



GOV. MSG. NO. 816

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

July 14, 2009

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith HB1676 HD1 SD2 CD1, without my approval, and with the statement of objections relating to the measure.

HB1676 HD1 SD2 CD1

A BILL FOR AN ACT
RELATING TO PUBLIC WORKS.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle", with a stylized flourish at the end.

LINDA LINGLE

EXECUTIVE CHAMBERS

HONOLULU

July 14, 2009

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1676

Honorable Members
Twenty-Fifth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 1676, entitled "A Bill for an Act Relating to Public Works."

The purpose of this legislation is to require contractors of public works projects financed through Special Purpose Revenue Bonds to submit a collective bargaining agreement for laborers and mechanics to the Department of Labor and Industrial Relations.

This bill is objectionable because it attempts to assign to the Department of Labor a function that is the responsibility of the Hawaii Labor Relations Board or the National Labor Relations Board.

In 2007 Act 61 was passed that specified projects funded by special purpose revenue bonds, even though they are not government projects, were considered public works and, therefore, subject to Hawaii prevailing wage law, as set forth in chapter 104 of Hawaii Revised Statutes. That being the case, contractors who work on these projects can meet the requirements of Chapter 104 by submitting certified copies of their weekly payrolls to the State Department of Labor and Industrial Relations. A collective bargaining agreement need not be in place to meet prevailing wage requirements and it should not be assumed that a private contractor must have such an agreement to comply.

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There are times when there are concerns about the content of a collective bargaining agreement between a private contractor and his/her workforce or between the employees and their union representatives. When these concerns arise, they can be brought to the attention of the National Labor Relations Board or, for those firms not covered by the National Labor Relations Board, the Hawaii Labor Relations Board.

For the foregoing reasons, I am returning House Bill No. 1676 without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read "L. Lingle", is written over the printed name.

LINDA LINGLE
Governor of Hawaii

A BILL FOR AN ACT

RELATING TO PUBLIC WORKS.

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

1 SECTION 1. Section 104-2, Hawaii Revised Statutes, is
2 amended by amending subsection (h) to read as follows:

3 " (h) When ~~[the]~~ :

4 (1) The department of budget and finance enters a project
5 agreement with a project party, as those terms are
6 defined in chapter 39A, to finance or refinance a
7 project with the proceeds of special purpose revenue
8 bonds ~~[, and such]~~ ;

9 (2) The project party has entered into a collective
10 bargaining agreement with a bona fide labor union
11 governing the project party's workforce~~[,]~~ ; and

12 (3) The collective bargaining agreement has been properly
13 submitted to the director under section 104-34,

14 the terms of ~~[that]~~ the collective bargaining agreement and
15 associated provisions shall be deemed the prevailing wages and
16 terms serving as the basis of compliance with this ~~[section]~~
17 chapter for work on the project by the project party's
18 workforce~~[,]~~ ; provided~~[, however,]~~ that this subsection does not



1 affect the director's enforcement powers contained in subsection
2 (g)."

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

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

8 SECTION 4. This Act shall take effect on July 1, 2009.

