and Industrial Relations in enforcing the prevailing wage law and encourages contractors to comply with the law by ensuring that a contractor who deliberately violates the law will serve a suspension period that acts as more of a deterrent.

Your Committee notes the concerns raised by the General Contractors Association of Hawaii that the real problem is the lengthy process for conducting and completing an investigation and adjudication of a properly filed appeal, which an increase in the suspension period from three to five years does not appropriately address. The General Contractors Association of Hawaii suggested the Department of Labor and Industrial Relations needs additional labor law enforcement specialists to speed up investigations. Your Committee further notes that S.B. No. 3039, S.D. 1 (2014) creates additional labor enforcement specialist IV positions within the Department of Labor and Industrial Relations to enforce Hawaii's wage and hour law and appropriates a specified amount for these positions. Your Committee believes that this measure and S.B. No. 3039, as amended, should be considered together to assist the Department in enforcing the prevailing wage law as these two measures move through the legislative process.

Your Committee has amended this measure by:

- (1) Adopting the language suggested by the General Contractors Association of Hawaii to clarify that the

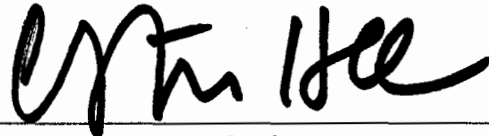


first, second, or third violation refers to each investigation involving one or more projects, rather than each project, in which a contractor has failed to comply; and

- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2260, S.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.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,



CLAYTON HEE, Chair



