

STAND. COM. REP. NO. 3091

Honolulu, Hawaii

MAR 24 2016

RE: H.B. No. 2473
H.D. 2
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred H.B. No. 2473, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO ENFORCEMENT OF WAGE LAWS,"

begs leave to report as follows:

The purpose and intent of this measure is to increase the maximum penalties for government contractors who violate the State's wages and hours law for employees on public works to:

- (1) A penalty equal to ten percent of the amount of back wages due and \$1,000 per offense, for the first violation; and
- (2) A penalty equal to the amount of back wages due and \$10,000 for each offense, for the second violation within two years of the first notification of violation.

Your Committee received testimony in support of this measure from the Department of Labor and Industrial Relations, Hawai'i Construction Alliance, and Pacific Resources Partnership. Your Committee received testimony in opposition to this measure from the Building Industry Association of Hawaii; Chamber of Commerce Hawaii; Hawaiian Dredging Construction Company, Inc.; Healy Tibbitts Builders, Inc.; Isemoto Contracting Co. Ltd.; Jade Painting, Inc.; Lindemann Construction Inc.; Oahu Plumbing & Sheet Metal, Ltd.; Ralph S. Inouye Co., Ltd.; Robert M. Kaya Builders, Inc.; Royal Contracting; S & M Sakamoto, Inc.; SimplexGrinnell;

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General Contractors Association of Hawaii; and Subcontractors Association of Hawaii.

Your Committee finds that the existing penalties for government contractors who violate the State's wages and hours law for employees on public works, codified as chapter 104, Hawaii Revised Statutes, are insufficient in deterring certain contractors from underpaying employees. When contractors comply with chapter 104, Hawaii Revised Statutes, there is a level playing field for bidding on state and county projects. Implementation of this measure assists the Department of Labor and Industrial Relations in enforcing chapter 104, Hawaii Revised Statutes, and encourages government contractors to comply with the law.

Your Committee further finds that the existing administrative remedies do not differentiate between inadvertent bookkeeping mistakes and willful underpayment of employees. Affording the Department of Labor and Industrial Relations the discretion to issue a more appropriate fine not only restores an employee's lost wages, but also punishes intentional misconduct when appropriate.

Accordingly, your Committee has amended this measure by:

- (1) Deleting its contents and inserting the contents of S.B. No. 2723, S.D. 1, Regular Session of 2016, a substantially similar measure, which increases the maximum penalties for government contractors who violate the State's wages and hours law for employees on public works to:
 - (A) A penalty that is equal to ten percent of the amount of back wages due or \$1,000 per offense, whichever is greater, for the first offense; and
 - (B) A penalty equal to the amount of back wages due or \$10,000 for each offense, whichever is greater, for the second offense;
- (2) Authorizing, rather than requiring, the Department of Labor and Industrial Relations to assess the penalties; and
- (3) Inserting language to limit the penalties to ten percent of the amount of back wages due and up to \$1,000 per



first offense; and ten percent of the amount of back wages due and up to \$10,000 per second offense.

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 H.B. No. 2473, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2473, H.D. 2, S.D. 1, and be referred to your Committee on Ways and Means.

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



GILBERT S.C. KEITH-AGARAN, Chair



