

EXECUTIVE CHAMBERS

HONOLULU

April 19, 2006

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 3008

Honorable Members  
Twenty-Third 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, Senate Bill No. 3008, 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 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.

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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, expand police and fire facilities and similar local government structures.

To avoid the adverse effects on government contracting and critical public works projects that would likely occur, the finding of a violation should continue to be based on the investigation conducted rather than on individual projects as contemplated by this bill.

For the foregoing reasons, I am returning Senate Bill No. 3008 without my approval.

Respectfully,

LINDA LINGLE  
Governor of Hawaii