

SB 216

RELATING TO WAGES AND HOURS ON PUBLIC WORKS.

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.

DAVID Y. IGE
GOVERNOR

ELAINE N. YOUNG
ACTING DIRECTOR

SHAN S. TSUTSUI
LIEUTENANT GOVERNOR



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

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February 9, 2015

To: The Honorable Donovan M. Dela Cruz, Chair,
The Honorable Clarence K. Nishihara, Vice Chair, and
Members of the Senate Committee on Government Operations

The Honorable Gilbert S.C. Keith-Agaran, Chair,
The Honorable Maile S.L. Shimabukuro, Vice Chair, and
Members of the Senate Committee on Judiciary and Labor

Date: February 10, 2015
Time: 9:00 a.m.
Place: Conference Room 16, State Capitol

From: Elaine Young, Acting Director
Department of Labor and Industrial Relations (DLIR)

Re: S.B. No. 216 Relating to Wages and Hours on Public Works

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. Authorizes overtime rates in prevailing collective bargaining agreements to apply to the wage rate schedule in order to provide a level playing field. Effective July 1, 2015.

The Department **supports** the proposal.

II. CURRENT LAW

The current overtime provision for public works is one and one-half the basic hourly rate plus the cost to the employer for fringe benefits 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 classification 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 State holidays, Saturdays, Sundays and in excess of eight hours on any other day.

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 State holidays, if stated in the prevailing agreement of the specific prevailing laborer or mechanic classification.

This measure, if enacted, will level the playing field and require the non-union contractors to pay the same higher rates for overtime as union contractors currently do for public works projects. 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.

Hawai'i Construction Alliance

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

February 5, 2015

The Honorable Donovan M. Dela Cruz, Chair
The Honorable Clarence K. Nishihara, Vice Chair
and members
Committee on Government Operations
Hawai'i State Senate
Honolulu, Hawai'i 96813

The Honorable Gilbert S.C. Keith-Agaran, Chair
The Honorable Maile S.L. Shimabukuro, Vice Chair
and members
Committee on Judiciary and Labor
Hawai'i State Senate
Honolulu, Hawai'i 96813

Dear Senators:

The Hawai'i Construction Alliance **strongly supports SB216**, relating to wages and hours on public works.

The Hawai'i Construction Alliance is comprised of the Hawai'i Regional Council of Carpenters; the Operative Plasterers' and Cement Masons' Union, Local 630; International Union of Bricklayers & Allied Craftworkers, Local 1; the Laborers' International Union of North America, Local 368; and the Operating Engineers, Local Union No. 3. Together, the member unions of the Hawai'i Construction Alliance represent 15,000 working men and women in the basic crafts of Hawai'i's construction industry.

SB216 provides that, for government public works construction contracts greater than \$2,000, the overtime compensation be not less than 1½ times the laborers or mechanics basic hourly rate of pay plus fringe benefits. The bill further provides 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. Finally, the bill 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.

The bill would have the practical effect of setting a floor for overtime pay for wages at "time-and-a-half," and would provide the Department of Labor and Industrial Relations with the flexibility to recognize the correct prevailing wages for various classifications and trades, especially for Sundays and holidays.

This is particularly important for those of our members whose collective bargaining agreements specify that their Sunday and public holiday rates are greater than “time-and-a-half,” to ensure that they receive their properly negotiated wages when working on public works projects.

Therefore, we request your committee’s **favorable consideration on SB216**, relating to wages and hours on public works.

Mahalo,

A handwritten signature in black ink, reading "Tyler Dos Santos-Tam". The signature is written in a cursive, flowing style.

Tyler Dos Santos-Tam
Executive Director
Hawai‘i Construction Alliance
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GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

Uploaded via Capitol Website

February 10, 2015

TO: HONORABLE DONOVAN DELA CRUZ, CHAIR, HONORABLE CLARENCE NISHIHARA, SENATE COMMITTEE ON GOVERNMENT OPERATIONS

HONORABLE GIL KEITH AGARAN, CHAIR, HONORABLE MAILE SHIMABUKURO, VICE CHAIR, SENATE COMMITTEE ON JUDICIARY AND LABOR

SUBJECT: **COMMENTS REGARDING TO S.B. 216, RELATING TO WAGES AND HOURS**

ON PUBLIC WORKS. 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.

Hearing

DATE: Tuesday, February 10, 2015

TIME: 9:00 a.m.

PLACE: Conference Room 016

Dear Chairs Dela Cruz and Keith Agaran, Vice Chairs Nishihara and Shimabukuro, and Members of the Committees,

The General Contractors Association of Hawaii (GCA) is an organization comprised of over hundred five hundred eighty (580) general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is the largest construction association in the State of Hawaii. The mission is to represent its members in all matters related to the construction industry, while improving the quality of construction and protecting the public interest.

GCA is concerned with the proposed definition of overtime compensation, which would force a non-union contractor to pay wages at a certain rate for overtime that it had not previously agreed upon nor would have factored into its bid, if currently performing on a public works project, as the bill proposes an immediate effective date. This bill is similar to last session's H.B. 1958 (2014) in which the Department of Labor and Industrial Relations indicated that this bill would "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." **This bill, as written proposes to force the non-union contractor to pay wages that it had no input in negotiating in, nor agreed to its terms.** Provided, however that the **H.D. 2 version of H.B. 1958 from last session appears to satisfies the original intent of the bill,** which is to ensure that if an existing collecting bargaining agreement provides for overtime at a rate more than one and a

half times the basic hourly rate the overtime rate specified in the collective bargaining contract shall apply to signatories of the contract.

Thank you for the opportunity to share our **comments.**