

STAND. COM. REP. NO.

367

Honolulu, Hawaii

FEB 16 2023

RE: S.B. No. 415

S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committee on Government Operations, to which was referred S.B. No. 415 entitled:

"A BILL FOR AN ACT RELATING TO WAGES,"

begs leave to report as follows:

The purpose and intent of this measure is to make general contractors entering into or under contracts in the State for work on buildings, structures, or other private works liable for debt incurred by subcontractors for wages due to claimants for performance of labor in the contract between the general contractor and owner.

Your Committee received testimony in support of this measure from the Department of Labor and Industrial Relations, Hawaii Regional Council of Carpenters, Pacific Resource Partnership, and Hawaii Laborers-Employers Corporation and Education Trust. Your Committee received testimony in opposition to this measure from the Associated Builders and Contractors Hawaii Chapter and one individual. Your Committee received comments on this measure from the General Contractors Association of Hawaii and Subcontractors Association of Hawaii.

Your Committee finds that the general contractor is the primary responsible party in a construction project. Often unscrupulous contractors do not exercise due diligence and support or ignore the unfair labor practices of the subcontractors they



hire to complete projects who fail to pay wages owed to their employees. Your Committee appreciates that keeping abreast of multiple projects and subcontractors can be cumbersome; however, your Committee believes this measure will provide adequate protections for vigilant general contractors and address complicated marketplace abuses that occur in the construction industry.

Your Committee has amended this measure by:

- (1) Clarifying that a general contractor's liability for unpaid wages does not extend to consequential damages;
- (2) Clarifying that a court may award reasonable attorney's fees and costs to a prevailing party in an action for unpaid wages;
- (3) Limiting the attorney's fees and costs that may be awarded against a general contractor to unpaid wages of its direct employees;
- (4) Changing the requirement for initiation of an action against a general contractor to be one year from the actual performance of the labor, rather than the completion of the work, but no later than forty-five days after the date of completion as defined in section 507-43, Hawaii Revised Statutes;
- (5) Inserting an effective date of July 1, 2112, to encourage further discussion; and
- (6) Making a technical, nonsubstantive amendment for the purposes of clarity and consistency.

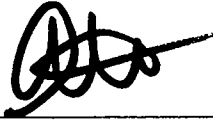
Your Committee has memorialized the agreement reached between the stakeholders with the Senate Draft of this measure; however, your Committee requests that your Committee on Consumer Protection further examine the concerns that have been raised by the subcontractors should it choose to deliberate on this measure.

As affirmed by the record of votes of the members of your Committee on Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of



S.B. No. 415, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 415, S.D. 1, and be referred to your Committee on Commerce and Consumer Protection.

Respectfully submitted on
behalf of the members of the
Committee on Government
Operations,



ANGUS L.K. MCKELVEY, Chair



