

AUDIT REPORT NO. 87-1
FEBRUARY 1967

OVERTIME IN THE STATE GOVERNMENT

A REPORT TO THE GOVERNOR AND THE
LEGISLATURE OF THE STATE OF HAWAII



SUBMITTED BY THE LEGISLATIVE AUDITOR OF THE STATE OF HAWAII

**THE OFFICE
OF THE LEGISLATIVE AUDITOR**

The office of the legislative auditor is a public agency attached to the Hawaii State legislature. It is established by Article VI, Section 8, of the Constitution of the State of Hawaii. The expenses of the office is financed through appropriations made by the legislature.

The primary function of this office is to strengthen the legislature's capabilities in making rational decisions with respect to authorizing public programs, setting program levels, and establishing fiscal policies and in conducting an effective review and appraisal of the performance of public agencies.

The office of the legislative auditor endeavors to fulfill this responsibility by carrying on the following activities.

1. Conducting examinations and tests of state agencies' planning, programming, and budgeting processes to determine the quality of these processes and thus the pertinence of the actions requested of the legislature by these agencies.
2. Conducting examinations and tests of state agencies' implementation processes to determine whether the laws, policies, and programs of the State are being carried out in an effective, efficient and economical manner.
3. Conducting systematic and periodic examinations of all financial statements prepared by and for all state and county agencies to attest to their substantial accuracy and reliability.
4. Conducting tests of all internal control systems of state and local agencies to ensure that such systems are properly designed to safeguard the agencies' assets against loss from waste, fraud, error, etc.; to ensure the legality, accuracy and reliability of the agencies' financial transaction records and statements; to promote efficient operations; and to encourage adherence to prescribed management policies.
5. Conducting special studies and investigations as may be directed by the legislature.

Hawaii's laws provide the legislative auditor with broad powers to examine and inspect all books, records, statements, documents and all financial affairs of every state and local agency. However, the office exercises no control functions and is restricted to reviewing, evaluating, and reporting its findings and recommendations to the legislature and the governor. The independent, objective, and impartial manner in which the legislative auditor is required to conduct its examinations provides the basis for placing reliance on its findings and recommendations.



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FOREWORD

This report incorporates our findings and recommendations resulting from our study of overtime in the State government. The examination was conducted pursuant to the authority granted to the office of the legislative auditor by article VI, section 8 of the Constitution of the State of Hawaii and chapter 2, title III of the Revised Laws of Hawaii 1955. This is one of a continuing series of management audits through which we attempt to assess whether the laws, policies, and programs of the State are being carried out in an effective, efficient, and economical manner.

Properly used and controlled, overtime can serve a useful purpose in the management of governmental operations. If imprudently and carelessly used, however, it represents a waste of public funds and our human resources. The purpose of this study is to assess the State's effectiveness in the management of overtime.

As with our other audit reports, we have endeavored to objectively and candidly present our views on the nature of the problem and to offer constructive recommendations for their resolution. We sincerely trust that this report will be received as a helpful supplement to the on-going State program to foster excellence in management.

Each of the agencies affected by our examination was requested to submit in writing its comments on our findings and recommendations and to indicate what action it has taken or intends to take therefor. Agency responses resulting from this audit are appended to this report as "Memoranda of Comments by Affected Agencies."

PART I
INTRODUCTION AND SOME BACKGROUND
CHAPTER 1
INTRODUCTION

We are deeply indebted to the many departmental personnel who assisted our staff in assembling the basic overtime data. Our special thanks go out to three legislative interns from the University of Hawaii who served on our staff during the six weeks of our data gathering period. Messrs. Yen Lew, David Iha, and Marvin Ching worked hard and diligently. Without their assistance, this broad-gauged study could not have been so satisfactorily and expeditiously completed.

Clinton T. Tanimura
Auditor

At its 1966 session, the Hawaii legislature enacted Act 40¹ and made it mandatory that cash, at the rate of time and a half, be paid for all overtime work performed by public employees. Of course, an employee, if he chooses, may elect to take compensatory time off rather than cash. Nevertheless, the thrust of Act 40 is that, unless the employee affirmatively elects otherwise, cash must be paid.

Act 40 is the latest in a series of legislation, dating from 1949, which has provided increasingly liberal overtime premium benefits to public employees. The following chronology of the more important overtime legislation points this out.

