
A BILL FOR AN ACT

RELATING TO HOUSING.

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

1 SECTION 1. The purpose of this Act is to require
2 contractors of government housing projects to pay their
3 employees prevailing wages.

4 SECTION 2. Section 46-4, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) This section and any ordinance, rule, or regulation
7 adopted in accordance with this section shall apply to lands not
8 contained within the forest reserve boundaries as established on
9 January 31, 1957, or as subsequently amended.

10 Zoning in all counties shall be accomplished within the
11 framework of a long-range, comprehensive general plan prepared
12 or being prepared to guide the overall future development of the
13 county. Zoning shall be one of the tools available to the
14 county to put the general plan into effect in an orderly manner.
15 Zoning in the counties of Hawaii, Maui, and Kauai means the
16 establishment of districts of [~~such~~] a number, shape, and area,
17 and the adoption of regulations for each district to carry out



1 the purposes of this section. In establishing or regulating the
2 districts, full consideration shall be given to all available
3 data as to soil classification and physical use capabilities of
4 the land to allow and encourage the most beneficial use of the
5 land consonant with good zoning practices. The zoning power
6 granted herein shall be exercised by ordinance [~~which~~] that may
7 relate to:

- 8 (1) The areas within which agriculture, forestry,
9 industry, trade, and business may be conducted;
- 10 (2) The areas in which residential uses may be regulated
11 or prohibited;
- 12 (3) The areas bordering natural watercourses, channels,
13 and streams, in which trades or industries, filling or
14 dumping, erection of structures, and the location of
15 buildings may be prohibited or restricted;
- 16 (4) The areas in which particular uses may be subjected to
17 special restrictions;
- 18 (5) The location of buildings and structures designed for
19 specific uses and designation of uses for which
20 buildings and structures may not be used or altered;



- 1 (6) The location, height, bulk, number of stories, and
- 2 size of buildings and other structures;
- 3 (7) The location of roads, schools, and recreation areas;
- 4 (8) Building setback lines and future street lines;
- 5 (9) The density and distribution of population;
- 6 (10) The percentage of a lot that may be occupied, size of
- 7 yards, courts, and other open spaces;
- 8 (11) Minimum and maximum lot sizes; [~~and~~]
- 9 (12) Promoting better labor standards, including but not
- 10 limited to living wages, benefits, requirements for
- 11 participation in state-approved apprenticeship
- 12 programs that promote the efficient and expeditious
- 13 completion of construction projects and permit and
- 14 encourage the orderly development of land resources
- 15 within the county's jurisdiction; and
- 16 [~~(12)~~] (13) Other regulations the boards or city council
- 17 find necessary and proper to permit and encourage the
- 18 orderly development of land resources within their
- 19 jurisdictions.

20 The council of any county shall prescribe rules,
21 regulations, and administrative procedures and provide personnel



1 it finds necessary to enforce this section and any ordinance
2 enacted in accordance with this section. The ordinances may be
3 enforced by appropriate fines and penalties, civil or criminal,
4 or by court order at the suit of the county or the owner or
5 owners of real estate directly affected by the ordinances.

6 Any civil fine or penalty provided by ordinance under this
7 section may be imposed by the district court, or by the zoning
8 agency after an opportunity for a hearing pursuant to chapter
9 91. The proceeding shall not be a prerequisite for any
10 injunctive relief ordered by the circuit court.

11 Nothing in this section shall invalidate any zoning
12 ordinance or regulation adopted by any county or other agency of
13 government pursuant to the statutes in effect prior to July 1,
14 1957.

15 The powers granted herein shall be liberally construed in
16 favor of the county exercising them, and in [~~such~~] a manner as
17 to promote the orderly development of each county or city and
18 county in accordance with a long-range, comprehensive general
19 plan to ensure the greatest benefit for the State as a whole.
20 This section shall not be construed to limit or repeal any
21 powers of any county to achieve these ends through zoning and



1 building regulations, except insofar as forest and water reserve
2 zones are concerned and as provided in subsections (c) and (d).

