



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

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

March 28, 2014

To: The Honorable David Y. Ige, Chair,
The Honorable Michelle N. Kidani, Vice Chair, and
Members of the Senate Committee on Ways and Means

Date: Friday, March 28, 2014
Time: 9:25 a.m.
Place: Conference Room 211, State Capitol

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

Re: H.B. No. 1958, H.D. 2, S.D. 1 Relating to Compensation

I. OVERVIEW OF PROPOSED LEGISLATION

The proposal 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.

The Department strongly supports the proposal and believes that there will be a minimal effect of the amendment to the cost of public construction projects under 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.

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 conforms to 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).

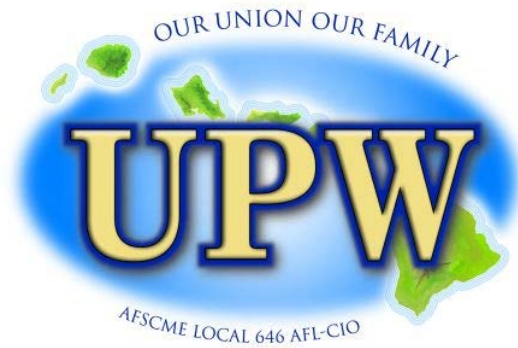
III. COMMENTS ON THE HOUSE BILL

Chapter 104 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(b) 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.

This bill would codify a disparity of costs to a contractor for overtime payments between the unionized contractor and non-union contractor. 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 HAWAII SENATE
The Twenty-Seventh Legislature
Regular Session of 2014

COMMITTEE ON WAYS AND MEANS

The Honorable Sen. David Y. Ige, Chair
The Honorable Sen. Michelle N. Kidani, Vice Chair

DATE OF HEARING: Friday, March 28, 2014

TIME OF HEARING: 9:25 a.m.

PLACE OF HEARING: Conference Room 211

TESTIMONY ON HB1958 HD2 SD1 RELATING TO COMPENSATION

By DAYTON M. NAKANELUA,
State Director of the United Public Workers, AFSCME Local 646, AFL-CIO

My name is Dayton M. Nakanelua and I am the State Director of the United Public Workers, AFSCME, Local 646, AFL-CIO (UPW). The UPW is the exclusive representative for approximately 14,000 public employees, which include blue collar, non-supervisory employees in Bargaining Unit 01 and institutional, health and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties. The UPW also represents about 1,500 members of the private sector.

The UPW supports HB1958 HD2 SD1, which provides that for government public works construction contracts greater than \$2,000, provides that overtime compensation be not less than 1_1/2 times the laborers or mechanics basic hourly rate of pay plus fringe benefits and that if the department of labor and industrial relations determines that the prevailing wage is determined by a group represented by collective bargaining, then the overtime and any other premium shall be at the same rates set by the collective bargaining agreement. 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.

We ask that you pass this bill.

Thank you for the opportunity to testify on this measure.

**HAWAII OPERATING ENGINEERS
INDUSTRY STABILIZATION FUND**



Affiliate of AFL-CIO
CPESU - E - AFL-CIO (0)

March 26, 2014

Honorable David Y. Ige, Chair
Senate Committee on Ways and Means
Hawaii State Capitol
415 South Beretania Street, Room 208
Honolulu, HI 96813

Dear Chair Ige:

RE: Support of House Bill 1958, HD2, SD1 – Relating to Compensation

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 HOEISF, I am testifying in **strong support** of House Bill 1958, HD2, SD1, which amends the prevailing wage law to allow for payment of overtime compensation on public works projects to exceed time and a half. Establishes the rate of overtime compensation as the rate specified in a collective bargaining agreement if the basic hourly rate is based on such agreement. Clarifies that if the Department of Labor and Industrial Relations (DLIR) determines that the prevailing wage is determined by a group represented by collective bargaining, then the overtime and any other premium rather shall be at the same rates set by the collective bargaining agreement.

The proposed amendments will give DLIR the flexibility to recognize prevailing wages for various classifications and trades, including prevailing wages for Holiday and Sundays.

HOEISF is in **strong support** House Bill 1958, HD2, SD1. Thank you for your consideration in this matter.

Sincerely,

Kimberly Ribellia
Government Liaison
Hawaii Operating Engineers
Industry Stabilization Fund

Hawai'i Construction Alliance

P.O. Box 179441
Honolulu, HI 96817
(808) 348-8885

March 20, 2014

The Honorable David Y. Ige, Chair
The Honorable Michelle N. Kidani, Vice Chair
and members
Committee on Ways and Means
Hawai'i State Senate
Honolulu, Hawai'i 96813

Dear Chair Ige, Vice Chair Kidani, and members:

The Hawai'i Construction Alliance **supports HB1958 HD2 SD1**, 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 HD2 SD1 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 HD2 SD1.

Aloha,



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