

HB1958

HD2



**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: dhir.director@hawaii.gov

March 11, 2014

To: The Honorable Clayton Hee, Chair,
The Honorable Maile S. L. Shimabukuro, Vice Chair, and
Members of the Senate Committee on Judiciary and Labor

Date: March 11, 2014
Time: 10:00 a.m.
Place: Conference Room 016, State Capitol

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

Re: H.B. No. 1958, H.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.

The Department strongly supports the proposal and requests a housekeeping 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.

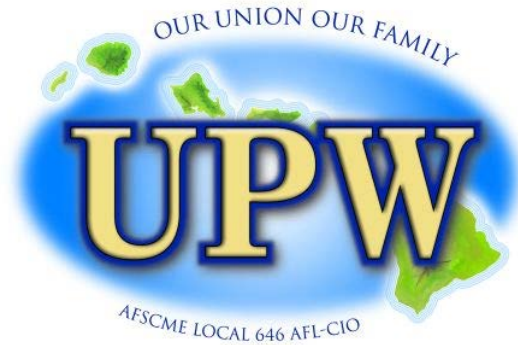
The Department understands that this law was intended to give flexibility to the payment of overtime, to allow payment at a higher ratio than time and a half. Additional language added to Section 104-2(b) will have the effect of requiring merit based contractors and those contractors with a collective 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. 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 for consideration:

(6) "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 as described in paragraph (7)[+], 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; and



THE HAWAII SENATE
The Twenty-Seventh Legislature
Regular Session of 2014

COMMITTEE ON JUDICIARY AND LABOR

The Honorable Sen. Clayton Hee, Chair
The Honorable Sen. Maile S.L. Shimabukuro, Vice Chair

DATE OF HEARING: Tuesday, March 11, 2014
TIME OF HEARING: 10:00 a.m.
PLACE OF HEARING: Conference Room 016

TESTIMONY ON HB1958 HD2 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, which provides that overtime compensation be not less than 1½ times the laborers or mechanics basic hourly rate of pay plus 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 for government public works construction contracts greater than \$2,000

We ask that you pass this bill.

Thank you for the opportunity to testify on this measure.