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# A BILL FOR AN ACT

RELATING TO COUNTY LABOR STANDARDS.

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

1           SECTION 1. Section 46-1.5, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§46-1.5 General powers and limitation of the counties.**

4 Subject to general law, each county shall have the following  
5 powers and shall be subject to the following liabilities and  
6 limitations:

7           (1) Each county shall have the power to frame and adopt a  
8 charter for its own self-government that shall  
9 establish the county executive, administrative, and  
10 legislative structure and organization, including but  
11 not limited to the method of appointment or election  
12 of officials, their duties, responsibilities, and  
13 compensation, and the terms of their office;

14           (2) Each county shall have the power to provide for and  
15 regulate the marking and lighting of all buildings and  
16 other structures that may be obstructions or hazards  
17 to aerial navigation, so far as may be necessary or



1 proper for the protection and safeguarding of life,  
2 health, and property;

3 (3) Each county shall have the power to enforce all claims  
4 on behalf of the county and approve all lawful claims  
5 against the county, but shall be prohibited from  
6 entering into, granting, or making in any manner any  
7 contract, authorization, allowance payment, or  
8 liability contrary to the provisions of any county  
9 charter or general law;

10 (4) Each county shall have the power to make contracts and  
11 to do all things necessary and proper to carry into  
12 execution all powers vested in the county or any  
13 county officer;

14 (5) Each county shall have the power to:

15 (A) Maintain channels, whether natural or artificial,  
16 including their exits to the ocean, in suitable  
17 condition to carry off storm waters;

18 (B) Remove from the channels, and from the shores and  
19 beaches, any debris that is likely to create an  
20 unsanitary condition or become a public nuisance;  
21 provided that, to the extent any of the foregoing



1 work is a private responsibility, the  
2 responsibility may be enforced by the county in  
3 lieu of the work being done at public expense;  
4 (C) Construct, acquire by gift, purchase, or by the  
5 exercise of eminent domain, reconstruct, improve,  
6 better, extend, and maintain projects or  
7 undertakings for the control of and protection  
8 against floods and flood waters, including the  
9 power to drain and rehabilitate lands already  
10 flooded;  
11 (D) Enact zoning ordinances providing that lands  
12 deemed subject to seasonable, periodic, or  
13 occasional flooding shall not be used for  
14 residence or other purposes in a manner as to  
15 endanger the health or safety of the occupants  
16 thereof, as required by the Federal Flood  
17 Insurance Act of 1956 (chapter 1025, Public  
18 Law 1016); and  
19 (E) Establish and charge user fees to create and  
20 maintain any stormwater management system or  
21 infrastructure; provided that no county shall



1 charge against or collect user fees from the  
2 department of transportation in excess of  
3 \$1,500,000 in the aggregate per year; provided  
4 further that no services shall be denied to the  
5 department of transportation by reason of  
6 nonpayment of the fees;

7 (6) Each county shall have the power to exercise the power  
8 of condemnation by eminent domain when it is in the  
9 public interest to do so;

10 (7) Each county shall have the power to exercise  
11 regulatory powers over business activity as are  
12 assigned to them by chapter 445 or other general law;

13 (8) Each county shall have the power to fix the fees and  
14 charges for all official services not otherwise  
15 provided for;

16 (9) Each county shall have the power to provide by  
17 ordinance assessments for the improvement or  
18 maintenance of districts within the county;

19 (10) Except as otherwise provided, no county shall have the  
20 power to give or loan credit to, or in aid of, any



1 person or corporation, directly or indirectly, except  
2 for a public purpose;

3 (11) Where not within the jurisdiction of the public  
4 utilities commission, each county shall have the power  
5 to regulate by ordinance the operation of motor  
6 vehicle common carriers transporting passengers within  
7 the county and adopt and amend rules the county deems  
8 necessary for the public convenience and necessity;

