

SB2704



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

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February 7, 2014

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

Date: February 7, 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: S.B. No. 2704 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, if it did then, should the union's rate be prevailing, the overtime provision of the prevailing union would 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. 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.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: glennida@gmail.com
Subject: Submitted testimony for SB2704 on Feb 7, 2014 10:00AM
Date: Wednesday, February 05, 2014 2:15:10 AM

SB2704

Submitted on: 2/5/2014

Testimony for JDL on Feb 7, 2014 10:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Glenn Ida	Plumbers and Fitters UA Local 675	Support	No

Comments: SB2704 allows that overtime compensation be not less than 1 1/2 times the basic wage for a laborers/mechanic basic hourly rate plus fringe benefits.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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