



GOV. MSG. NO. 746

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

April 13, 2007

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith HB853 HD2, without my approval, and with the statement of objections relating to the measure.

HB853 HD2

A BILL FOR AN ACT RELATING TO PUBLIC WORK
PROJECTS.

Sincerely,

A handwritten signature in cursive script, appearing to read "Linda Lingle".

LINDA LINGLE

EXECUTIVE CHAMBERS

HONOLULU

April 13, 2007

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 853

Honorable Members
Twenty-Fourth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 853, entitled "A Bill for an Act Relating to Public Work Projects."

This bill is objectionable because it would require the State to cite a contractor for each individual construction project for which work is performed, no matter how minor the infraction and whether the violation was committed knowingly or not. If violations were discovered in one investigation involving multiple construction projects, the contractor would receive multiple citations.

Upon the receipt of a third violation, a contractor would be precluded from performing any new public work construction for a three-year period. Considering the complexity of the law and the difficulties it poses for a contractor to successfully navigate, this result is too harsh. This rigid violation structure fails to take into account the severity of the violations found and the willfulness of the contractor in committing the violation.

The mandatory, progressive penalty structure in current law allows firms to correct errors as soon as they are identified

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and ensures that the Department of Labor and Industrial Relations is able to work with affected contractors to provide fair wages pursuant to the wage schedules, benefit formula, and applicable overtime rules in place.

The changing of the manner of issuing violations from one based on investigations to one based on projects will likely result in potential litigation. Further, the number of firms bidding on and accepting State and county projects is likely to diminish if the rigid penalty structure imposed by this bill is enacted.

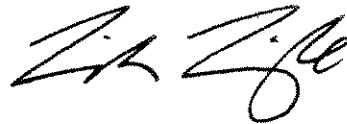
Diminishing the number of firms that can bid on State and county projects, and passing measures that further discourage qualified firms from bidding, will inevitably result in higher costs for public works projects. This will adversely impact the State's ability to fund and execute construction and repair of schools, highways, parks, harbors, and the entire spectrum of public facilities operated by the State of Hawaii. It will also negatively impact the ability of the counties to repair and rebuild our sewer systems, upgrade wastewater treatment plants, and expand police and fire facilities and similar local government structures.

The prevailing wage should be paid when applicable and no contractor should be allowed to ignore the law. However, this bill is unreasonable in imposing a rigid approach that fails to take into account the severity of violations found and the willfulness of the contractor in committing the violation.

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For the foregoing reasons, I am returning House Bill
No. 853 without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read "L. Lingle", written in a cursive style.

LINDA LINGLE
Governor of Hawaii

VETO

HOUSE OF REPRESENTATIVES
TWENTY-FOURTH LEGISLATURE, 2007
STATE OF HAWAII

H.B. NO. 853
H.D. 2

A BILL FOR AN ACT

RELATING TO PUBLIC WORK PROJECTS.

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

1 SECTION 1. The legislature finds that under the current
2 law, a contractor found to be in violation of the prevailing
3 wage law under chapter 104, Hawaii Revised Statutes, is
4 considered to have committed only one violation although other
5 violative acts may be occurring or recurring simultaneously on
6 multiple public work projects performed by the same contractor.
7 The purpose of this Act is to ensure that a violation of chapter
8 104, Hawaii Revised Statutes, arises with each separate project
9 in which the department of labor and industrial relations finds
10 that a contractor has failed to comply with the law.

11 SECTION 2. Section 104-24, Hawaii Revised Statutes, is
12 amended by amending subsection (d) to read as follows:

13 "(d) A first, second, or third violation refers to each
14 [~~investigation involving one or more projects~~] project in which
15 the department finds that a contractor has failed to comply with
16 this chapter."



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 July 1, 2007.