1. Act 36, SLH 1949 (the first statute on overtime compensation) authorized

¹See Appendix A, pp. 78 to 82, *infra*, for a complete text of Hawaii's overtime law as it existed before the enactment of Act 40, SLH 1966. See Appendix B, pp. 83 to 85, *infra*, for the text of Act 40, SLH 1966.

one hour of compensatory time off for each hour of overtime work.

2. Act 238, SLH 1959, increased compensatory time off to one and a half hours for each hour of overtime work.
3. Act 7, SSLH 1959, authorized cash payments for overtime, at the rate of time and a half, rather than compensatory time off, if funds were available and the governor approved.
4. Act 164, SLH 1961, provided for cash payment in all cases, if compensatory time off could not be taken within 30 days after the overtime work was performed.
5. Finally, Act 40, SLH 1966, has made cash payment mandatory and automatic, unless the employee elects to take compensatory time off.

Although the premium for overtime has been progressively liberalized, no in-depth study has ever been made of the State's overtime practices. Act 40's mandate for more direct expenditure of cash naturally tends to bring overtime under sharper focus. But, the need for an examination of the State's overtime practices antedates the enactment of Act 40. This report is intended to fill that need.

Focus of Report

At the outset, it should be made clear that this report does not, by any means, advocate the abolition of all overtime. Its complete elimination is neither possible nor necessarily desirable.² Rather this report is premised on the view that overtime can serve a useful purpose in the management of government operations.

²Overtime is sometimes viewed with suspicion--as an evil way of doing business--and its complete removal is often advocated. For example, the state department of taxation's overtime policy states, "The objective of the Department is to eliminate all overtime." The State Department of Taxation's Policy Manual, Adm. I-3R, revised July 8, 1961. We do not believe that overtime, in itself, is necessarily bad. Consider the following: First, by nature of our statute, some overtime is unavoidable. For example, under our statute, all work performed on a holiday must be paid at the overtime premium rate. Thus, all institutions which require around-the-clock operations, such as the State Hospital, will invariably experience overtime. Second, some overtime is not

Unlike that of private enterprise, the success of government is measured not by the "profits" it makes, but by the kind, quality and quantity of service it renders and programs it undertakes for the benefit of the general public. Government seeks to furnish such service and to execute its programs with maximum efficiency and at the least cost. Overtime can help government achieve its missions efficiently and economically.

foreseeable. For instance, an employee may become ill just before it is time for him to report for work. When that happens, an employee on the job may be required to work a few hours longer, and, where work is performed on shifts, an employee on the next shift may be required to report for work a few hours earlier. Third, despite its cost, sometimes overtime is to be preferred. For example, if just a few hours are needed to finish the job out in the fields, it may be more economical to have the employee work overtime than to send him out again for a few hours the next day to finish the job. This is one of the reasons why overtime is incurred in the department of land and natural resources.

On the other hand, because of its innate characteristics (which we examine in chapter 2), overtime can produce the opposite result, if it is imprudently or carelessly used.

One of the responsibilities of the Auditor's Office is to conduct studies to determine how efficiently and economically the State departments are managing their affairs. Since the use of overtime can either add to or detract from that desired efficiency and economy, it is pertinent to examine how often and in what manner it is being employed by the State departments in the discharge of their functions.

Purpose of Report

Specifically, this report examines the State's overtime statute, experiences and practices to: (1) determine the efficacy with which the State's operating departments are presently utilizing overtime in accomplishing the missions of government, (2) assess the

present role of the State staff agencies in the administration of overtime, and (3) recommend corrective actions, both statutory and administrative, by which overtime may become a more effective instrument of government.

Scope and Limitation of Report

This report is the result of our study of the judiciary branch and all departments of the executive branch, including the lieutenant governor's office, but excluding the governor's office and the Act 97 agencies which are performing services under contracts between the State and the counties.

The data gathered for this report are those for the period between July 1, 1964, and March 31, 1966.

The scope of our study did not lend itself to a detailed analysis of each department. The report, therefore, is a treatment of overtime in the State

CHAPTER 2 SOME NECESSARY BACKGROUND

government as a whole. The identification of a specific department is intended for illustrative purposes only.

Organization of Report

Before we turn to an assessment of how well the State departments are utilizing overtime as a management tool, it is essential that we take a look at the factors which prompted our examination of the State's overtime practices. Chapter 2, of this Part I, discusses these factors which form the background against which our study of the departments was conducted.