9 (12) Each county shall have the power to enact and enforce  
10 ordinances necessary to prevent or summarily remove  
11 public nuisances and to compel the clearing or removal  
12 of any public nuisance, refuse, and uncultivated  
13 undergrowth from streets, sidewalks, public places,  
14 and unoccupied lots. In connection with these powers,  
15 each county may impose and enforce liens upon the  
16 property for the cost to the county of removing and  
17 completing the necessary work where the property  
18 owners fail, after reasonable notice, to comply with  
19 the ordinances. The authority provided by this  
20 paragraph shall not be self-executing, but shall  
21 become fully effective within a county only upon the



1 enactment or adoption by the county of appropriate and  
2 particular laws, ordinances, or rules defining "public  
3 nuisances" with respect to each county's respective  
4 circumstances. The counties shall provide the  
5 property owner with the opportunity to contest the  
6 summary action and to recover the owner's property;

7 (13) Each county shall have the power to enact ordinances  
8 deemed necessary to protect health, life, and  
9 property, and to preserve the order and security of  
10 the county and its inhabitants on any subject or  
11 matter not inconsistent with, or tending to defeat,  
12 the intent of any state statute where the statute does  
13 not disclose an express or implied intent that the  
14 statute shall be exclusive or uniform throughout the  
15 State;

16 (14) Each county shall have the power to:  
17 (A) Make and enforce within the limits of the county  
18 all necessary ordinances covering all:  
19 (i) Local police matters;  
20 (ii) Matters of sanitation;  
21 (iii) Matters of inspection of buildings;

- 1 (iv) Matters of condemnation of unsafe
- 2 structures, plumbing, sewers, dairies, milk,
- 3 fish, and morgues; and
- 4 (v) Matters of the collection and disposition of
- 5 rubbish and garbage;
- 6 (B) Provide exemptions for homeless facilities and
- 7 any other program for the homeless authorized by
- 8 part XVII of chapter 346, for all matters under
- 9 this paragraph;
- 10 (C) Appoint county physicians and sanitary and other
- 11 inspectors as necessary to carry into effect
- 12 ordinances made under this paragraph, who shall
- 13 have the same power as given by law to agents of
- 14 the department of health, subject only to
- 15 limitations placed on them by the terms and
- 16 conditions of their appointments; and
- 17 (D) Fix a penalty for the violation of any ordinance,
- 18 which penalty may be a misdemeanor, petty
- 19 misdemeanor, or violation as defined by general
- 20 law;



1 (15) Each county shall have the power to provide public  
2 pounds; to regulate the impounding of stray animals  
3 and fowl, and their disposition; and to provide for  
4 the appointment, powers, duties, and fees of animal  
5 control officers;

6 (16) Each county shall have the power to purchase and  
7 otherwise acquire, lease, and hold real and personal  
8 property within the defined boundaries of the county  
9 and to dispose of the real and personal property as  
10 the interests of the inhabitants of the county may  
11 require[~~, except~~]; provided that:

12 (A) Any property held for school purposes [~~may~~] shall  
13 not be disposed of without the consent of the  
14 superintendent of education;

15 (B) No property bordering the ocean shall be sold or  
16 otherwise disposed of; and

17 (C) All proceeds from the sale of park lands shall be  
18 expended only for the acquisition of property for  
19 park or recreational purposes;

20 (17) Each county shall have the power to provide by charter  
21 for the prosecution of all offenses and to prosecute



1 for offenses against the laws of the State under the  
2 authority of the attorney general of the State;

3 (18) Each county shall have the power to make  
4 appropriations in amounts deemed appropriate from any  
5 moneys in the treasury, for the purpose of:

6 (A) Community promotion and public celebrations;

7 (B) The entertainment of distinguished persons as may  
8 from time to time visit the county;

9 (C) The entertainment of other distinguished persons,  
10 as well as [7] public officials, when deemed to be  
11 in the best interest of the community; and

12 (D) The rendering of civic tribute to individuals  
13 who, by virtue of their accomplishments and  
14 community service, merit civic commendations,  
15 recognition, or remembrance;

