

STAND. COM. REP. NO. 40

Honolulu, Hawaii

FEB 06 2023

RE: S.B. No. 435  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-Second State Legislature  
Regular Session of 2023  
State of Hawaii

Sir:

Your Committee on Labor and Technology, to which was referred S.B. No. 435 entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC WORKS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Impose a penalty on both the person and the firm upon the finding of violations of the state law governing wages and hours of employees on public works;
- (2) Clarify that the person liable includes a sole proprietor and the principle responsible managing employee that holds the construction license of the firm; and
- (3) Require each notice of violation to contain the names of the person and the firm.

Your Committee received testimony in support of this measure from the Department of Labor and Industrial Relations and Hawaii Operating Engineers Industry Stabilization Fund Political Action Committee. Your Committee received comments on this measure from the General Contractors Association of Hawaii.



Your Committee finds that this measure is intended to prevent persons and firms that violate chapter 104, Hawaii Revised Statutes, relating to the prevailing wage and hours of employees for public work projects, from circumventing the three-year suspension from work provision of the chapter by conducting business under a new name. According to oral testimony at the hearing, a firm may have more than one employee that holds a construction license for the firm and that these employees may be subordinate responsible managing employees of the firm. Your Committee believes all parties responsible for the proper payment of wages to employees should also be liable for any repeated violations of chapter 104, Hawaii Revised Statutes.

Accordingly, your Committee has amended this measure by:

- (1) Amending the definition of "person" to include subordinate responsible managing employees for purposes of the three-year suspension from work provision of chapter 104, Hawaii Revised Statutes;
- (2) Inserting an effective date of January 1, 2050, to encourage further discussion; and
- (3) 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 Labor and Technology that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 435, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 435, S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on  
behalf of the members of the  
Committee on Labor and  
Technology,




SHARON MORIWAKI, Chair



The Senate  
 Thirty-Second Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Labor and Technology**  
**LBT**

Bill / Resolution No.:* <b>SB 435</b>	Committee Referral: <b>LBT, JDC</b>	Date: <b>1/30/23</b>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
MORIWAKI, Sharon Y. (C)	✓			
LEE, Chris (VC)	✓			
IHARA, Jr., Les				✗
KEITH-AGARAN, Gilbert S.C.				✓
FEVELLA, Kurt	✓			
<b>TOTAL</b>	<b>3</b>			<b>2</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align:right; margin-top:10px;">  </div>				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes