

HAWAII HEALTH SYSTEMS
C O R P O R A T I O N

"Quality Healthcare For All"

House Committee on Labor & Public Employment
Representative Mark M. Nakashima, Chair
Representative Jarrett Keohokalole, Vice Chair

February 10, 2015
Conference Room 309
9:00 a.m.
Hawaii State Capitol

**Testimony Supporting House Bill 558,
Relating To Overtime.**
**Establishes a policy consistent with private sector and federal law (FLSA) that
limits overtime payment by excluding the employees paid time off in the
calculation of the forty hour workweek.**

Linda Rosen, M.D., M.P.H.
Chief Executive Officer
Hawaii Health Systems Corporation

On behalf of the Hawaii Health Systems Corporation (HHSC) Corporate Board of Directors, thank you for the opportunity to present testimony in **support of HB 558** that limits overtime compensation to those actual hours worked in excess of forty hours in a workweek excluding paid time off.

Overtime has been a concern for the taxpayers of Hawaii for many years. It's estimated that state and county governments pay over \$10 million dollars in overtime costs annually. Healthcare continues to be a rapidly changing environment with issues unique from other state agencies. Preserving high quality patient care in our 24/7 facilities require staffing be assessed and adjusted frequently. At the same time, State agencies are continually being expected to do more with fewer resources – including staff. HHSC was burdened with overtime costs of over \$14 million dollars for fiscal year 2014. It is our responsibility to the taxpayers, and communities we serve, to work more efficiently.

The majority of our HHSC employees – roughly ninety percent – are covered by various collective-bargaining agreements (CBA). Those agreements contain various provisions for overtime compensation in several different scenarios. Currently, the employees paid time off are included in the calculation of the work week, and time in excess of a 40 hour week, or 8 hours in a day of their work week. However, the normal Fair Labor Standards Act (FLSA) threshold for overtime is only 40 hours per work week. Private and federal employers, who follow the FLSA model, generally are not obligated to pay overtime on an 8 hour basis, or for work on weekends, holidays, or days of employees rest. But,

most state and county employers simply do not have this option. A cost savings of this magnitude would be invaluable to the state employers, particularly in the area of healthcare where unique factors and quality patient care must be well-preserved. The savings on overtime and labor costs is a positive step in creating a more efficient government better equipped to serve the Hawaii citizens at large.

Thank you for the opportunity to testify before this committee. We would respectively recommend the Committee's support of this measure.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Twenty-Eighth Legislature, State of Hawaii
House of Representatives
Committee on Labor and Public Employment

Testimony by
Hawaii Government Employees Association
February 10, 2015

H.B. 558 – RELATING TO OVERTIME

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly opposes the purpose and intent of H.B. 558, which limits overtime compensation to hours worked in excess of 40 hours in a workweek. This legislation eliminates a right that has long been negotiated under Chapter 89, Hawaii Revised Statutes, and infringes upon our collective bargaining agreements. Conflict and subsequent resolution over overtime compensation should remain a negotiable item to be determined between the Employer and the Exclusive Representative.

Our collective bargaining agreements contain articles with mutually agreed upon overtime provisions, which can be renegotiated, at the request of either the Employer or the Exclusive Representative. The 40 hour per week threshold fails to take into account the physical and mental demands many public employees encounter when they must work overtime in excess of their regular 8-hour workday or are called back to work because of an emergency on a weekend, holiday or after their normal workday ends. The employees in our bargaining units respond to a wide variety of emergencies, including water and sewer main breaks, environmental threats, and 24/7 critical hospital services, among many others, and should be adequately compensated for the services they provide.

Further, we respectfully question the use of the Fair Labor Standards Act (FLSA), which was first enacted 77 years ago in 1938, as the benchmark to assess what is reasonable for Hawaii. Wage and hour claims, including overtime, currently outpace all other types of workplace litigation and have increased 500% since 1990. In FY 2013, the Wage & Hour Division of the U.S. Department of Labor recovered a record \$280 million in back wages on behalf of more than 280,000 workers under the FLSA. Further, President Obama has criticized and recommended changes to the FLSA, as the FLSA regulations are outdated and have not kept up with our modern economy.

Adoption of the FLSA standard for overtime will result in public employees being mistreated and overworked by employers who may take advantage of only having to pay straight time in excess of 8 hours per day, nights, weekends and holidays. Doing so will also compromise the health and safety of public workers. For these reasons, we strongly oppose H.B. 558 and respectfully request the Committee defer this measure.

