



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

830 PUNCHBOWL STREET, ROOM 321  
HONOLULU, HAWAII 96813  
[www.labor.hawaii.gov](http://www.labor.hawaii.gov)  
Phone: (808) 586-8842 / Fax: (808) 586-9099  
Email: [dliir.director@hawaii.gov](mailto:dliir.director@hawaii.gov)

March 18, 2014

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

Date: March 18, 2014  
Time: 10:30 a.m.  
Place: Conference Room 309, State Capitol

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

**Re: S.B. No. 2704, S.D. 2 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. Clarifies that prevailing practice overtime rates in prevailing collective bargaining agreements would apply to the wage rate schedule in order to provide a level playing field.

Effective July 1, 2015.

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 SENATE 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 measure was intended to give flexibility to the payment of overtime, to allow payment at a higher ratio than time and a half. Additional language added to Section 104-2(c) will 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.

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.

The department offers the following amendment of section 104-1 for consideration:

[~~(6)~~] "Overtime compensation" means compensation based on not less than one and one-half times the [~~laborers~~] laborer's or [~~mechanics~~] mechanic's basic hourly rate of pay plus the cost to an employer of furnishing a laborer or mechanic with fringe benefits as described in [~~paragraph (7) ;~~] the definition of "wages" provided that where the department determines that the prevailing wage is determined by a group represented by a collective bargaining agreement the overtime and any other premium rates of pay shall be at the rates set by the collective bargaining agreement.

By inserting the proposed language in the definition of "Overtime compensation", it makes clear that the overtime rate calculation applies to the whole chapter.

**HAWAII OPERATING ENGINEERS  
INDUSTRY STABILIZATION FUND**



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

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

March 16, 2014

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

Date: March 18, 2014  
Time: 10:30 a.m.  
Place: Conference Room 309, State Capitol

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

RE: Support of Senate Bill 2704, SD2 – Relating to Compensation

Good Morning, my name is Kimberly Ribellia, Government Liaison, of the Hawaii Operating Engineers Industry Stabilization Fund, 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 Senate Bill 2704, SD2 which amends the definition of “Overtime Compensation”.

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 Senate Bill 2704, SD2. Thank you for consideration of this matter.



Testimony of Cindy McMillan  
The Pacific Resource Partnership

House Committee on Labor & Public Employment  
Representative Mark M. Nakashima, Chair  
Representative Kyle T. Yamashita, Vice Chair

SB 2704, SD2 - Public Works  
Tuesday, March 18, 2014  
10:30 AM  
Conference Room 309

Aloha Chair Nakashima, Vice Chair Yamashita and members of the Committee,

The Pacific Resource Partnership (PRP) is a labor-management consortium representing over 240 signatory contractors and the Hawaii Regional Council of Carpenters.

PRP supports SB 2704, SD2, which establishes the calculation of overtime compensation for government public works construction contracts that are greater than \$2,000 to be not less than one and one-half times the laborer's or mechanic's basic hourly rate of pay plus the cost of fringe benefits; and establishes that the overtime compensation rate shall be the rate specified in a collective bargaining agreement if the basic hourly rate is based on such agreement.

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.

Thank you for the opportunity to share our views with you and we kindly ask for your favorable consideration of SB 2704, SD2.