

STAND. COM. REP. NO. 1411

Honolulu, Hawaii

MAR 24 2023

RE: H.B. No. 167
H.D. 2
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 Government Operations, to which was referred H.B. No. 167, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO WAGES,"

begs leave to report as follows:

The purpose and intent of this measure is to make general contractors that enter into or are under contracts for work on buildings, structures, or other private works liable for debt incurred by subcontractors for wages due to claimants for performance of labor in the contract between the general contractor and owner in the State.

Your Committee received testimony in support of this measure from the Department of Labor and Industrial Relations, Operating Engineers Local Union No.3, Hawaii Regional Council of Carpenters, and Pacific Resource Partnership. Your Committee received testimony in opposition to this measure from Structural Builders Hawaii, Inc.; Building Industry Association of Hawaii; Graham Builders; JT Smith Construction, LLC; and two individuals. Your Committee received comments on this measure from the Department of Accounting and General Services, General Contractors Association of Hawaii, and Subcontractors Association of Hawaii.

Your Committee finds that there have been numerous construction projects in the State where unscrupulous employers



engage in payroll and tax fraud by hiring dubious subcontractors. One such scheme was revealed at the Maile Sky Court construction site in Waikiki where the general contractor working on the site utilized subcontractors who underpaid employee wages without providing necessary benefits and safety standards. While the subcontractor received several fines from federal and state agencies, the general contractor involved went unpenalized and accrued all financial benefits of the scheme without repercussions. This individual's misuse of subcontractors allowed him to underbid legitimate contractors, report and pay lower taxes, and avoid liability of unpaid wages. Your Committee therefore finds this measure necessary to ensure that general contractors are liable for unpaid wages of their subcontractors, and provide a tool for general contractors to ensure all subcontractor workers are being paid properly and in compliance with the law.

Your Committee has amended this measure by:

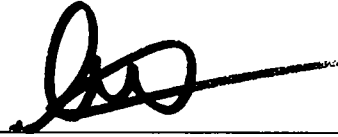
- (1) Replacing the term "private work" with "private construction work" throughout the measure;
- (2) Clarifying that contractor liability applies to private construction work not subject to chapter 104, Hawaii Revised Statutes;
- (3) Inserting language to require payments be made in a timely manner consistent with prompt payments under section 103-10.5, Hawaii Revised Statutes;
- (4) Making conforming changes to the definition of "employer" in chapter 388, Hawaii Revised Statutes, relating to payment of wages and other compensation; and
- (5) 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 Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 167, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 167,



H.D. 2, S.D. 1, and be referred to your Committee on Commerce and Consumer Protection.

Respectfully submitted on
behalf of the members of the
Committee on Government
Operations,

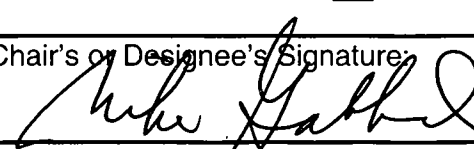


ANGUS L.K. MCKELVEY, Chair



The Senate
 Thirty-Second Legislature
 State of Hawai'i

Record of Votes
Committee on Government Operations
GVO

Bill / Resolution No.:* HB167, HD2	Committee Referral: GVO, CPN	Date: 3-23-23		
<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
MCKELVEY, Angus L.K. (C)	✓			
GABBARD, Mike (VC)	✓			
SAN BUENAVENTURA, Joy A.	✓			
WAKAI, Glenn	✓			
AWA, Brenton			✓	
TOTAL	4	—	1	—
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes