

# S.B. NO. 1121

JAN 28 2015

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## A BILL FOR AN ACT

RELATING TO WAGES AND HOURS ON PUBLIC WORKS LAW.

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

1           SECTION 1. Section 104-22, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§104-22 Investigation; penalties.** (a) The department  
4 may conduct investigations to determine compliance with this  
5 chapter. The department may enter the job site, examine records  
6 of any contractor, either during or after the performance of any  
7 contract, or subpoena the records. The department may also  
8 interview employees during working hours on the job.

9           (b) If any contractor interferes with or delays any  
10 investigation by the department, the governmental contracting  
11 agency, on receipt of written notice from the director of the  
12 interference or delay, shall withhold from the contractor all  
13 further payments until the director has notified the  
14 governmental contracting agency in writing that the interference  
15 or delay has ceased. Interference or delay includes failure to  
16 provide requested records under section 104-3; failure to allow  
17 employees to be interviewed during working hours on the job; and  
18 falsification of records required under this chapter. The

1 department shall assess a penalty of \$10,000 per project for  
2 interference or delay. For each day thereafter that the  
3 employer fails to cooperate, the director shall assess a penalty  
4 of \$1,000 per project.

5 (c) The names of all complainants and witnesses shall be  
6 withheld from the employer unless prior permission is given by  
7 the complainant or witness to release the complainant's or  
8 witness's name."

9 SECTION 2. Section 104-28, Hawaii Revised Statutes, is  
10 amended by amending subsection (d) to read as follows:

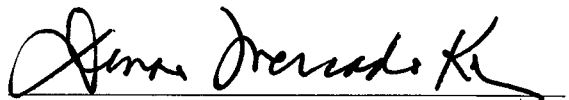
11 "(d) When a written request is filed by any laborer or  
12 mechanic with the director claiming unpaid wages or overtime  
13 compensation under this chapter the director, after receiving an  
14 assignment from the laborer or mechanic, may bring an action in  
15 any court of competent jurisdiction to recover the amount of the  
16 claim. The consent of any laborer or mechanic to the bringing  
17 of such action by the director, unless the action is dismissed  
18 without prejudice on motion of the director, shall constitute a  
19 waiver by the laborer or mechanic of any right of action the  
20 laborer or mechanic may have under subsection (a). Any amount  
21 recovered by the director before suit and accepted by the  
22 laborer or mechanic as payment in full shall constitute a waiver

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1 of any rights under this chapter. No written request shall be  
2 accepted by the director after the expiration of one year from  
3 the date the wages or overtime compensation are due and payable.  
4 The investigation by the director shall be limited to the one-  
5 year period preceding the filing of the written request."

6 SECTION 3. New statutory material is underscored.

7 SECTION 4. This Act, upon its approval, shall take effect  
8 on July 1, 2015.

9 INTRODUCED BY: 

10 BY REQUEST

**Report Title:**

Public Works Law; Complaints

**Description:**

Requires laborers and mechanics working on public works to file complaints within one year of the date the payment was due and ensure confidentiality of the complainant or witness. Effective July 1, 2015.

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

JUSTIFICATION SHEET

DEPARTMENT: Labor and Industrial Relations

TITLE: A BILL FOR AN ACT RELATING TO WAGES AND HOURS ON PUBLIC WORKS LAW.

PURPOSE: To limit the time in which a complaint may be filed with the Department of Labor and Industrial Relations and provide confidentiality to complainants and witnesses interviewed.

MEANS: Amend sections 104-22 and 104-28(d), Hawaii Revised Statutes.

JUSTIFICATION: This proposal conforms the time limitation period for the filing of prevailing wage complaints with those complaints filed under chapter 388, Hawaii Revised Statutes. Under current practice, prevailing wage complaints filed with the Department generally require a review of up to three years of payroll records. In addition to the fading memories of witnesses, this three-year review period extends the time needed to investigate the time and payment records.

By providing confidentiality from disclosure to the complainant and any information provided by witnesses interviewed, this bill encourages the timely reporting of alleged prevailing wage violations by lessening concerns regarding employer retribution.

Impact on the public: Complainants will have to take action to timely recover unpaid wages.

Impact on the department and other agencies: Will facilitate and make investigations easier because records and witnesses may be more readily available.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: LBR-152.

OTHER AFFECTED  
AGENCIES: Department of Accounting & General Services  
Department of Education  
University of Hawaii System  
City and County of Honolulu  
County of Hawaii  
County of Kauai  
County of Maui

EFFECTIVE DATE: July 1, 2015.