

STAND. COM. REP. NO.

572

Honolulu, Hawaii

FEB 16 , 2023

RE: H.B. No. 167
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committee on Labor & Government Operations, to which was referred H.B. No. 167 entitled:

"A BILL FOR AN ACT RELATING TO WAGES,"

begs leave to report as follows:

The purpose 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 the performance of labor in the contract between the general contractor and the owner.

Your Committee received testimony in support of this measure from the Department of Labor and Industrial Relations, Pacific Resource Partnership, Hawaii Regional Council of Carpenters, and Operating Engineers Local Union No. 3. Your Committee received testimony in opposition to this measure from Subcontractors Association of Hawaii; and Associated Builders and Contractors, Hawaii Chapter. Your Committee received comments on this measure from the General Contractors Association of Hawaii.

Your Committee finds that this measure will modernize the law to address marketplace abuses occurring in the construction industry. Under existing law, general contractors are not held accountable for the unfair labor practices of their

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subcontractors, which includes the nonpayment of wages. This measure encourages general contractors to perform their due diligence before hiring subcontractors and provides the authority to general contractors to obtain a subcontractor's employee payroll records and project award information to ensure their subcontractors are complying with the law.

Your Committee has amended this measure by:

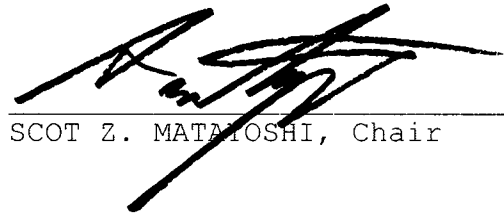
- (1) Specifying that liability under this measure shall not extend to consequential damages to further make clear the general contractor's liability under this bill is limited to unpaid direct wages;
- (2) Providing the court with the discretion to award reasonable attorney's fees and costs, including expert witness fees; provided that these fees shall not be awarded against a general contractor for unpaid wages except for those of its direct employees;
- (3) Clarifying that notice of any potential wage liability to the general contractor, and subcontractor under its employ, be provided within ninety days of the work that was done;
- (4) Providing strict time limits to bring an action patterned after similar lien statutes to avoid contentious arguments on when those time limits start;
- (5) Clarifying that the liability does not extend to penalties, consequential or liquidated damages, or any benefit, fringe benefit, or contribution claims;
- (6) Changing the effective date to June 30, 3000, to encourage further discussion; and
- (7) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Labor & Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 167, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 167,



H.D. 1, and be referred to your Committee on Judiciary & Hawaiian Affairs.

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



SCOT Z. MATAIOSHI, Chair