3 Neither this section nor any ordinance enacted pursuant to
4 this section shall prohibit the continued lawful use of any
5 building or premises for any trade, industrial, residential,
6 agricultural, or other purpose for which the building or
7 premises is used at the time this section or the ordinance takes
8 effect; provided that a zoning ordinance may provide for
9 elimination of nonconforming uses as the uses are discontinued,
10 or for the amortization or phasing out of nonconforming uses or
11 signs over a reasonable period of time in commercial,
12 industrial, resort, and apartment zoned areas only. In no event
13 shall [~~such~~] the amortization or phasing out of nonconforming
14 uses apply to any existing building or premises used for
15 residential (single-family or duplex) or agricultural uses.
16 Nothing in this section shall affect or impair the powers and
17 duties of the director of transportation as set forth in chapter
18 262."

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

21 1. By amending subsection (b) to read:



1 " (b) Every laborer and mechanic [~~performing work on the~~
2 ~~job site~~] employed for the construction of any public work
3 project, including but not limited to off-site construction
4 where a portion of the building or work is manufactured or
5 constructed for the performance of the contract, shall be paid
6 no less than prevailing wages; provided that:

7 (1) The prevailing wages shall be established by the
8 director as the sum of the basic hourly rate and the
9 cost to an employer of providing a laborer or mechanic
10 with fringe benefits. In making prevailing wage
11 determinations, the following shall apply:

12 (A) The director shall make separate findings of:

13 (i) The basic hourly rate; and

14 (ii) The rate of contribution or cost of fringe
15 benefits paid by the employer when the
16 payment of the fringe benefits by the
17 employer constitutes a prevailing practice.
18 The cost of fringe benefits shall be
19 reflected in the wage rate scheduled as an
20 hourly rate; and



1 (B) The rates of wages which the director shall
2 regard as prevailing in each corresponding
3 classification of laborers and mechanics shall be
4 the rate of wages paid to the greatest number of
5 those employed in the State, the modal rate, in
6 the corresponding classes of laborers or
7 mechanics on projects that are similar to the
8 contract work;

9 (2) Except for the project prevailing wages established by
10 subsections (h) and (i), the prevailing wages shall be
11 not less than the wages payable under federal law to
12 corresponding classes of laborers and mechanics
13 employed on public works projects in the State that
14 are prosecuted under contract or agreement with the
15 government of the United States; and

16 (3) Notwithstanding the provisions of the original
17 contract, the prevailing wages shall be periodically
18 adjusted during the performance of the contract in an
19 amount equal to the change in the prevailing wage as
20 periodically determined by the director."

21 2. By amending subsection (i) to read:



1 "(i) The terms of section 201H-36(a)(5) prevailing wages
2 shall be deemed the prevailing wages serving as the basis of
3 compliance with this chapter for work on the project when:

4 (1) The Hawaii housing finance and development corporation
5 has approved and certified a qualified person or firm
6 involved with a newly constructed, or moderately or
7 substantially rehabilitated project under section
8 201H-36(a)(5) for exemption from general excise taxes;
9 and

10 (2) The qualified person or firm has entered into a
11 contract with a general contractor or subcontractors
12 whose workforce is subject to either:

13 (A) A collective bargaining agreement with a bona
14 fide labor union for which a section
15 201H-36(a)(5) prevailing wage for the laborers
16 and mechanics employed for the construction
17 project has been approved by the director; or

18 (B) A project labor agreement with the group whose
19 wages are reflected in the Hawaii prevailing wage
20 schedule for which section 201H-36(a)(5)
21 prevailing wages for the laborers and mechanics



1 employed for the construction project have been
 2 approved by the director[~~and~~
 3 ~~(3) The qualified person or firm has received no other~~
 4 ~~direct or indirect financing for the construction~~
 5 ~~project from any other governmental contracting~~
 6 ~~agency, including the Hawaii housing finance and~~
 7 ~~development corporation]."~~

