



STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
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February 2, 2022

To: The Honorable Brian T. Taniguchi, Chair,
The Honorable Les Ihara, Jr., Vice Chair, and
Members of the Senate Committee on Labor, Culture and the Arts

Date: Wednesday, February 2, 2022

Time: 3:00 p.m.

Place: Conference Room 225 & Videoconference, State Capitol

From: Anne Perreira-Eustaquio, Director
Department of Labor and Industrial Relations (DLIR)

**Re: S.B. 2855 RELATING TO WAGE AND HOURS OF
EMPLOYEES ON PUBLIC WORKS**

I. OVERVIEW OF PROPOSED LEGISLATION

SB2855 proposes to amend section 104-2(c), Hawaii Revised Statutes (HRS), by exempting work performed on a public works job site on Saturdays from the overtime compensation requirement when a condition or circumstance beyond the control of the contractor prevented workers from working for eight hours on one or more of the regularly scheduled Monday through Friday workdays during the week, and the total hours of work performed by the worker on the project during the workweek has not exceeded forty hours.

The DLIR strongly opposes this measure and notes it would require additional staffing and resources to carry out its purposes.

II. CURRENT LAW

Section 104-2(c), HRS, requires overtime compensation for all hours worked on a state or county public works job site on Saturday, Sunday, or a legal holiday of the State, or in excess of eight hours on any other day.

III. COMMENTS ON THE SENATE BILL

The overtime compensation requirement under the current law is straightforward and therefore easily enforced. The exception proposed by this measure may be problematic and difficult to enforce.

Due to the lapse in time between when the alleged violation occurred, the filing of a complaint (which may be up to three years from the completion of the project),

and then the investigation, the DLIR will likely encounter great difficulty in determining what condition or circumstance occurred during the week in question, and whether the condition or circumstance was beyond the control of the contractor.

Introducing these investigatory ambiguities would create a fertile ground for disputes that would pose significant challenges for an investigator to arrive at findings of fact and further contribute to the backlog of prevailing wage cases.

DLIR notes that if it is required to administer these provisions that broaden the scope of enforcement, it would need additional staffing and resources to effectively enforce the law.

Nan Inc

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February 1, 2022

Testimony to: Senate Committee on Labor, Culture, and the Arts
Chair Brian T. Taniguchi

Presented By: Nan Chul Shin, Owner of Nan, Inc.

Subject: S.B. No. 2855 – RELATING TO WAGE AND HOURS OF EMPLOYEES ON
PUBLIC WORKS

Chair Taniguchi and Members of the Committee:

Nan, Inc., submits this testimony in support of S.B. No. 2855. Under existing Hawaii law, Hawaii contractors are required to compensate its workers based on an overtime rate for work performed on Saturdays, Sundays, and state holidays, even when said workers were prevented from working forty hours during said week due to conditions and circumstances beyond the contractor's control. Hawaii public works' contracts have provisions that allow for extensions of time for said conditions and circumstances beyond the contractor's control. Since contractors are given additional time, contractors commonly choose not to pay for such overtime work. Existing Hawaii law deprives workers from receiving full-pay during any said week. S.B. No. 2855 addresses said loophole that unintentionally disadvantages Hawaii's laborers and mechanics in these circumstances. S.B. No. 2855 clearly benefits Hawaii's workers as it allows workers to receive full-pay during that week at no additional cost to the contractor and benefits Hawaii's taxpayers as it allows projects to be completed without incurring substantial delays or cost overruns.

Thank you for the opportunity to provide testimony.

SB-2855

Submitted on: 1/30/2022 11:06:52 AM

Testimony for LCA on 2/2/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Shannon Rudolph	Individual	Support	No

Comments:

Support