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# A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

1           SECTION 1. Chapter 103, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:  
4           "§103-    Public works construction; earned credit  
5 certificate. (a) Any contractor that uses apprentices enrolled  
6 in or graduated from an apprenticeship pursuant to chapter 372  
7 to complete a minimum of ten per cent of the onsite labor hours  
8 for a public works construction project shall earn an earned  
9 credit certificate from the department of labor and industrial  
10 relations. The earned credit certificate may be used for a five  
11 per cent preference on a bid for a future public works  
12 construction project.  
13           (b) As part of the contract close-out procedure, if the  
14 contracting agency determines that the contractor has met the  
15 requirements pursuant to subsection (a), the contracting agency  
16 shall notify the department of labor and industrial relations.



1       (c) The earned credit certificate shall be valid for one  
2 year from the date of issuance and shall not be applied toward  
3 any future contract bid after the expiration of that period.  
4 The contractor may apply the earned credit certificate on  
5 multiple future construction project contract bids during the  
6 period in which the earned credit certificate is valid, but may  
7 only receive one bid incentive for bid evaluation purposes on  
8 one construction project contract award. If the contractor  
9 applies the earned credit certificate on multiple construction  
10 project bids and is the lowest responsive and responsible bidder  
11 on more than one construction project bid, the earned credit  
12 certificate shall be applied to the construction project by bid  
13 opening date, or if multiple construction project bids were on  
14 the same date, the earned credit certificate shall be applied  
15 only to the construction project with the greatest dollar value.

16       (d) The contractor shall maintain accurate and detailed  
17 books and records necessary to monitor compliance with this  
18 section and shall submit such reports as required by the  
19 contracting agency.

20       The contracting agency or any duly authorized  
21 representative shall have full access to the contractor's and



1 subcontractor's records for the purpose of verification and  
2 compliance with this section. The contractor and subcontractors  
3 shall maintain all relevant records for a period of at least  
4 three years after final acceptance of the work.

5 (e) The director of labor and industrial relations may  
6 adopt rules pursuant to chapter 91 pertaining to the  
7 administration and enforcement of this section.

8 (f) As used in this section:

9 "Contracting agency" means a governmental body, as defined  
10 in section 103D-14, who enters into a public works contract.

11 "Contractor" means a bidder who is awarded a public works  
12 contract pursuant to this chapter."

13 SECTION 2. Section 103-55.6, Hawaii Revised Statutes, is  
14 amended as follows:

15 1. By amending subsection (a) to read:

16 "(a) A governmental body, as defined in section 103D-104,  
17 that enters into a public works contract under this chapter  
18 having an estimated value of not less than \$250,000, shall  
19 decrease the bid amount of a bidder by five per cent if the  
20 bidder is a party to an apprenticeship agreement registered with  
21 the department of labor and industrial relations for each



1 ~~[apprenticeable trade the bidder will employ]~~ type of  
2 classification that the bidder will list on the certified  
3 payroll affidavit to construct the public works, and in  
4 conformance with chapter 372. The lowest total bid, taking the  
5 preference into consideration, shall be awarded the contract  
6 unless the solicitation provides for additional award criteria.  
7 The contract amount awarded, however, shall be the amount of the  
8 price offered, exclusive of the preference."

9 2. By amending subsection (c) to read:

10 "(c) At the time of submission of a competitive sealed bid  
11 or a competitive sealed proposal by a bidder, the bidder shall  
12 furnish written proof of being a party to a registered  
13 apprenticeship agreement for each ~~[apprenticeable trade the~~  
14 ~~bidder will employ]~~ type of classification that the bidder will  
15 list on the certified payroll affidavit, that is recognized in  
16 accordance with the department in their wage rate schedule  
17 bulletin to construct the public works and~~[, if]~~ the contractor  
18 shall be in compliance with the apprentice to journey worker  
19 ratio set forth by the workforce development division of the  
20 department of labor and industrial relations for the craft or  
21 trade in each apprenticeable trade that the bidder will list on



1 the certified payroll affidavit. If awarded the contract, the  
2 bidder shall continue to certify monthly in writing that the  
3 bidder is a party to a registered apprenticeship agreement for  
4 each [~~apprenticeable trade the bidder will employ~~] type of  
5 classification that the bidder will list on the certified  
6 payroll affidavit to construct the public works for the entire  
7 duration of the bidder's work on the project. This subsection  
8 shall be deemed to be incorporated into a public works contract.  
9 A bidder who is awarded a contract shall be subject to the  
10 following sanctions if, after commencement of work, the bidder  
11 at any time during the construction is no longer a party to a  
12 registered apprenticeship agreement for each [~~apprenticeable~~  
13 ~~trade the bidder will employ~~] type of classification that the  
14 bidder will list on the certified payroll affidavit to construct  
15 the public works:

16 (1) Temporary or permanent cessation of work on the  
17 project, without recourse to breach of contract claims  
18 by the bidder; provided that the governmental body  
19 shall be entitled to restitution for nonperformance or  
20 liquidated damages, as appropriate; or



1 (2) Proceedings to debar or suspend under section 103D-  
2 702."

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

5 SECTION 4. This Act does not affect rights and duties that  
6 matured, penalties that were incurred, and proceedings that were  
7 begun before its effective date.

8 SECTION 5. This Act shall take effect on July 1, 2091.



**Report Title:**

Public Works; Earned Credit Certificate; Apprenticeship

**Description:**

Establishes an earned credit certificate for contractors in public works projects who meet certain apprenticeship requirements. Clarifies information that a bidder must disclose in a competitive sealed bid for public works projects. (HB2457 HD1)

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

