

JAN 20 2023

A BILL FOR AN ACT

RELATING TO PUBLIC WORKS.

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

1 SECTION 1. Section 104-24, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§104-24 Violations; penalties.** (a) Where the department
4 finds that a first violation of this chapter has been committed,
5 the department, after proper notice and opportunity for hearing,
6 shall assess and order the person or firm in violation to be
7 jointly and severally liable for a penalty equal to twenty-five
8 per cent of the amount of back wages found due or \$250 per
9 offense, up to \$2,500, whichever is greater.

10 (b) Where the department finds that a second violation of
11 this chapter has been committed, whether on the same or another
12 contract, within two years of the first notification of
13 violation, the department, after proper notice and opportunity
14 for hearing, shall order the person or firm in violation to
15 [~~pay~~] be jointly and severally liable for a penalty equal to the
16 amount of back wages found due or \$500 for each offense, up to
17 \$5,000, whichever is greater.



1 (c) Where the department finds that a third violation of
2 this chapter has been committed, whether on the same or another
3 contract, within three years of the second notification of
4 violation, the department, after proper notice and opportunity
5 for hearing, shall order the person or firm in violation:

6 (1) To ~~[pay]~~ be jointly and severally liable for a penalty
7 equal to two times the amount of back wages found due
8 or \$1,000 for each offense, up to \$10,000, whichever
9 is greater; and

10 (2) To be suspended from doing any new work on any public
11 work of a governmental contracting agency for a period
12 of three years except as provided in section
13 104-25(a)(2). [~~"New work on any public work" includes~~
14 ~~any public works project in which the suspended person~~
15 ~~or firm has not begun work at the job site as of the~~
16 ~~date of the suspension order.~~] The suspension shall
17 be effective on the later of the twenty-first day
18 after the notification of violation has been sent, or
19 upon the issuance of a decision pursuant to section
20 104-23(c).



1 (d) A first, second, or third violation refers to each
2 project in which the department finds that a contractor has
3 failed to comply with this chapter.

4 (e) Both the person and firm shall be listed on each
5 notice of violation.

6 [~~e~~] (f) For purposes of this section[, "~~offense~~"]:

7 "New work on any public work" includes any public works
8 project in which the suspended person or firm has not begun work
9 at the job site as of the date of the suspension order.

10 "Offense" means each section of this chapter under which
11 the contractor is cited; provided that, with respect to
12 prevailing wage and overtime citations under section 104-2, each
13 employee and each project shall be considered a separate
14 offense.

15 "Person" includes a sole proprietor and the principal
16 responsible managing employee that holds the construction
17 license of the firm."

18 SECTION 2. Section 104-25, Hawaii Revised Statutes, is
19 amended to read as follows:

20 **"§104-25 Suspension.** (a) The director shall suspend a
21 person [~~e~~] and firm as follows:



S.B. NO. 435

- 1 (1) For a first or second violation, if a person or firm
2 fails to pay wages found due, any penalty assessed, or
3 both, the person [~~or~~] and firm shall be immediately
4 suspended from doing any work on any public work of a
5 governmental contracting agency until all wages and
6 penalties are paid in full;
- 7 (2) For a third violation, the suspension shall be as
8 prescribed in section 104-24(c); provided that, if the
9 person [~~or~~] and firm continues to violate this chapter
10 or fails to pay wages found due or any penalty
11 assessed, or both, then the person or firm shall
12 immediately be suspended from doing any work on any
13 public work of a governmental contracting agency for a
14 mandatory three-year period. If after the three-year
15 suspension period the wages found due or penalties
16 assessed are still unpaid, the suspension shall remain
17 in force until payment is made in full; or
- 18 (3) For falsification of records, or for delay or
19 interference with an investigation pursuant to section
20 104-22, the person [~~or~~] and firm shall be immediately
21 suspended for a period of three years.



1 (b) The director shall immediately notify the governmental
 2 contracting agency, comptroller, the auditor or director of
 3 finance of the county, and in the case of a suspended
 4 subcontractor, the general contractor of any suspension order.


5 (c) No contract shall be awarded to the person [øx] and
 6 firm so suspended or to any firm, corporation, partnership, or
 7 association in which the person or firm has an interest, direct
 8 or indirect, until three years have elapsed from the date of
 9 suspension, unless the period of suspension is reduced or
 10 extended as herein provided. Any contract awarded in violation
 11 of this subsection shall be void.

12 (d) For purposes of this section, "person" shall have the
 13 same meaning as in section 104-24."

14 SECTION 3. This Act does not affect rights and duties that
 15 matured, penalties that were incurred, and proceedings that were
 16 begun before its effective date.

17 SECTION 4. Statutory material to be repealed is bracketed
 18 and stricken. New statutory material is underscored.

19 SECTION 5. This Act shall take effect upon its approval.

20
 INTRODUCED BY: 



S.B. NO. 435

Report Title:

Wages and Hours of Employees on Public Works; Violations;
Penalties; Suspension

Description:

Imposes the penalty on both the person and the firm upon the finding of repeat violations of the state law governing wages and hours of employees on public works. Requires each notice of violation to contain the names of the person and the firm. Makes conforming amendments.

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