The direct responsibility for the administration of overtime is in the several operating State departments. The State staff departments--the departments of personnel services, accounting and general services, and budget and finance--by the very nature of their functions do have overview and service responsibilities to insure the proper and uniform administration

of overtime at the operating level. In Part II, chapter 3 is concerned with the responsibility of the operating departments; chapter 4 discusses the role of the State staff departments; and chapter 5 recommends a state-wide information system to assist both the operating and staff departments in the administration of overtime.³

Part III (chapters 6 and 7) constitutes the concluding part of this report. Chapter 6 suggests certain statutory amendments to our State overtime law, and chapter 7 is a summary of our findings and recommendations.

³In this report, unless otherwise clear from the context, the terms "departments" and "operating departments", refer to all State departments, including the judiciary branch. The term, "staff departments", refers to the department of personnel services, the department of budget and finance, and the department of accounting and general services.

We indicated in the opening chapter that the need for a review of the State's overtime practices existed even before the enactment of Act 40. Overtime has at least two natural characteristics: (1) it always increases the direct and indirect costs of operations, and (2) it can adversely influence employees' work habits and mental attitudes. It is because overtime has these innate qualities that a review should be conducted from time to time, particularly when overtime is being incurred with some degree of regularity or frequency.

In this chapter, we first note briefly the statutory framework of this report. We then demonstrate that overtime is being incurred with regularity and frequency in the State government. That showing is followed by a discussion of the impact overtime is having on State's finances and the effects which regular and frequent overtime has on the performance and attitude of government employees.

STATUTORY REFERENCE

All legislation pertaining to overtime are assembled in section 5-72, Revised Laws of Hawaii 1955, as amended. Briefly, the statute, as constituted upon the enactment of Act 40, SLH 1966, defines "overtime" as any hour worked in excess of eight hours per day or 40 hours per week, and work performed on a legal holiday,¹ during an emergency outside of regular, scheduled work hours, on a changed shift without 48 hours' advance notice, or in a spread of more than 10 hours per day, exclusive of mealtime.²

Overtime is compensable either by time off or in cash, except that cash must in all cases be paid unless the

¹See Attorney General's Opinion No. 62-42.

²Attorney General's Opinion No. 64-30 deals in part with overtime on a split shift.

employee concerned elects to take time off. Compensatory time off, when elected, is at the rate of one and one-half hours for each hour of overtime work. Cash, when paid, is for an employee in salary ranges 2 to 16, at the rate of one and one-half times his regular rate of pay, and, for an employee in salary ranges 17 to 28, at the rate of one and one-half times the minimum rate of pay of salary range 17.

All public employees, whose pay is established under chapter 4 of the Revised Laws, are governed by section 5-72, except (1) elected officials; (2) the head of any department, first deputy or first assistant; and (3) officers and employees in salary ranges 29, 30 and 31.

The overtime law is administered, in practice, by various departments. The department of personnel services, as a State central, staff agency, is required by statute to establish rules and regulations of statewide applicability.

The department of budget and finance passes on all budgetary requests for funds to pay for overtime, if and when the various departments submit such requests. Each department, as an operating agency, decides for itself whether or not overtime work is to be performed, and each department schedules leave time when compensatory time off is elected. Claims for cash payment are prepared by each department, and actual payment is made through the department of accounting and general services.

REGULARITY AND FREQUENCY OF OVERTIME IN THE STATE GOVERNMENT

The employees in the 18 executive departments and the judiciary branch of our government worked 168,000 overtime hours in fiscal year 1964-65,³ and 127,000 extra hours during the first nine months of fiscal year 1965-66.⁴

^{3,4}Both the figures 168,000 and 127,000 are approximations only. As indicated in chapter 3, overtime records are so poorly kept that it is impossible to secure any precise figure on the State's total overtime hours.

