



**STATE OF HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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February 11, 2014

To: Rep. Sylvia Luke, Chair  
Rep. Scott Y. Nishimoto, Vice Chair  
Rep. Aaron Ling Johanson, Vice Chair, and  
Members of the House Committee on Finance

Date: February 12, 2014  
Time: 2:00 p.m.  
Place: Conference Room 308, State Capitol

From: Dwight Y. Takamine, Director  
Department of Labor and Industrial Relations (DLIR)

**Re: H.B. No. 1958, H.D. 1 Relating to Compensation**

**I. OVERVIEW OF PROPOSED LEGISLATION**

Amends the Hawaii prevailing wage law to allow for payment of overtime on public works projects to exceed time and half. It is effective upon approval.

The HD1 made an amendment to clarify that any prevailing practice overtime laws in prevailing collective bargaining agreements would apply to the wage rate schedule in order to provide a level playing field.

The Department strongly supports the proposal.

**II. CURRENT LAW**

The current overtime provision for public works is time and one-half under the Wages and Hours of Employees on Public Works, Chapter 104, Hawaii Revised Statutes (HRS), which follows the overtime law for the rest of the Hawaii workforce in the Wage and Hour Law, Chapter 387, HRS, and the federal Fair Labor Standards Act (FLSA).

**III. COMMENTS ON THE HOUSE BILL**

Wages and Hours of Employees on Public Works Law requires the Director of Labor and Industrial Relations to issue wage rate schedules twice a year, which list the prevailing wages in each category of worker classifications on a public

construction project. The prevailing wage is based on the most often occurring rate in a particular category of construction workers as stated in Section 104-2(b). In addition, the law requires payment of overtime at one and one-half of the prevailing wage on specific conditions and days. The law does not require a prevailing practice, that is, should the union's rate be prevailing, the overtime provision of the prevailing union must also be used.

The Department understands that this law was intended to give flexibility to the payment of overtime, to allow payment at a higher ratio than time and a half. The HD1 provides additional language that would have the effect of requiring merit based contractors and those contractors with a collective bargaining agreement to pay their employees at more than the time and a half for all hours worked over 8 in a day, weekends and holidays, if stated in the prevailing agreement of the specific prevailing laborer or mechanic classification.

This bill would codify a disparity of costs to a contractor for overtime payments between the unionized contractor and non-union contractor. The department believes that there will be a minimal effect of the amendment to the cost of public construction projects covered by the prevailing wage law. The unionized contractor is already paying a premium for overtime that is more than the current statutory one and one-half times the prevailing rate.

This measure, if enacted, will level the playing field and require the non-union contractors to pay the same rates for overtime as union contractors currently do for public works projects.

# Hawai'i Construction Alliance

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P.O. Box 179441  
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February 10, 2014

The Honorable Sylvia Luke, Chair  
The Honorable Scott Nishimoto, Vice Chair  
The Honorable Aaron Ling Johanson, Vice Chair  
and members  
House Committee on Finance  
Honolulu, Hawai'i 96813

Dear Chair Luke, Vice Chairs Nishimoto and Johanson, and members:

The Hawai'i Construction Alliance **supports HB1958 HD1**, relating to compensation.

The Hawai'i Construction Alliance is comprised of the Hawai'i Regional Council of Carpenters; the Hawai'i Masons Union, Local 1 and Local 630; the Laborers' International Union of North America, Local 368; and the Operating Engineers, Local 3. Together, the four member unions of the Hawai'i Construction Alliance represent over 15,000 working men and women in the four basic crafts of Hawai'i's construction industry.

HB1958 HD1 would amend the definition of "overtime compensation" as follows:

"Overtime compensation" means compensation based on not less than one and one-half times the laborers or mechanics basic hourly rate of pay plus the cost to an employer of furnishing a laborer or mechanic with fringe benefits..."

This proposed definition would set a floor for overtime pay for wages, and would provide the Department of Labor and Industrial Relations with the flexibility to recognize prevailing wages for various classifications and trades, especially for Sundays and holidays.

The bill would also specify that the rate for overtime work shall be those rates specified in the collective bargaining agreement when the basic hourly rate is based on a collective bargaining agreement rate. This language was recommended by the Department of Labor in its testimony before the Committee on Labor and Public Employment.

Mahalo for the opportunity to testify in support of HB1958 HD1.

Aloha,



Tyler Dos Santos-Tam  
Executive Director  
Hawai'i Construction Alliance  
execdir@hawaiiconstructionalliance.org

**HAWAII OPERATING ENGINEERS  
INDUSTRY STABILIZATION FUND**



*Uniting our strengths and working together  
for a better tomorrow.*

**LATE**

Affiliated AFL-CIO  
OPEIU - 3 - AFL-CIO (3)

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The Honorable Scott Y. Nishimoto, Vice Chair  
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Date: February 12, 2014  
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Place: Conference Room 309, State Capitol

FROM: Kimberly Ribellia, Government Liaison  
Hawaii Operating Engineers Industry Stabilization Fund

RE: Support of House Bill 1958, HD1 – Relating to Compensation

Good Afternoon, my name is Kimberly Ribellia, Government Liaison, of the Hawaii Operating Engineers Industry Stabilization Fund (HOEISF), a labor management fund representing 4000 unionized members in heavy engineering site work and 500 general contractors specializing in heavy site and vertical construction.

On behalf of Stabilization fund, I would like to state our **strong support** of House Bill 1958, HD1 which amends the definition of “Overtime Compensation” to *mean compensation based on not less than one and one-half times the laborers or mechanics basic hourly rate of pay plus the cost to an employer of furnishing a laborer or mechanic with fringe benefits and specifies that the overtime rate be as specified in the collective bargaining agreement when the basic hourly rate is based on a collective bargaining agreement.*”

The proposed definition for “Overtime Compensation” establishes a floor for overtime pay for wages. This bill will give the Department of Labor and Industrial Relations the flexibility to recognize prevailing wages for various classifications and trades, including prevailing wages for Holidays and Sundays.

Again, the stabilization fund strongly supports the passage of House Bill 1958, HD1. Thank you for consideration of this matter.