8 SECTION 4. Section 171-11, Hawaii Revised Statutes, is
 9 amended to read as follows:

10 "**§171-11 Public purposes, lands set aside by the governor;**
 11 **management.** The governor may, with the prior approval of the
 12 board of land and natural resources, set aside public lands to
 13 any department or agency of the State, the city and county,
 14 county, or other political subdivisions of the State for public
 15 use or purpose. All withdrawals of the lands or portions
 16 thereof so set aside shall be made by the governor. Any order
 17 issued by the governor to set aside public lands for public
 18 purposes pursuant to this section to be under the control and
 19 management of any county or state agency for the development of
 20 affordable housing projects and related purposes, and in the
 21 interests of promoting the fair, efficient, and expeditious



1 completion of the projects, shall incorporate, as a condition of
2 the order, that the applicable county or state agency, as part
3 of any request for proposal for an affordable housing project,
4 require the developer of the affordable housing project to enter
5 into contracts with only general contractors and subcontractors
6 whose wages are reflected in the Hawaii prevailing wage statute,
7 chapter 104, for laborers and mechanics employed for the
8 affordable housing project. The developer shall certify to the
9 applicable county or state agency that this requirement shall be
10 met in the construction of the affordable housing project,
11 including but not limited to off-site construction where a
12 portion of the building or work is manufactured or constructed
13 for the performance of the contract.

14 Any public lands set aside by the governor prior to the
15 enactment of this chapter, or any public lands set aside by the
16 governor of the Territory of Hawaii, shall be subject to the
17 provisions of this section.

18 Lands while so set aside for such use or purpose or when
19 acquired for roads and streets shall be managed by the
20 department, agency, city and county, county, or other political
21 subdivisions of the State having jurisdiction thereof, unless



1 otherwise provided by law. Such department, agency of the
2 State, the city and county, county, or other political
3 subdivisions of the State in managing such lands shall be
4 authorized to exercise all of the powers vested in the board in
5 regard to the issuance of leases, easements, licenses, revocable
6 permits, concessions, or rights of entry covering such lands for
7 such use as may be consistent with the purposes for which the
8 lands were set aside on the same terms, conditions, and
9 restrictions applicable to the disposition of public lands, as
10 provided by this chapter all such dispositions being subject to
11 the prior approval of the board; provided that any nonrenewable
12 dispositions granting rights for a period not in excess of
13 fourteen days shall not require (1) the approval of the board or
14 (2) public auction or public advertisement for sealed tenders;
15 and provided further that disposition of lands set aside for use
16 as agricultural parks pursuant to chapter 166 shall not be
17 subject to the prior approval of the board. If at the time of
18 the disposition of any such leases the board shall have approved
19 the same, any order withdrawing or setting aside any or all of
20 such lands for any other public purpose shall be made subject to
21 such leases. Subject to section 5(f) of the Act of March 18,



1 1959 (73 Stat. 6), all proceeds from such lands shall be
2 deposited into the appropriate funds provided by law.

3 This section shall also apply where the purposes are the
4 uses and purposes of the United States; provided that all
5 revenues derived from the lands and improvements thereon shall
6 be paid to the department of land and natural resources by the
7 United States.

8 Whenever lands set aside for a public purpose to the
9 various departments and agencies of the State, or to any city
10 and county, county, or other political subdivisions of the
11 State, or to the United States, are not being utilized or
12 required for the public purpose stated, the order setting aside
13 the lands shall be withdrawn and the lands shall be returned to
14 the department. The governor may withdraw public lands and,
15 with the prior approval of the board of land and natural
16 resources, set aside the withdrawn lands to another department
17 or agency of the State, the city and county, county, or
18 political subdivision of the State, or to the United States for
19 public use or purpose, provided that no structure on such lands
20 shall be built, demolished or altered until after the
21 legislative action or inaction as hereinbelow provided.



1 The power granted to the governor in this section to set
2 aside or withdraw or withdraw and set aside public lands shall
3 be exercised subject to disapproval by the legislature by two-
4 thirds vote of either the senate or the house of representatives
5 or by the majority vote of both, in any regular or special
6 session next following the date of the setting aside or
7 withdrawal, or withdrawal and setting aside.

