

Honolulu, Hawaii

FEB 14 2025

RE: S.B. No. 1587
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Third State Legislature
Regular Session of 2025
State of Hawaii

Sir:

Your Committee on Government Operations, to which was referred S.B. No. 1587 entitled:

"A BILL FOR AN ACT RELATING TO RETAINAGE,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Allow procurement officers to withhold a retainage fee of one percent of the total budget from contractors to ensure satisfactory project completion; and
- (2) Require the retainage fee to be paid to contractors within a certain number of days of project completion.

Your Committee received testimony in support of this measure from the Subcontractors Association of Hawaii.

Your Committee received comments on this measure from the Department of Accounting and General Services and State Procurement Office.

Your Committee finds that retainage fees are a powerful tool for incentivizing satisfactory contract completion. However, without a legal requirement for the term of repayment, some contractors are not receiving their retainage fee in a timely



manner following contract completion. These delays discourage some contractors from participating in public works.

While this measure seeks to resolve issues related to retainage fees in public contracts by balancing the need for project completion assurance with timely payment to contractors, your Committee received testimony from various stakeholders expressing concerns that reducing the maximum retainage fee to one percent of the total project budget may not provide sufficient financial assurance for project completion. Other testifiers noted that delays in retainage reimbursement could create cash flow issues, particularly for small and medium-sized contractors relying on timely payments.

Given the concerns raised in testimony, your Committee believes that it would be prudent at this time to blank out the percentage and time limits for retainage disbursement in this measure to encourage further discussion. Your Committee respectfully requests that future Committees to which this measure is referred, should they choose to hear it, examine these concerns more closely to determine an appropriate balance between financial safeguards for employers and cash flow needs for contractors.

Accordingly, your Committee has amended this measure by:

- (1) Changing the retainage cap from one percent to an unspecified percentage of the total project budget;
- (2) Repealing the prohibition against withholding of additional retainage after fifty percent of the contract is completed and progress is satisfactory;
- (3) Clarifying that for the withheld retainage to be paid, contract amendments and supplementary contracts must also be completed;
- (4) Clarifying that a contract shall not be deemed completed until all contractor warranty periods have expired;
- (5) Adding a definition of "total project budget";
- (6) Clarifying that this measure only applies to public contracts executed on or after January 1, 2026;



- (7) Inserting an effective date of January 1, 2491, to encourage further discussion; and
- (8) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

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. 1587, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1587, S.D. 1, and be referred to your Committee on Ways and Means.

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



ANGUS L.K. MCKELVEY, Chair



The Senate
Thirty-Third Legislature
State of Hawai'i

Record of Votes
Committee on Government Operations
GVO

Bill / Resolution No.:* SB1587	Committee Referral: GVO, WAM	Date: 2-6-25		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> Pass, unamended 2312 </div> <div> <input checked="" type="checkbox"/> Pass, with amendments 2311 </div> <div> <input type="checkbox"/> Hold 2310 </div> <div> <input type="checkbox"/> Recommit 2313 </div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
MCKELVEY, Angus L.K. (C)	✓			
GABBARD, Mike (VC)	✓			
MORIWAKI, Sharon Y.	✓			
SAN BUENAVENTURA, Joy A.	✓			
FEVELLA, Kurt	✓			
TOTAL	5	—	—	—
Recommendation: <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted </div>				
Chair's or Designee's Signature: 				
Distribution: <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div>Original File with Committee Report</div> <div>Yellow Clerk's Office</div> <div>Pink Drafting Agency</div> <div>Goldenrod Committee File Copy</div> </div>				

*Only one measure per Record of Votes