16 (19) Each county shall have the power to:

17 (A) Construct, purchase, take on lease, lease,  
18 sublease, or in any other manner acquire, manage,  
19 maintain, or dispose of buildings for county  
20 purposes, sewers, sewer systems, pumping  
21 stations, waterworks, including reservoirs,



1 wells, pipelines, and other conduits for  
2 distributing water to the public, lighting  
3 plants, and apparatus and appliances for lighting  
4 streets and public buildings, and manage,  
5 regulate, and control the same;

6 (B) Regulate and control the location and quality of  
7 all appliances necessary to the furnishing of  
8 water, heat, light, power, telephone, and  
9 telecommunications service to the county;

10 (C) Acquire, regulate, and control any and all  
11 appliances for the sprinkling and cleaning of the  
12 streets and the public ways, and for flushing the  
13 sewers; and

14 (D) Open, close, construct, or maintain county  
15 highways or charge toll on county highways;  
16 provided that all revenues received from a toll  
17 charge shall be used for the construction or  
18 maintenance of county highways;

19 (20) Each county shall have the power to regulate the  
20 renting, subletting, and rental conditions of property  
21 for places of abode by ordinance;



- 1           (21) Unless otherwise provided by law, each county shall  
2           have the power to establish by ordinance the order of  
3           succession of county officials in the event of a  
4           military or civil disaster;
- 5           (22) Each county shall have the power to sue and be sued in  
6           its corporate name;
- 7           (23) Each county shall have the power to:
- 8                 (A) Establish and maintain waterworks and sewer  
9                 works;
- 10                (B) Implement a sewer monitoring program that  
11                includes the inspection of sewer laterals that  
12                connect to county sewers, when those laterals are  
13                located on public or private property, after  
14                providing a property owner [~~not~~] no less than ten  
15                calendar days' written notice, to detect leaks  
16                from laterals, infiltration, and inflow, any  
17                other law to the contrary notwithstanding;
- 18                (C) Compel an owner of private property upon which is  
19                located any sewer lateral that connects to a  
20                county sewer to inspect that lateral for leaks,



- 1           infiltration, and inflow and to perform repairs  
2           as necessary;
- 3           (D) Collect rates for water supplied to consumers and  
4           for the use of sewers;
- 5           (E) Install water meters whenever deemed expedient;  
6           provided that owners of premises having vested  
7           water rights under existing laws appurtenant to  
8           the premises shall not be charged for the  
9           installation or use of the water meters on the  
10          premises;
- 11          (F) Take over from the State existing waterworks  
12          systems, including water rights, pipelines, and  
13          other appurtenances belonging thereto, and sewer  
14          systems, and to enlarge, develop, and improve the  
15          same; and
- 16          (G) For purposes of subparagraphs (B) and (C):
- 17           (i) "Infiltration" means groundwater, rainwater,  
18           and saltwater that enters the county sewer  
19           system through cracked, broken, or defective  
20           sewer laterals; and



1 (ii) "Inflow" means non-sewage entering the  
2 county sewer system via inappropriate or  
3 illegal connections;

4 (24) (A) Each county may impose civil fines, in addition  
5 to criminal penalties, for any violation of  
6 county ordinances or rules after reasonable  
7 notice and requests to correct or cease the  
8 violation have been made upon the violator. Any  
9 administratively imposed civil fine shall not be  
10 collected until after an opportunity for a  
11 hearing under chapter 91. Any appeal shall be  
12 filed within thirty days from the date of the  
13 final written decision. These proceedings shall  
14 not be a prerequisite for any civil fine or  
15 injunctive relief ordered by the circuit court;

16 (B) Each county by ordinance may provide for the  
17 addition of any unpaid civil fines, ordered by  
18 any court of competent jurisdiction, to any  
19 taxes, fees, or charges, with the exception of  
20 fees or charges for water for residential use and  
21 sewer charges, collected by the county. Each