8 Whenever portions of lands set aside for a public purpose
9 to the various departments and agencies of the State, or to any
10 city and county, county, or other political subdivision of the
11 State are not presently utilized or required for the public
12 purpose stated, the board shall have the power, without
13 withdrawing the order setting aside the lands, to dispose of any
14 and all real property interest less than the fee in the portions
15 of such lands where the disposition is for a use which is
16 consistent or inconsistent with the purpose for which the land
17 was set aside. All funds derived from disposition by the board
18 shall be deposited in the general fund of the State or be paid
19 to the appropriate account; provided that all such dispositions
20 shall be with the prior written approval of the department,
21 agency, city and county, county, or other political subdivisions



1 of the State and the governor, and shall be undertaken in
2 compliance with all other applicable sections of this chapter."

3 SECTION 5. Section 201H-36, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) In accordance with section 237-29, the corporation
6 may approve and certify for exemption from general excise taxes
7 any qualified person or firm involved with a newly constructed,
8 or a moderately or substantially rehabilitated, project that is:

- 9 (1) Developed under this part;
- 10 (2) Developed under a government assistance program
11 approved by the corporation, including but not limited
12 to the United States Department of Agriculture's
13 section 502 direct loan program and Federal Housing
14 Administration's section 235 program;
- 15 (3) Developed under the sponsorship of a private nonprofit
16 organization providing home rehabilitation or new
17 homes for qualified families in need of decent,
18 low-cost housing;
- 19 (4) Developed by a qualified person or firm to provide
20 affordable rental housing where at least fifty per
21 cent of the available units are for households with



1 incomes at or below eighty per cent of the area median
2 family income as determined by the United States
3 Department of Housing and Urban Development, of which
4 at least twenty per cent of the available units are
5 for households with incomes at or below sixty per cent
6 of the area median family income as determined by the
7 United States Department of Housing and Urban
8 Development; or

9 (5) Approved or certified from July 1, 2018, to June 30,
10 2030, and developed under a contract described in
11 section 104-2(i)(2) by a qualified person or firm to
12 provide affordable rental housing through new
13 construction or substantial rehabilitation; provided
14 that:

15 (A) The allowable general excise tax and use tax
16 costs shall apply to contracting only and shall
17 not exceed [~~\$30,000,000~~] \$_____ per year in
18 the aggregate for all projects approved and
19 certified by the corporation; and

20 (B) All available units are for households with
21 incomes at or below one hundred forty per cent of



1 the area median family income as determined by
2 the United States Department of Housing and Urban
3 Development, of which at least twenty per cent of
4 the available units are for households with
5 incomes at or below eighty per cent of the area
6 median family income as determined by the United
7 States Department of Housing and Urban
8 Development; provided that an owner shall not
9 refuse to lease a unit solely because the
10 applicant holds a voucher or certificate of
11 eligibility under section 8 of the United States
12 Housing Act of 1937, as amended."

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

16 SECTION 7. Statutory material to be repealed is bracketed
17 and stricken. New material is underscored.

18 SECTION 8. This Act shall take effect on July 1, 2050;
19 provided that the amendments made to sections 104-2(b) and
20 201H-36(a), Hawaii Revised Statutes, in sections 3 and 5 of this
21 Act shall not be repealed when those sections are repealed and



1 reenacted on June 30, 2030, by Act 39, Session Laws of Hawaii
2 2018.



Report Title:

Affordable Housing; Housing; Counties; Wages and Hours of Employees on Public Works; Position

Description:

Authorizes counties to promote certain labor standards through zoning ordinances. Includes off-site construction of a public work project under Hawaii's law on the wages and hours of employees on public works. Requires that all orders from the Governor to set aside public lands for the development of affordable housing contain a provision that the construction of the development be subject to Hawaii's law on the wages and hours of employees on public works. Effective 7/1/2050. (SD2)

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