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# A BILL FOR AN ACT

RELATING TO PUBLIC WORKS.

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

1 SECTION 1. Section 104-24, Hawaii Revised Statutes, is  
2 amended as follows:

3 1. By amending subsections (a), (b), and (c) to read:

4 "(a) Where the department finds that a first violation of  
5 this chapter has been committed, the department, after proper  
6 notice and opportunity for hearing, shall assess and order the  
7 person or firm in violation to be jointly and severally liable  
8 for a penalty equal to twenty-five per cent of the amount of  
9 back wages found due or \$250 per offense, up to \$2,500,  
10 whichever is greater. The person and firm shall be listed on  
11 the notice of violation.

12 (b) Where the department finds that a second violation of  
13 this chapter has been committed, whether on the same or another  
14 contract, within two years of the first notification of  
15 violation, the department, after proper notice and opportunity  
16 for hearing, shall order the person or firm in violation to  
17 [~~pay~~] be jointly and severally liable for a penalty equal to the



1 amount of back wages found due or \$500 for each offense, up to  
2 \$5,000, whichever is greater. The person and firm shall be  
3 listed on the notice of violation.

4 (c) Where the department finds that a third violation of  
5 this chapter has been committed, whether on the same or another  
6 contract, within three years of the second notification of  
7 violation, the department, after proper notice and opportunity  
8 for hearing, shall order [~~the person or firm in violation~~]:

9 (1) [~~To pay~~] The person or firm in violation to be jointly  
10 and severally liable for a penalty equal to two times  
11 the amount of back wages found due or \$1,000 for each  
12 offense, up to \$10,000, whichever is greater; and the  
13 person and firm shall be listed on the notice of  
14 violation; and

15 (2) [~~To~~] The person and firm to be suspended from doing  
16 any new work on any public work of a governmental  
17 contracting agency for a period of three years except  
18 as provided in section 104-25(a)(2). [~~New~~] The  
19 suspension shall be effective on the later of the  
20 twenty-first day after the notification of violation  
21 has been sent, or upon the issuance of a decision



1 pursuant to section 104-23(c). As used in this  
2 paragraph, "new work on any public work" includes any  
3 public works project in which the suspended person or  
4 firm has not begun work at the job site as of the date  
5 of the suspension order. [~~The suspension shall be~~  
6 effective on the later of the twenty-first day after  
7 the notification of violation has been sent, or upon  
8 the issuance of a decision pursuant to section  
9 104-23(e).]"

10 2. By amending subsection (e) to read:

11 "(e) [~~For purposes of~~] As used in this section[~~r~~  
12 "offense"];

13 "Offense" means each section of this chapter under which  
14 the contractor is cited; provided that, with respect to  
15 prevailing wage and overtime citations under section 104-2, each  
16 employee and each project shall be considered a separate  
17 offense.

18 "Person" includes a sole proprietor and the principal  
19 responsible managing employee for the project being investigated  
20 and holders of the contractor's license as provided under  
21 chapter 444.



1        "Proper notice" includes providing notice to any principal  
2 responsible managing employee who received a notice of  
3 violation."

4        SECTION 2. Section 104-25, Hawaii Revised Statutes, is  
5 amended to read as follows:

6        "**§104-25 Suspension.** (a) The director shall suspend a  
7 person [~~or~~] and firm as follows:

8        (1) For a first or second violation, if a person or firm  
9 fails to pay wages found due[~~r~~] or any penalty  
10 assessed, or both, the person [~~or~~] and firm shall be  
11 immediately suspended from doing any work on any  
12 public work of a governmental contracting agency until  
13 all wages and penalties are paid in full;

14        (2) For a third violation, the suspension shall be as  
15 prescribed in section [~~104-24(e)~~] 104-24(c)(2);  
16 provided that, if the person or firm continues to  
17 violate this chapter or fails to pay wages found due  
18 or any penalty assessed, or both, then the person [~~or~~]  
19 and firm shall immediately be suspended from doing any  
20 work on any public work of a governmental contracting  
21 agency for a mandatory three-year period. If after



1           the three-year suspension period the wages found due  
2           or penalties assessed are still unpaid, the suspension  
3           shall remain in force until payment is made in full;  
4           or

5           (3) For falsification of records, or for delay or  
6           interference with an investigation pursuant to section  
7           104-22, the person [~~or~~] and firm shall be immediately  
8           suspended for a period of three years.

9           (b) The director shall immediately notify the governmental  
10          contracting agency, comptroller, the auditor or director of  
11          finance of the county, and, in the case of a suspended  
12          subcontractor, the general contractor of any suspension order.

13          (c) No contract shall be awarded to the person [~~or~~] and  
14          firm so suspended or to any firm, corporation, partnership, or  
15          association in which the person or firm has an interest, direct  
16          or indirect, until three years have elapsed from the date of  
17          suspension, unless the period of suspension is reduced or  
18          extended as herein provided. Any contract awarded in violation  
19          of this subsection shall be void.

20          (d) As used in this section, "person" shall have the same  
21          meaning as in section 104-24."



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

4 SECTION 4. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 5. This Act shall take effect on June 30, 3000.

7



# H.B. NO. 168 H.D. 2

**Report Title:**

DLIR; Wages; Hours; Employees; Public Work Projects; Penalties

**Description:**

Imposes penalties, including suspension, on the person and firm upon a finding of violation of state law governing wages and hours of employees on public work projects. Effective 6/30/3000. (HD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

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