

ACT 192

S.B. NO. 1221

A Bill for an Act Relating to Procurement.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 103B-3, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) A contractor awarded any contract shall ensure that Hawaii residents compose not less than eighty per cent of the workforce employed to perform the contract on a particular construction project, as determined under subsection (b). Prior to an award of a contract, the contractor may withdraw a bid without penalty if the contractor finds that it is unable to comply with this subsection.”

2. By amending subsections (c) and (d) to read:

“(c) ~~[Every contractor shall comply with this chapter for the entire duration of the contract.]~~ Certification of compliance with this chapter shall be made under oath by an officer of the general contractor and applicable subcontractor to the procurement officer ~~[on a monthly basis.]~~ with the notice of completion of the contract.

(d) A general contractor or subcontractor who fails to comply with this chapter shall be subject to ~~[any of the following]~~ sanctions[;] as follows:

- ~~[(1) Temporary suspension of work on the project until the contractor or subcontractor complies with this chapter;~~
- ~~[(2) Withholding] (1) With respect to the general contractor, withholding of final payment on the contract [or subcontract, as applicable,] until the contractor [or subcontractor] complies with [this chapter;~~
- ~~[(3) Permanent disqualification of the contractor or subcontractor from any further work on the project;~~
- ~~[(4) Recovery by the State or county, as applicable, of any moneys expended on the contract or subcontract, as applicable;] subsection (a); or~~
- ~~[(5) Proceedings] (2) With respect to the general contractor and subcontractor, proceedings for debarment or suspension of the contractor or subcontractor under section 103D-702[;];~~

provided that a general contractor shall not be sanctioned for noncompliance with this section by a subcontractor of that general contractor on the same contract.”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2011.

(Approved July 6, 2011.)