#### HOUSE OF REPRESENTATIVES TWENTY-FIFTH LEGISLATURE, 2009 STATE OF HAWAII

# H.B. NO. 513

### A BILL FOR AN ACT

RELATING TO PUBLIC WORKS.

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

1 SECTION 1. Chapter 104, Hawaii Revised Statutes, is 2 amended by adding a new part to read as follows: 3 "PART III. PUBLIC WORKS; OTHER REQUIREMENTS 4 5 **\$104-A Definitions.** For the purposes of this part: 6 "Contract" has the same meaning as in section 104-2. 7 "New work on any public work" includes any public work 8 project in which the suspended party or contractor has not begun 9 work at the job site as of the date of the suspension order. 10 "Public work" has the same meaning as in section 104-2. 11 **\$104-B** Status of employees. All parties as defined in 12 section 104-2 and contractors who bid on a public work shall 13 employ only regular employees, as defined in section 393-3, who 14 shall not be classified as independent contractors. 15 **§104-C Apprenticeship program.** (a) All parties and 16 contractors who bid on a public work shall maintain an

17 apprenticeship program certified by the State.



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The director shall adopt rules under chapter 91 to 1 (b) 2 implement this section. 3 **§104-D Violations; penalties.** (a) Where the department finds that a violation of section 104-B, 104-C, or both has been 4 committed, the department, after proper notice and opportunity 5 6 for hearing, shall order the governmental contracting agency, as 7 defined in section 104-2, to: Suspend all work being conducted by the party or 8 (1)9 contractor on the public work where the violation has 10 occurred; 11 (2) Withhold any further payments to the party or contractor found to have committed the violation; and 12 (3) Assess a weekly penalty equivalent to one-tenth of one 13 14 per cent of the contract, or \$1,000, whichever is 15 greater, until compliance with section 104-B, 104-C, or both is obtained. 16 17 Where the department finds that compliance with (b) 18 section 104-A or 104-B is not obtained within days after 19 notification, the department shall order the governmental 20 contracting agency to permanently remove the party or contractor 21 from any further work on the public work. The department, after 22 proper notice and opportunity for hearing, shall order the party HB HMS 2008-5003



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or contractor in violation to be suspended from performing any
new work on any public work of a governmental contracting agency
for a period of six months.

4 (c) Where the department finds that a second violation of section 104-B, 104-C, or both has been committed, whether on the 5 6 same contract or another, within two years of the first 7 notification of violation, the department, after proper notice 8 and opportunity for hearing, shall order the party or contractor 9 in violation to be suspended from performing any new work on any 10 public work of a governmental contracting agency for a period of 11 three years.

12 (d) Where the department finds that a third violation of 13 section 104-B, 104-C, or both has been committed, whether on the 14 same contract or another, within two years of the second notification of violation, the department, after proper notice 15 16 and opportunity for hearing, shall order the party or contractor 17 in violation to be suspended permanently from performing any new 18 work on any public work of a governmental contracting agency. 19 SECTION 2. Chapter 104, Hawaii Revised Statutes, is

20 amended as follows:



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| 1  | 1. By amending its title to read:                               |
|----|---|
| 2  | "CHAPTER 104  |
| 3  | [WAGES AND HOURS OF EMPLOYEES ON] PUBLIC WORKS"                 |
| 4  | 2. By amending the title of part I to read:                     |
| 5  | "PART I. WAGES AND HOURS OF EMPLOYEES ON PUBLIC WORKS -         |
| 6  | GENERAL PROVISIONS"   |
| 7  | 3. By amending the title of part II to read:                    |
| 8  | "PART II. WAGES AND HOURS OF EMPLOYEES ON PUBLIC WORKS -        |
| 9  | ADMINISTRATION AND ENFORCEMENT"                                 |
| 10 | SECTION 3. In codifying the new sections added by section       |
| 11 | 1 of this Act, the revisor of statutes shall substitute         |
| 12 | appropriate section numbers for the letters used in designating |
| 13 | the new sections in this Act.                                   |
| 14 | SECTION 4. Statutory material to be repealed is bracketed       |
| 15 | and stricken. New statutory material is underscored.            |
| 16 | SECTION 5. This Act shall take effect on January 1, 2010.       |
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INTRODUCED BY:

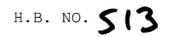
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Report Title:

Employees; Contractors

#### Description:

Establishes requirements for contractors who bid on state construction projects. Establishes penalties for non-compliance with such requirements.

