

JAN 27 2016

A BILL FOR AN ACT

RELATING TO PREVAILING WAGES.

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

1 SECTION 1. The legislature finds that the purpose of
2 chapter 104, Hawaii Revised Statutes, is to ensure that
3 prevailing wages are paid to, and reasonable work hours are
4 required of, laborers and mechanics on all public work projects
5 where the contract for construction of the public work project
6 exceeds \$2,000.

7 The legislature also finds that there have been instances
8 where laborers and mechanics performing construction on state
9 land have not been paid prevailing wages in accordance with
10 chapter 104, Hawaii Revised Statutes.

11 The legislature further finds that the failure to pay
12 prevailing wages to laborers and mechanics performing
13 construction on state land is contrary to the intent of chapter
14 104, Hawaii Revised Statutes.

15 It is the intent of the legislature that all development,
16 construction, renovation, and maintenance upon state land or the
17 use of state land to secure financing for development,



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1 construction, renovation, or maintenance shall constitute a
2 "public work" to the extent the term is used in chapter 104,
3 Hawaii Revised Statutes.

4 The purpose of this Act is to ensure that all contracts in
5 excess of \$2,000 for construction upon state land, unless
6 otherwise exempt, is subject to the requirements of chapter 104,
7 Hawaii Revised Statutes.

8 SECTION 2. Section 104-1, Hawaii Revised Statutes, is
9 amended by amending the definition of "public work" to read as
10 follows:

11 "Public work" means any project, including development of
12 any housing pursuant to section 46-15 or chapter 201H and
13 development, construction, renovation, and maintenance related
14 to refurbishment of any real or personal property, where [~~the~~]:

15 (1) The funds or resources required to undertake the
16 project are to any extent derived, either directly or
17 indirectly, from public revenues of the State or any
18 county, or from the sale of securities or bonds whose
19 interest or dividends are exempt from state or federal
20 taxes [-];



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- 1 (2) The project for development, construction, renovation,
2 or maintenance is done on public lands regardless of
3 whether or not the work is paid for from funds or
4 resources derived from public revenues of the State or
5 any county, or from the sale of securities or bonds
6 whose interest or dividends are exempt from state or
7 federal law; or
- 8 (3) Public lands are secured as collateral or used to
9 obtain financing for the development, construction,
10 renovation, or maintenance of the project."

11 SECTION 3. Section 104-2, Hawaii Revised Statutes, is
12 amended as follows:

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

14 "(a) This chapter shall apply to every contract in excess
15 of \$2,000 for construction of a public work project to which a
16 governmental contracting agency is a party; provided that this
17 chapter shall not apply to [experimental];

18 (1) Experimental and demonstration housing developed
19 pursuant to section 46-15 [or housing];

20 (2) Housing developed pursuant to chapter 201H if the cost
21 of the project is less than \$500,000 and the eligible



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1 bidder or eligible developer is a private nonprofit
2 corporation[-] i

3 (3) Projects for the development, construction,
4 renovation, or maintenance of a single-family dwelling
5 or multi-family unit on public lands contracted for by
6 a private lessee of the State where the work on a per
7 dwelling or unit basis is de minimis in nature, and in
8 no event greater than \$100,000 in value; or

9 (4) Projects for the development, construction,
10 renovation, or maintenance of farm dwellings and
11 related accessory improvements on state-owned
12 agricultural zoned property or within a state
13 agricultural park facility if the total cost of the
14 project is less than \$500,000.

15 For the purposes of this [~~subsection+~~] section:

16 "Contract" includes but is not limited to any agreement,
17 purchase order, or voucher in excess of \$2,000 for construction
18 of a public work project.

19 "Governmental contracting agency" includes [+]



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1 ~~(1) Any~~ any person or entity that causes either directly
2 or indirectly the building or development of a public
3 work [~~;~~ and

4 ~~(2) Any public-private partnership~~ or holds title to
5 public lands.

6 "Party" includes eligible bidders for and eligible
7 developers of any public work and any housing under chapter
8 201H; provided that this subsection shall not apply to any
9 housing developed under section 46-15 or chapter 201H if the
10 entire cost of the project is less than \$500,000 and the
11 eligible bidder or eligible developer is a private nonprofit
12 corporation.

13 "Private lessee" includes any person or entity, other than
14 a federal, state, or county agency or instrumentality, that
15 holds a leasehold interest in public lands.

16 "Public lands" means all lands or interests therein in the
17 State, classified as government or crown lands prior to August
18 15, 1895, or acquired or reserved by the government upon or
19 subsequent to that date by purchase, exchange, escheat, or the
20 exercise of the right of eminent domain, or in any other manner;
21 including lands accreted after May 20, 2003, and not otherwise



1 awarded, submerged lands, and lands beneath tidal waters that
2 are suitable for reclamation, together with reclaimed lands that
3 have been given the status of public lands under chapter 171;
4 and shall also include lands to which any state or county
5 agency, department, branch, or authority holds title."

6 2. By amending subsections (g) and (h) to read:

7 "(g) For any public work project that is subject to this
8 chapter but not directly caused by a governmental contracting
9 agency, including but not limited to a public work project
10 caused, initiated, or contracted for by a private lessee of the
11 State, or the private lessee's contractor, for the development,
12 construction, renovation, or maintenance of any real or personal
13 property located on public lands, the [~~director~~] state or county
14 department, agency, or public corporation holding title to the
15 public lands upon which the property is located shall be
16 responsible for enforcement of this chapter, including the
17 collection and maintenance of certified copies of all payrolls
18 that are subject to this chapter. The director shall adopt
19 rules pursuant to chapter 91 to effectuate the purposes of this
20 section.

21 (h) When:



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- 1 (1) The department of budget and finance enters a project
2 agreement with a project party, as those terms are
3 defined in chapter 39A, to finance or refinance a
4 project with the proceeds of special purpose revenue
5 bonds;
- 6 (2) The private lessee of public lands enters into a
7 contract for the development, construction,
8 renovation, or maintenance of any real or personal
9 property where the public work project is located on
10 public lands;
- 11 [-(2)] (3) The project party or contractor of the public
12 work project has entered into a collective bargaining
13 agreement with a bona fide labor union governing the
14 project party's or contractor's workforce; and
- 15 [-(3)] (4) The collective bargaining agreement has been
16 properly submitted to the director under section 104-
17 34,
- 18 the terms of the collective bargaining agreement and associated
19 provisions shall be deemed the prevailing wages and terms
20 serving as the basis of compliance with this chapter for work on
21 the ~~[project by the project party's]~~ public work project by the



1 contractor's workforce; provided that this subsection does not
 2 affect the [~~director's~~] state or county department's, agency's,
 3 or public corporation's enforcement powers contained in
 4 subsection (g)."

5 SECTION 4. Section 171-35, Hawaii Revised Statutes, is
 6 amended to read as follows:

7 "§171-35 **Lease provisions; generally.** Every lease issued
 8 by the board of land and natural resources shall contain:

9 (1) The specific use or uses to which the land is to be
 10 employed;

11 (2) The improvements required; provided that a minimum
 12 reasonable time be allowed for the completion of the
 13 improvements;

14 (3) Restrictions against alienation as set forth in
 15 section 171-36;

16 (4) The rent, as established by the board or at public
 17 auction, which shall be payable not more than one year
 18 in advance, in monthly, quarterly, semiannual, or
 19 annual payments;

20 (5) A provision requiring that all contracts for
 21 construction on the land be subject to the



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Report Title:

Public Works; Wages

Description:

Requires contracts for construction on public lands to comply with wage and hour requirements set forth in chapter 104, HRS.

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