

STAND. COM. REP. NO. **2379**

Honolulu, Hawaii

**FEB 16 2022**

RE: S.B. No. 2855  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-First State Legislature  
Regular Session of 2022  
State of Hawaii

Sir:

Your Committee on Labor, Culture and the Arts, to which was referred S.B. No. 2855 entitled:

"A BILL FOR AN ACT RELATING TO WAGE AND HOURS OF EMPLOYEES ON PUBLIC WORKS,"

begs leave to report as follows:

The purpose and intent of this measure is to create an exemption to existing law that prohibits workers from working on Saturdays, Sundays, and state holidays, on certain state public work job sites unless the worker receives overtime pay for all hours worked that day. This measure specifically exempts from this overtime pay requirement, Saturdays of a week during which a condition or circumstance beyond the control of the employer prevented workers from working for eight hours on one or more of the regularly scheduled Monday through Friday workdays and the total hours of work performed by the worker on the project during the workweek has not exceeded forty hours.

Your Committee received testimony in support of this measure from Nan, Inc. and one individual. Your Committee received testimony in opposition to this measure from the Department of Labor and Industrial Relations.

Your Committee finds that existing law deters contractors from scheduling work for workers on Saturdays, even when they could not work the scheduled forty hours that week due to



conditions and circumstances beyond the contractor's control. This measure will eliminate such deterrence and allow workers to work and receive a full week's pay while preventing the public works project from incurring unnecessary delay.

Your Committee notes that certain collective bargaining agreements allow employers to schedule work for workers on a Saturday as a "make up" day when a condition or circumstance beyond the control of the employer prevented the workers from working for eight hours on one or more of the regularly scheduled Monday through Friday workdays, and caused the total hours of work performed during the workweek to be less than forty hours.

Accordingly, your Committee has amended this measure by:

- (1) Clarifying that the exemption to the overtime pay requirement created in this measure applies only when an applicable collective bargaining agreement permits;
- (2) Removing "equipment breakdown" as a condition or circumstance that is beyond the control of the employer;
- (3) Appropriating an unspecified amount of funds to the Department of Labor and Industrial Relations for purposes of this measure;
- (4) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

Your Committee has also reviewed the testimony of the Department of Labor and Industrial Relations opposing this measure stating enforcement issues. The Department also noted that if this measure is enacted, the Department would need additional staffing and resources to carry out its provisions. Your Committee finds that this issue raises concerns that merit further consideration and requests that your Committee on Ways and Means further examine those issues and concerns raised by the Department's testimony on this measure.



As affirmed by the record of votes of the members of your Committee on Labor, Culture and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2855, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2855, S.D. 1, and be referred to your Committees on Judiciary and Ways and Means.

Respectfully submitted on  
behalf of the members of the  
Committee on Labor, Culture and  
the Arts,

  
BRIAN T. TANIGUCHI, Chair



The Senate  
Thirty-First Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Labor, Culture and the Arts**  
**LCA**

Bill / Resolution No.:*	Committee Referral:	Date:
SB 2855	LCA, JDC/WAM	2-2-22

The Committee is reconsidering its previous decision on this measure.  
If so, then the previous decision was to: \_\_\_\_\_

The Recommendation is:

Pass, unamended 2312    
 Pass, with amendments 2311    
 Hold 2310    
 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
TANIGUCHI, Brian T. (C)	✓			
IHARA, Jr., Les (VC)	✓			
CHANG, Stanley				✓
KEOHOKALOLE, Jarrett	✓			
FEVELLA, Kurt	✓			
<b>TOTAL</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>1</b>

Recommendation:

Adopted    
 Not Adopted

Chair's or Designee's Signature:

**Distribution:**

Original	Yellow	Pink	Goldenrod
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy

**\*Only one measure per Record of Votes**

Revised: 12/3/18