Respectfully submitted,

Randy Perreira
Executive Director



Board of Directors

Richard Rowland
Chairman and Founder

Keli'i Akina, Ph.D.
President/CEO

Eddie Kemp
Treasurer

Gilbert Collins

Robin Tijoe

February 10, 2015

9:00 AM

Conference Room 309

To: House Committee on Labor & Public Employment

Rep. Mark Nakashima, Chair

Rep. Jarrett Keohokalole, Vice Chair

From: Grassroot Institute of Hawaii

President Keli'i Akina, Ph.D.

RE: HB 558 -- RELATING TO OVERTIME

Comments Only

Dear Chair and Committee Members:

The Grassroot Institute of Hawaii would like to offer its comments on HB 558, which would limit overtime compensation for public employees to only those hours worked in excess of forty hours per work week. The bill further excludes hours taken as paid time off from the calculation of the forty hours.

The problem of overtime abuse has recently become an important issue in a state that is working to become more efficient in its operations and improve accountability to taxpayers. A study by the Grassroot Institute of Hawaii found that state and county governments paid at least \$77 million in overtime in FY 2014. The state paid nearly \$60 million in overtime pay last year, with the departments of public safety, transportation, and health making up the largest proportion of overtime pay.¹ The County of Kauai paid \$7 million in overtime, and Maui County paid almost \$10 million in overtime last year.

While we recognize the importance of having sufficient staff to fill key roles—especially when the safety and health of our citizens are at stake, it is undeniable that a portion of the overtime costs is due to departmental inefficiencies and employees who are able to “game the system” to significantly inflate their base pay. A KHON report² found corrections officers who were able to nearly double their salary, taking it from a base of \$52,536 base to \$104,169 via overtime.

¹ Study available at <http://www.openhawaii.org>

² Available at <http://khon2.com/2014/11/06/overtime-abuse-allows-some-public-employees-to-double-triple-their-salaries/>.

Other offenders who were able to greatly increase their pay, often going from five figure to six figure salaries at the expense of the state, were state hospital RN's (\$80,000 base plus \$40,023 in overtime), another level of corrections officer (\$46,548 base plus \$75,573 in overtime), and a state hospital psychiatric technician (\$38,556 base plus \$27,272 in overtime).

A separate investigation of overtime abuses at the Hawaii State Hospital found multiple examples of coordinated and intentional efforts on the part of employees to inflate their pay via overtime loopholes.² Using a combination of sick leave and overtime benefits, six employees were able to cost the state nearly 7400 hours of overtime (totaling more than \$200,000 in overtime pay) in 2013 alone.

In addition to the abuse of public trust that is taking place through such examples of overtime fraud, there is also the effect on the quality of work produced in this matter. In the case of the Hawaii State Hospital report, the prevalence of overtime abuse led to staff shortages, affecting the overall quality of care provided and endangering both staff and patients.

The proposed bill takes important steps towards curbing overtime abuse by closing two of the major loopholes in granting overtime—the ability to gain overtime for a partial workweek and the use of sick leave to “boost” a work shift into the overtime category.

Transparent and accountable government must include a willingness to respond to such corruption when it comes to light. This is not only because the state has a responsibility to the taxpayers, but also because allowing fraud to continue has a correspondingly negative effect on the quality of the services provided. Until waste and the incentive to “game the system” are eliminated, we will continue to drain the state budget and foster mismanagement at every level of government.

Thank you for the opportunity to submit our comments.

Sincerely,
Keli'i Akina, Ph.D.
President, Grassroot Institute of Hawaii

³ See <http://www.hawaiiexpress.com/Portals/0/Article%20Attachments/hshfinalreport%202014-0897.pdf> and <http://news.heartland.org/newspaper-article/2014/12/05/hawaii-state-hospital-employees-game-overtime-system>.

The Twenty-Eighth Legislature
Regular Session of 2015

HOUSE OF REPRESENTATIVES
Committee on Labor and Public Employment
Rep. Mark M. Nakashima, Chair
Rep. Jarrett Keohokalole, Vice Chair
State Capitol, Conference Room 309
Tuesday, February 10, 2015; 9:00 a.m.

**STATEMENT OF THE ILWU LOCAL 142 ON H.B. 558
RELATING TO OVERTIME**

The ILWU Local 142 opposes H.B. 558, which limits overtime compensation to those hours worked in excess of forty hours in a workweek and excludes those hours taken as paid time off from the calculation of the forty hours.

Consistency with the private sector and federal sector practice of offering overtime has been given as the reason for proposing this bill. However, it should be noted that the practice of overtime after EIGHT hours, rather than 40, is prevalent among unionized workplaces in the private sector.

