

ACT 280

H.B. NO. 2866

A Bill for an Act Relating to Employment on Public Works Projects.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 104-3, Hawaii Revised Statutes, is amended to read as follows:

“§104-3 Payrolls and payroll records. (a) Every such contract and the specifications for such contract shall contain a provision that a certified copy of all payrolls shall be submitted weekly to the governmental contracting agency[.] for review. The general contractor shall be responsible for the submission of certified copies of the payrolls of all subcontractors. The certification shall affirm that the payrolls are correct and complete, that the wage rates contained therein are not less than the applicable rates contained in the wage determination decision of the director of labor and industrial relations attached to the contract, and that the classifications set forth for each laborer or mechanic conform with the work the laborer or mechanic performed. Any certification discrepancy found by the contracting agency shall be reported to the general contractor and the director to effect compliance.

(b) Payroll records for all laborers and mechanics working at the site of the work shall be maintained by the general contractor and the general contractor's subcontractors, if any, during the course of the work and preserved for a period of three years thereafter. The records shall contain the name of each employee, the

employee's correct classification, rate of pay, daily and weekly number of hours worked, deductions made and actual wages paid. [The records shall be made available for inspection by the governmental contracting agency, director, and any authorized representatives thereof who may also interview employees during working hours on the job.]

(c) The contractor shall make payroll records available for examination within ten days from the date of a written request by a governmental contracting agency, director, or any authorized representatives thereof. Any contractor who:

- (1) Fails to make payroll records accessible within ten days;
- (2) Fails to provide information requested for the proper enforcement of this chapter within ten days; or
- (3) Fails to keep or falsifies any record required under this chapter,

shall be assessed a penalty as provided in section 104-22(b)."

SECTION 2. Section 104-22, Hawaii Revised Statutes, is amended to read as follows:

"§104-22 Investigation[.]; penalties. (a) The department may conduct investigations to determine compliance with this chapter. The department may enter the job site, [inspect books and] examine records of any contractor, either during or after the performance of any contract, or subpoena the [books and] records. The department may also interview employees during working hours on the job.

(b) If any contractor interferes with or [wilfully evades] delays any investigation [or inspection] by the department, the governmental contracting agency, on receipt of written notice from the director of the interference or [wilful evasion,] delay, shall withhold from the contractor all further payments until the director has notified the governmental contracting agency in writing that the interference or [wilful evasion] delay has ceased. Interference or delay includes failure to provide requested records under section 104-3; failure to allow employees to be interviewed during working hours on the job; and falsification of records required under this chapter. The department shall assess a penalty of \$1,000 per project for interference or delay. For each day thereafter that the employer fails to cooperate, the director shall assess a penalty of \$100 per project."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 20, 1998.)