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

14           It is the intent of the legislature that all development,  
15 construction, renovation, and maintenance that takes place upon  
16 public land or for which public land is used to obtain financing



1 shall constitute a "public work" to which chapter 104, Hawaii  
2 Revised Statutes, applies.

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

8 SECTION 2. Section 104-1, Hawaii Revised Statutes, is  
9 amended:

10 1. By adding a new definition to be appropriately inserted  
11 and to read as follows:

12 "Public lands" means all lands or interests therein in the  
13 State, classified as government or crown lands prior to August  
14 15, 1895, or acquired or reserved by the government upon or  
15 subsequent to that date by purchase, exchange, escheat, or the  
16 exercise of the right of eminent domain, or in any other manner;  
17 including lands accreted after May 20, 2003, and not otherwise  
18 awarded, submerged lands, and lands beneath tidal waters that  
19 are suitable for reclamation, together with reclaimed lands that  
20 have been given the status of public lands under chapter 171;



1 and shall also include lands to which any state or county  
2 agency, department, branch, or authority holds title."

3 2. By amending the definition of "public work" to read as  
4 follows:

5 "Public work" means any project, including development of  
6 any housing pursuant to section 46-15 or chapter 201H and  
7 development, construction, renovation, and maintenance related  
8 to refurbishment of any real or personal property, where [the]:

9 (1) The funds or resources required to undertake the  
10 project are to any extent derived, either directly or  
11 indirectly, from public revenues of the State or any  
12 county, or from the sale of securities or bonds whose  
13 interest or dividends are exempt from state or federal  
14 taxes [-];

15 (2) The project for development, construction, renovation,  
16 or maintenance is done on public lands regardless of  
17 whether or not the work is paid for from funds or  
18 resources derived from public revenues of the State or  
19 any county, or from the sale of securities or bonds  
20 whose interest or dividends are exempt from state or  
21 federal taxes; or



1        (3) Public lands are secured as collateral or used to  
2                    obtain financing for the development, construction,  
3                    renovation, or maintenance of the project."

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

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

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

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

13           (2) Housing developed pursuant to chapter 201H if the cost  
14 of the project is less than \$500,000 and the eligible  
15 bidder or eligible developer is a private nonprofit  
16 corporation [or];

17           (3) Projects for the development, construction,  
18           renovation, or maintenance of a single-family dwelling  
19           on public lands contracted for by a private lessee of  
20           the State where the work on a per dwelling or unit



1           basis is de minimis in nature, and in no event greater  
 2           than \$100,000 in value; or  
 3        (4) Projects for the development, construction,  
 4           renovation, or maintenance of farm dwellings and  
 5           related accessory improvements on state-owned  
 6           agricultural zoned property or within a state  
 7           agricultural park facility if the total cost of the  
 8           project is less than \$500,000.

9           For the purposes of this [~~subsection~~] section:

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

13          "Governmental contracting agency" includes:

14          (1) Any person or entity that causes either directly or  
 15 indirectly the building or development of a public  
 16 work[?] or holds title to public lands; and

17          (2) Any public-private partnership.

18          "Party" includes eligible bidders for and eligible  
 19 developers of any public work and any housing under chapter  
 20 201H; provided that this subsection shall not apply to any  
 21 housing developed under section 46-15 or chapter 201H if the



1 entire cost of the project is less than \$500,000 and the  
2 eligible bidder or eligible developer is a private nonprofit  
3 corporation.

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

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

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



1 (h) When:

2 (1) The department of budget and finance enters a project  
3 agreement with a project party, as those terms are  
4 defined in chapter 39A, to finance or refinance a  
5 project with the proceeds of special purpose revenue  
6 bonds;

7 (2) The private lessee of public lands enters into a  
8 contract for the development, construction,  
9 renovation, or maintenance of any real or personal  
10 property where the public work project is located on  
11 public lands;

12 [~~+2~~] (3) The project party or contractor of the public  
13 work project has entered into a collective bargaining  
14 agreement with a bona fide labor union governing the  
15 project party's or contractor's workforce; and

16 [~~+3~~] (4) The collective bargaining agreement has been  
17 properly submitted to the director under section  
18 104-34,

19 the terms of the collective bargaining agreement and associated  
20 provisions shall be deemed the prevailing wages and terms  
21 serving as the basis of compliance with this chapter for work on



1 the [~~project by the project party's~~] public work project by the  
2 contractor's workforce; provided that this subsection does not  
3 affect the director's enforcement powers contained in subsection  
4 (g)."

5 SECTION 4. Section 104-4, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "§104-4 Termination of work on failure to pay agreed  
8 wages; completion of work; contract and specifications  
9 provision. Every contract and the specifications for such  
10 contract shall contain a provision that if the governmental  
11 contracting agency or director finds that any laborer or  
12 mechanic employed on the job site by the contractor or any  
13 subcontractor has been or is being paid wages at a rate less  
14 than the required rate by the contract or the specifications, or  
15 has not received the laborer's or mechanic's full overtime  
16 compensation, the governmental contracting agency or director  
17 may, by written notice to the contractor, terminate the  
18 contractor's right, or the right of any subcontractor, to  
19 proceed with the work or with the part of the work in which the  
20 required wages or overtime compensation have not been paid and  
21 may complete such work or part by contract or otherwise, and the





1 contractor and the contractor's sureties shall be liable to the  
2 governmental contracting agency or director, on behalf of the  
3 department, for any excess costs occasioned thereby."

4 SECTION 5. There is appropriated out of the general  
5 revenues of the State of Hawaii the sum of \$ or so much  
6 thereof as may be necessary for fiscal year 2016-2017 for  
7 effectuation of this Act and overall enforcement of chapter 104,  
8 Hawaii Revised Statutes.

9 The sum appropriated shall be expended by the department of  
10 labor and industrial relations for the purposes of this Act.

11 SECTION 6. This Act does not affect rights and duties that  
12 matured, penalties that were incurred, and proceedings that were  
13 begun before its effective date.

14 SECTION 7. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 8. This Act shall take effect on July 1, 2091;  
17 provided that section 5 shall take effect on July 1, 2091.



**Report Title:**

Public Works; Wages; Appropriation

**Description:**

Specifies that development, construction, renovation, and maintenance on public land or financed based on public land are public works subject to state prevailing wage and hour requirements regardless of the contracting parties or funding source, with limited exemptions for certain housing construction. Appropriates funds for enforcement of wage and hour requirements. (SB2724 HD1)

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