In any case, the ILWU strongly opposes legislation that will diminish any benefit duly negotiated through collective bargaining. We do not believe it is the role of the Legislature to intervene or interfere in the collective bargaining process.

The ILWU respectfully urges that H.B. 558 be held. Thank you for the opportunity to share our views and concerns.

HB558 - RELATING TO OVERTIME

Limits overtime compensation to those hours worked in excess of forty hours in a workweek.

We have done research in other state government agencies and we came across the city of Philadelphia whereby sick leave was not factored into the computation of overtime pay. Based on this and other changes the city of Philadelphia received the Distinguished Budget Presentation Award from the Government Finance Officers Association of the United States and Canada.

This is introduced by Rep Cachola and is intended to set up a policy like Philadelphia in addressing their financial concerns related to paid sick leave and vacation time. We are not aware of any current or pending contracts but only seek to set policy so that we can hopefully address our financial concerns.

The City of Philadelphia received a reward and recognition of these consideration for a 5 year financial plan.



GOVERNMENT FINANCE OFFICERS ASSOCIATION

*Distinguished
Budget Presentation
Award*

PRESENTED TO

**City of Philadelphia
Pennsylvania**

For the Fiscal Year Beginning

July 1, 2013


Executive Director

The Government Finance Officers Association of the United States and Canada (GFOA) presented a Distinguished Budget Presentation Award to **City of Philadelphia, Pennsylvania** for its annual budget for the fiscal year beginning **July 1, 2013**. In order to receive this award, a governmental unit must publish a budget document that meets program criteria as a policy document, as an operations guide, as a financial plan, and as a communications device.

This award is valid for a period of one year only. We believe our current budget continues to conform to program requirements, and we are submitting it to GFOA to determine its eligibility for another award.

LABOR

The City is committed to reaching collective bargaining agreements with each of its unions that are fair to both employees and other taxpayers. Those agreements need to balance pay increases for employees with essential reforms that will allow the City to bolster its Pension Fund, make common sense changes to overtime and provide the City with the flexibility to manage the size of the workforce during times of economic distress through furloughs (days off without pay) or temporary layoffs, rather than having large numbers of employees lose their jobs. Pension reforms are essential, as pension costs have increased from 7% of the budget in FY04 to 17% in FY14, diverting funds from key services to pension costs. At the same time, the Fund's health weakened, with its funding percent dropping from 55% FY08 to just over 48% in FY13. The City's proposed overtime changes are also essential, as they would bring common sense to the City's work rules, as the City has done for its non-represented employees and other employee groups. For example, time spent on sick leave would not count towards overtime hours. In this Five-Year Plan, \$375.6 million is being set aside over five years to fund the recently negotiated agreement with American Federation of State, County and Municipal Employees (AFSCME) District Council 47 (DC 47) and future labor agreements for American Federation of State, County and Municipal Employees (AFSCME) District Council 33 (DC 33), International Association of Fire Fighters Local 22 (IAFF), and the Fraternal Order of Police Lodge No. 5 (FOP), as well as wage increases for non-represented employees. In comparison, the FY14-FY19 Five-Year Plan included \$95 million to fund future labor agreements. These agreements need to include the Administration's proposed reforms and need to be fair to employees and other taxpayers.

 As of December 2013, the City employed 27,819 employees, of whom 23,149 were represented by one of the City's five municipal unions as follows: 6,480 uniformed police officers, 227 employees of the Sheriff's Office, and 60 employees in the Register of Wills are represented by the FOP in two separate bargaining units; 2,174 fire fighters and paramedics are represented by the IAFF; 10,249 employees, including 866 Crossing Guards, 2,244 Correctional Officers and 21 Office of Housing and Community Development employees, are represented by DC 33; and 3,959 employees, including 583 Court employees, are represented by DC 47 under three separate bargaining units. Non-uniformed employees bargain under Act 195 of 1972, which allows for the right to strike over collective bargaining impasses. Certain employees, including employees of the Sheriff's Office and the Register of Wills, corrections officers who are represented by DC 33, and employees of the First Judicial District represented by DC 47, are not permitted to strike, but may proceed to interest arbitration under Act 195. Uniformed employees bargain under Pennsylvania Act 111 of 1968, which provides for final and binding interest arbitration to resolve collective bargaining impasses; they are not permitted to strike.

Labor costs are critical to the fiscal health of the City as employee health and pension benefits are the largest and fastest growing expenditures in the City's budget. In FY15, employee benefits (including pensions) will comprise 40% of the proposed budget expenditures. This figure is inflated by the \$700 million pension payment appropriation using the proceeds of the anticipated sale of PGW. Excluding this