

JAN 18 2019

A BILL FOR AN ACT

RELATING TO WASTE MANAGEMENT.

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

1 SECTION 1. The legislature finds that construction
2 projects funded by public moneys produce extensive construction
3 waste. State law prohibits the disposal of more than one cubic
4 yard of solid waste anywhere other than a permitted solid waste
5 management system, with certain exceptions. However, the
6 legislature has discovered that despite this prohibition,
7 construction waste is sometimes disposed of in an unauthorized
8 manner. For example, the *Honolulu Star-Advertiser* reported on
9 November 13, 2017, that the department of education and several
10 contractors were fined \$1,450,000 by the department of health
11 for violating solid waste laws during the renovation of Radford
12 high school's track field in 2016. The department of health
13 based its decision on the illegal removal, transportation, and
14 disposal of contaminated soil and concrete waste from the school
15 construction site to a private residence in Kaneohe, a
16 construction site in Kapolei, and an unpermitted concrete



1 recycling facility in Kailua. Approximately one hundred thirty
2 truckloads of hazardous soil and concrete were dumped.

3 The legislature further finds that hazardous waste material
4 from construction sites have reportedly been dumped onto land
5 that drains into Kawainui marsh. These kinds of dumps are
6 difficult to detect when they occur.

7 The purpose of this Act is to require the statement for
8 services performed in a public works contract to include a
9 receipt from a licensed waste management facility or appropriate
10 farm lot or construction site that verifies that the waste was
11 properly received and lawfully disposed of in the appropriate,
12 licensed waste facility, farm lot, or construction site before
13 full payment is made.

14 SECTION 2. Section 103-10, Hawaii Revised Statutes, is
15 amended to read as follows:

16 **"§103-10 Payment for goods and services. (a) [Any]**
17 Subject to the requirements of subsection (e), any person who
18 renders a proper statement for goods delivered or services
19 performed, pursuant to contract, to any agency of the State or
20 any county, shall be paid no later than thirty calendar days
21 following receipt of the statement or satisfactory delivery of



1 the goods or performance of the services. [~~In the event~~] If
2 circumstances prevent the paying agency from complying with this
3 section, the person shall be entitled to interest from the
4 paying agency on the principal amount remaining unpaid at a rate
5 equal to the prime rate for each calendar quarter plus two per
6 cent, commencing on the thirtieth day following receipt of the
7 statement or satisfactory delivery of the goods or performance
8 of the services, whichever is later, and ending on the date of
9 the check. As used in this subsection, "prime rate" means the
10 prime rate as posted in the Wall Street Journal on the first
11 business day of the month preceding the calendar quarter.

12 (b) This section shall not apply in those cases where
13 delay in payment is due to:

- 14 (1) A bona fide dispute between the State or any county
15 and the contractor concerning the services or goods
16 contracted for;
- 17 (2) A labor dispute;
- 18 (3) A power or mechanical failure;
- 19 (4) Fire;
- 20 (5) Acts of God; or



1 (6) Any similar circumstances beyond the control of the
2 State or any county.

3 Where the time of payment is contingent upon the receipt of
4 federal funds, or federal approval, the solicitation of bids for
5 contracts shall clearly state that payment is contingent upon
6 those conditions. If the solicitation for bids contains the
7 warning and a contract is awarded in response to the
8 solicitation, then interest shall not begin to accrue upon any
9 unpaid voucher until the thirtieth day following receipt by the
10 State or county of the contractor's statement or the thirtieth
11 day following receipt of the federal funds or approval,
12 whichever occurs later, and shall end as of the date of the
13 check.

14 (c) All goods or services purchased by a state agency
15 which are less than \$25, except those purchased through the use
16 of a state procurement card, shall be paid from the petty cash
17 funds of the agency; provided that the comptroller may establish
18 a higher threshold for petty cash payments and may grant
19 exceptions to this requirement.

20 (d) Any other law to the contrary notwithstanding, the
21 payments for goods and services obtained through use of any



1 state or county procurement card shall be made under the terms
2 and conditions specified in the contract under which the
3 procurement card was established.

4 (e) Beginning July 1, 2019, in any contract with an agency
5 of the State or a county that includes the disposal of liquid or
6 solid waste, including but not limited to construction waste,
7 full payment shall not be rendered unless the statement for
8 services submitted pursuant to subsection (a) includes a receipt
9 from a licensed waste management facility, farm lot with an
10 approved soil and water conservation plan, or construction site
11 with a permit to grade and fill the site or stockpile fill on
12 site that verifies that the waste was properly received and
13 lawfully disposed of in an appropriate, licensed waste facility,
14 farm lot, or construction site and shall include:

- 15 (1) The number of truck loads accepted by the facility;
- 16 (2) The type of material received;
- 17 (3) The address of the site and name of the agent
18 authorized to accept the disposal; and
- 19 (4) Reference of the holder, farm, or company of the farm
20 soil and water conservation plan or construction
21 permit number, as applicable.



1 If required pursuant to a contract or executed agreement, the
 2 state or county agency may make partial payment to the
 3 contractor without a receipt showing proper waste disposal from
 4 a licensed waste management facility, farm lot, or construction
 5 site and before any dumping of waste. A person who knowingly
 6 submits a receipt that is altered or falsified in any manner for
 7 the purposes of this subsection shall be subject to section
 8 708-872."

9 SECTION 3. This Act does not affect rights and duties that
 10 matured, penalties that were incurred, and proceedings that were
 11 begun before its effective date.

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

14 SECTION 5. This Act shall take effect on July 1, 2020.

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INTRODUCED BY: *Ramon Tavel*

Donna L. ...
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S.B. NO. 1062

Report Title:

Disposal of Liquid or Solid Waste; Contracts; Payments

Description:

Requires that all state and county agency contractors that dispose of liquid or solid waste provide a receipt that the waste was received and disposed of at a licensed facility or an appropriate farm or construction site before full payment is made for those contractual services. Allows for partial payment to be made without a receipt and prior to any dumping of waste. Prohibits alteration or falsification of receipts.

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