1 county by ordinance may also provide for the  
2 addition of any unpaid administratively imposed  
3 civil fines[~~7~~, which] that remain due after all  
4 judicial review rights under section 91-14 are  
5 exhausted[7] to any taxes, fees, or charges, with  
6 the exception of water for residential use and  
7 sewer charges, collected by the county. The  
8 ordinance shall specify the administrative  
9 procedures for the addition of the unpaid civil  
10 fines to the eligible taxes, fees, or charges and  
11 may require hearings or other proceedings. After  
12 addition of the unpaid civil fines to the taxes,  
13 fees, or charges, the unpaid civil fines shall  
14 not become a part of any taxes, fees, or charges.  
15 The county by ordinance may condition the  
16 issuance or renewal of a license, approval, or  
17 permit for which a fee or charge is assessed,  
18 except for water for residential use and sewer  
19 charges, on payment of the unpaid civil fines.  
20 Upon recordation of a notice of unpaid civil  
21 fines in the bureau of conveyances, the amount of



1 the civil fines, including any increase in the  
2 amount of the fine [~~which~~] that the county may  
3 assess, shall constitute a lien upon all real  
4 property or rights to real property belonging to  
5 any person liable for the unpaid civil fines.  
6 The lien in favor of the county shall be  
7 subordinate to any lien in favor of any person  
8 recorded or registered [~~prior to~~] before the  
9 recordation of the notice of unpaid civil fines  
10 and senior to any lien recorded or registered  
11 after the recordation of the notice. The lien  
12 shall continue until the unpaid civil fines are  
13 paid in full or until a certificate of release or  
14 partial release of the lien, prepared by the  
15 county at the owner's expense, is recorded. The  
16 notice of unpaid civil fines shall state the  
17 amount of the fine as of the date of the notice  
18 and maximum permissible daily increase of the  
19 fine. The county shall not be required to  
20 include a social security number, state general  
21 excise taxpayer identification number, or federal



1           employer identification number on the notice.  
2           Recordation of the notice in the bureau of  
3           conveyances shall be deemed, at [~~such~~] that time,  
4           for all purposes and without any further action,  
5           to procure a lien on land registered in land  
6           court under chapter 501. After the unpaid civil  
7           fines are added to the taxes, fees, or charges as  
8           specified by county ordinance, the unpaid civil  
9           fines shall be deemed immediately due, owing, and  
10          delinquent and may be collected in any lawful  
11          manner. The procedure for collection of unpaid  
12          civil fines authorized in this paragraph shall be  
13          in addition to any other procedures for  
14          collection available to the State and county by  
15          law or rules of the courts;

16          (C) Each county may impose civil fines upon any  
17          person who places graffiti on any real or  
18          personal property owned, managed, or maintained  
19          by the county. The fine may be up to \$1,000 or  
20          may be equal to the actual cost of having the  
21          damaged property repaired or replaced. The



1 parent or guardian having custody of a minor who  
2 places graffiti on any real or personal property  
3 owned, managed, or maintained by the county shall  
4 be jointly and severally liable with the minor  
5 for any civil fines imposed hereunder. [~~Any~~  
6 ~~such~~] The fine may be administratively imposed  
7 after an opportunity for a hearing under chapter  
8 91, but [~~such~~] a proceeding shall not be a  
9 prerequisite for any civil fine ordered by any  
10 court. As used in this subparagraph, "graffiti"  
11 means any unauthorized drawing, inscription,  
12 figure, or mark of any type intentionally created  
13 by paint, ink, chalk, dye, or similar substances;

14 (D) At the completion of an appeal in which the  
15 county's enforcement action is affirmed and upon  
16 correction of the violation if requested by the  
17 violator, the case shall be reviewed by the  
18 county agency that imposed the civil fines to  
19 determine the appropriateness of the amount of  
20 the civil fines that accrued while the appeal  
21 proceedings were pending. In its review of the



1 amount of the accrued fines, the county agency  
2 may consider:

- 3 (i) The nature and egregiousness of the  
4 violation;
- 5 (ii) The duration of the violation;
- 6 (iii) The number of recurring and other similar  
7 violations;
- 8 (iv) Any effort taken by the violator to correct  
9 the violation;
- 10 (v) The degree of involvement in causing or  
11 continuing the violation;
- 12 (vi) Reasons for any delay in the completion of  
13 the appeal; and
- 14 (vii) Other extenuating circumstances.

