

ACT 146

S.B. NO. 3087

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

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

SECTION 1. Currently, contractors can be suspended for failure to pay back wages and penalties, or after the third notice of violation if the second violation is within two years of the first violation and the third violation is within two years of the second violation. There is currently no method to debar contractors who cheat and get caught unless they fail to pay back wages, which rarely happens. State or county government agencies should not be in business with those who falsify payrolls or do not cooperate. Attaching suspension to the penalty provisions of section 104-22(b), Hawaii Revised Statutes, will create a clear line for those who are not willing to comply with the law. Chapter 104, Hawaii Revised Statutes, is a law imposed to even the playing field in bidding for public works jobs and pay a prevailing wage to workers. It is not unreasonable to impose a three-year suspension for those who are not willing to comply.

The purpose of this Act is to provide the department of labor and industrial relations with the ability to immediately suspend and begin debarment proceedings against contractors that purposely defraud the State on a public works project or do not cooperate with the department of labor and industrial relations in determining if there has been a violation of the prevailing wage law.

SECTION 2. Section 104-25, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The director shall suspend a person or firm as follows:

- (1) For a first or second violation, if a person or firm fails to pay wages found due, any penalty assessed, or both, the person or firm shall be immediately suspended from doing any work on any public work of a governmental contracting agency until all wages and penalties are paid in full; ~~and~~
- (2) For a third violation, the suspension shall be as prescribed in section 104-24(c); provided that, if the person or firm continues to violate this chapter or fails to pay wages found due or any penalty assessed, or both, then the contractor shall immediately be suspended from doing any work on any public work of a governmental contracting agency for a mandatory three-year period. If after the three-year suspension period the wages found due or penalties assessed are still unpaid, the suspension shall remain in force until payment is made in full[-]; or
- (3) For falsification of records, or for delay or interference with an investigation pursuant to section 104-22, the contractor shall be suspended for a period of three years.”

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

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

(Approved June 6, 2008.)