



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

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March 16, 2015

To: 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: March 17, 2015

Time: 9:00 a.m.

Place: Conference Room 016, State Capitol

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

Re: H.B. No. 391HD1, 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.

The Department supports the proposal and notes it will entail some fiscal impact, but defers to the contracting agencies on the specifics.

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 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 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(c) 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

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March 16, 2015

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

Dear Chair Keith-Agaran, Vice Chair Shimabukuro, and members:

The Hawai'i Construction Alliance **strongly supports HB391 HD1**, 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.

HB391 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.

We appreciate and agree with the supportive comments provided by the Department of Labor and Industrial Relations, particularly the department's belief that "this measure, if enacted, will level the playing field."

To elaborate further, 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 HB391 HD1**, relating to wages and hours on public works.

Mahalo,



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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

March 17, 2015

TO: HONORABLE GILBERT KEITH-AGARAN, CHAIR, HONORABLE MAILE SHIMABUKURO, VICE CHAIR SENATE COMMITTEE ON JUDICIARY AND LABOR

SUBJECT: **REQUEST FOR AMENDMENTS TO H.B. 391, HD1 RELATING TO WAGES AND HOURS ON PUBLIC WORKS.** Allows overtime compensation on public works projects to exceed time and one-half and specifies that if the Department of Labor and Industrial Relations determines that a prevailing wage is subject to collective bargaining, overtime will be at rates set by the applicable collective bargaining agreement. Specifies that overtime compensation and other premium pay rates are those rates specified in an applicable collective bargaining agreement when the basic hourly rate is established in a collective bargaining agreement. (HB391 HD1)

Hearing

DATE: Tuesday, March 17, 2015
TIME: 9:00 a.m.
PLACE: Conference Room 016

Dear Chair Keith-Agaran and Vice Chair Shimabukuro and Members,

The General Contractors Association of Hawaii (GCA) is writing to express grave concerns regarding H.B. 391, HD1 and is requesting that the bill be amended. The GCA is an organization comprised of over approximately 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.

Given the Administration's conservative approach in spending public monies, this bill would contravene that approach and have an impact on the cost of public works construction, especially because many of the transportation related projects are taking place on weekends and holidays to accommodate Hawaii's residents.

GCA respectfully requests that the bill delete all current amendments and that the proposed definition of overtime compensation be amended to read:

(6) "Overtime compensation" means compensation based on not less than one and one-half times the laborers or mechanics basic hourly rate of pay plus the cost to an employer of furnishing a laborer or mechanic with fringe benefits as described in paragraph;

The GCA has no problem requiring payment of overtime compensation that exceeds the current statutory rate for overtime, **if** such a rate has been negotiated as a part of a collective bargaining agreement. While the current statute that requires payment of prevailing wages on all government capital projects does not provide for payment of overtime at rates that exceed time and one half of the normal pay rates, it is our understanding that if a collective bargaining agreement recognizes a higher rate, it will honor it. The imposition of additional benefits for overtime should not be required for all overtime merely because it is a part of the collective bargained compensation package that determined the prevailing wage rate for that class of workers. If any trade union has negotiated a higher overtime rate it should only apply to companies that were a party to the agreement.

The bill's applicability is mainly to address costs work performed in excess of 8 hours in one day, on makeup work days, holidays and weekends. Below are some examples of the wage rate differential between reflecting regular pay rates versus the statutory requirements of one and one-half time rate versus a double time rate for a particular trade. This will provide what type of impact this measure may have on the cost of public works construction.

Examples from DLIR Prevailing Wage Rate Schedule, February 16, 2015

<u>Classification Example</u>	<u>Prevailing Wage Hourly Rate</u>	<u>1 ½ Rate</u>	<u>Double Rate (Applicability depends on CBA)</u>	<u>Regular Rate @ 8 Hours</u>	<u>1 ½ Rate @ 8 Hours</u>	<u>Double Rate @ 8 Hours</u>
Example 1	\$65.85	\$98.78	\$131.70	\$526.80	\$790.24	\$1,053.60
Example 2	\$67.91	\$101.87	\$135.82	\$543.28	\$814.96	\$1,086.56

This bill, as written, proposes to force the merit shop contractor to pay wages that it had no input in negotiating in, nor agreed to. The proposed abovementioned amended definition of overtime compensation will ensure that if an existing collective bargaining agreement provides for overtime at a rate more than one and a half times the basic prevailing wage rate then the overtime rate specified in the collective bargaining contract shall apply to signatories of the contract.

For these reasons, GCA is concerned with the current version of the bill and its potential impact on taxpayers and requests that the bill be amended as requested.