15 The civil fine that is imposed by administrative  
16 order after this review is completed and the  
17 violation is corrected shall be subject to  
18 judicial review, notwithstanding any provisions  
19 for administrative review in county charters;

20 (E) After completion of a review of the amount of  
21 accrued civil fine by the county agency that



1           imposed the fine, the amount of the civil fine  
2           determined appropriate, including both the  
3           initial civil fine and any accrued daily civil  
4           fine, shall immediately become due and  
5           collectible following reasonable notice to the  
6           violator. If no review of the accrued civil fine  
7           is requested, the amount of the civil fine, not  
8           to exceed the total accrual of civil fine [~~prior~~  
9           to] before correcting the violation, shall  
10          immediately become due and collectible following  
11          reasonable notice to the violator, at the  
12          completion of all appeal proceedings; and  
13          (F) If no county agency exists to conduct appeal  
14          proceedings for a particular civil fine action  
15          taken by the county, then one shall be  
16          established by ordinance before the county shall  
17          impose the civil fine;

18          (25) Any law to the contrary notwithstanding, any county  
19          mayor, by executive order, may exempt donors, provider  
20          agencies, homeless facilities, and any other program  
21          for the homeless under part XVII of chapter 346 from



1 real property taxes, water and sewer development fees,  
2 rates collected for water supplied to consumers and  
3 for use of sewers, and any other county taxes,  
4 charges, or fees; provided that any county may enact  
5 ordinances to regulate and grant the exemptions  
6 granted by this paragraph;

7 (26) Any county may establish a captive insurance company  
8 pursuant to article 19, chapter 431; [~~and~~]

9 (27) Each county shall have the power to enact and enforce  
10 ordinances regulating towing operations[~~-~~]; and

11 (28) Each county may:

12 (A) Require a contractor, as defined in section  
13 444-1, to disclose information regarding its  
14 employees' wages, benefits, hours, and employment  
15 status; and

16 (B) Deny, revoke, or suspend a building permit  
17 application if a contractor, as defined in  
18 section 444-1, is found to be in violation of  
19 laws as determined by the United States  
20 Department of Labor, department of labor and  
21 industrial relations, or judicial order relating



1                   to wages, benefits, hours, and employment status;  
2                   provided that upon the revocation or suspension  
3                   of a building permit pursuant to this  
4                   subparagraph, the county shall:

5                   (i) Notify the property owner within five  
6                   business days;

7                   (ii) Provide the owner an opportunity to select a  
8                   replacement contractor; and

9                   (iii) Process the application within five business  
10                   days after receipt of a complete  
11                   application.

12                   The replacement contractor shall demonstrate  
13                   compliance with all applicable licensing and  
14                   labor laws. Previously approved plans,  
15                   conditions, and inspections shall remain valid  
16                   for purposes of the expedited transfer to a  
17                   replacement contractor unless the scope of work  
18                   is materially altered."

19                   SECTION 2. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

21                   SECTION 3. This Act shall take effect on July 1, 3000.



**Report Title:**

Contractors; Employees; Counties; Wages; Benefits; Hours;  
Employment Status; Disclosure

**Description:**

Authorizes counties to require contractors to disclose employee wage, benefit, hour, and employment-status information. Authorizes counties, under certain conditions, to deny, revoke, or suspend building permits for violations of related laws. Establishes a process by which an owner or developer may replace a noncompliant contractor and transfer the building permit to the replacement contractor. Effective 7/1/3000. (HD2)

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

