



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

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January 24, 2014

To: The Honorable Mark M. Nakashima, Chair,
The Honorable Kyle T. Yamashita, Vice Chair, and
Members of the House Committee Labor & Public Employment

Date: January 28, 2014
Time: 8:45 a.m.
Place: Conference Room 309, State Capitol

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

Re: H.B. No. 1958 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 Department strongly supports the proposal and requests an amendment.

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. However, the language as currently written would only have the effect of allowing 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 agreement. The non-union contractor is still under no obligation to pay more than the time and a half as the overtime provision is only a floor for which no contractor may pay less.

Therefore, this amendment would only codify a disparity of costs to a contractor for overtime payments between the unionized contractor and non-union contractor.

Therefore, the department recommends additional language be inserted to Section 104-2(c) as follows:

(c) No laborer or mechanic employed on the job site of any public work of the State or any political subdivision thereof shall be permitted or required to work on Saturday, Sunday, or a legal holiday of the State or in excess of eight hours on any other day unless the laborer or mechanic receives overtime compensation for all hours worked on Saturday, Sunday, and a legal holiday of the State or in excess of eight hours on any other day. 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. For purposes of determining overtime compensation under this subsection, the basic hourly rate of any laborer or mechanic shall not be less than the basic hourly rate determined by the director to be the prevailing basic hourly rate for corresponding classes of laborers and mechanics on projects of similar character in the State.

The department feels 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 who may have a collective bargaining agreement that requires payment of overtime, which is more than the current law requires at one and one-half times the prevailing rate, is already paying their workers this premium pay. The amendment will level the playing field and require the non-union contractors to pay the same rates for overtime as they currently do for the prevailing wages.

Hawai'i Construction Alliance

P.O. Box 179441
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January 27, 2014

The Honorable Mark Nakashima, Chair
The Honorable Kyle Yamashita, Vice Chair
and members
House Committee on Labor and Public Employment
Hawai'i State House of Representatives
Honolulu, Hawai'i 96813

Dear Chair Nakashima, Vice Chair Yamashita, and members:

The Hawai'i Construction Alliance **supports HB1958**, 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 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.

Mahalo for the opportunity to testify in support of HB1958.

Aloha,



Tyler Dos Santos-Tam
Executive Director
Hawai'i Construction Alliance
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HAWAII OPERATING ENGINEERS
INDUSTRY STABILIZATION FUND

LATE



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

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January 28, 2014

TO: The Honorable Mark M. Nakashima, Chair
The Honorable Kyle T. Yamashita, Vice Chair and
Members of the House Committee on Labor & Public Employment

Date: January 28, 2014
Time: 8:45 a.m.
Place: Conference Room 309, State Capitol

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

RE: Support of House Bill 1958 – Relating to Compensation

Good Morning, 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 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...*”

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. Thank you for consideration of this matter.