Converted to time and a half, these extra hours are equivalent to a work force of 151 employees working eight hours per day for a full year.⁵

Of the 19 State departments, not more than six had less than 1,000 overtime hours in either fiscal year--the departments of defense, lieutenant governor, regulatory agencies, attorney general, Hawaiian homes, and planning and economic development. The departments of health, social services and transportation each had more than 10,000 overtime hours in both fiscal years. All other State departments incurred anywhere from 1,500 to 10,000 extra hours of work in each fiscal year.⁶

⁵There are approximately 260 working days in a year. If we subtract 52 days for vacation, sick leaves and holidays, there remain approximately 208 effective working days. Multiply 208 by 8 hours per day, and the result is 1,664 effective working hours in a year per employee. The 168,000 extra hours

The experience in both fiscal years shows that overtime in each department is frequent (that is, occurring every month, at nearly the same rate, throughout the fiscal year) or regular (that is, occurring at regular intervals at certain times during each fiscal year), or both. It is frequent in nine departments--the departments of agriculture, education, Hawaiian homes, judiciary, labor, land, personnel services, regulatory agencies and transportation. For example, the department of agriculture maintained a fairly consistent average of 550 overtime hours per month in fiscal year 1964-65 and 400 hours per month in fiscal year 1965-66; and the department of personnel services had about 140 extra hours each month in fiscal year 1964-65 and 154 hours each month in fiscal year 1965-66.

converted to time and a half equal 252,000 hours. 252,000 divided by 1,664 equals 151.4.

⁶See appendix D, p. 96, *infra*, for overtime totals by departments for fiscal years 1964-65 and 1965-66.

Overtime is frequent in seven other departments; but each of these departments also experience additional hours of overtime regularly at certain times during each fiscal year. These seven departments and their moments of increased overtime hours are: the department of accounting and general services, which incurs additional hours regularly in the months of December, January, May and June; the department of planning and economic development, which experiences additional hours regularly during the months of January and February; the university of Hawaii, which has added overtime during the semester registration months of September, February and June; the department of taxation which has increased hours in the months of February and March of each year; and the departments of defense, health, and social services, which incur extra hours of work in every month that contains a State holiday.

Two departments do not incur overtime with frequency, but do experience it

regularly at certain times during each fiscal year. The department of budget and finance incurs overtime in the months of October to May of each year; and the office of the lieutenant governor works overtime during the months of August, September, October and November of each election year. Overtime in the department of the attorney general is sporadic and minimal.

DIRECT COST OF OVERTIME

All overtime adds to the direct cost of production. Overtime increases the output cost, not simply because additional hours of work must be paid for, but because the additional hours must be paid for at a premium--at one and one-half times the regular, hourly rate. Just how much overtime is adding to the direct cost of operating the State government is indicated in the following paragraphs.

1. Fiscal year 1965. The average, regular, hourly rate of pay of all

employees who worked overtime in fiscal year 1964-65 was \$2.71.⁷ The average, premium rate for overtime was, therefore, $1\frac{1}{2} \times \$2.71$, or \$4.07 per hour. At this premium rate, the 168,000 overtime hours worked in the fiscal year cost the State approximately \$684,000, thus:

168,000 overtime hours
@ \$4.07 per hour = \$683,760.

2. Fiscal year 1966.⁸ In fiscal year 1965-66, the total overtime hours were substantially the same--perhaps slightly more--as in fiscal year 1965, and fairly evenly distributed between the two halves of the year. The employees

⁷This figure may vary a few pennies plus or minus. It is, however, as accurate a figure as we can secure from available data.

⁸At the time of our examination, the year-end, total overtime hours and the cash expended for overtime earned in fiscal year 1966 were not available. In the first place, our study was limited to the period July 1, 1964, to March 31, 1966. In the second place

who performed extra hours of work in the fiscal year were generally the same ones who worked overtime in the prior year. But, because of the normal incremental step increases provided by section 4-9, RLH 1955, as amended, and the incremental and general pay increases granted to public employees by Act 223, SLH 1965,⁹ the average, regular hourly rate of pay of these employees was \$2.78 during the first half and \$2.98 during the second half of the year. Based on this rate of pay, the direct cost of overtime in fiscal year 1966 was at least \$726,000, thus:

even if our study covered to the end of June 30, 1966, we would not necessarily have the figures available, inasmuch as overtime records are not accurately kept and overtime claims are often made after the close of a fiscal year. (See our comments contained in chapter 3.) It was, therefore, necessary for us to estimate the cost for fiscal year 1966. The estimate, of course, contains certain assumptions. These assumptions are explained fully in Appendix E, pp. 97 to 101, infra.

First half of fiscal year:

84,000 overtime hours
@ \$4.17 per hour
(1½ x \$2.78) = \$350,280

Second half of fiscal year:

84,000 overtime hours
@ \$4.47 per hour
(1½ x \$2.98) = 375,480
\$725,760

3. Fiscal year 1967. We estimate that in fiscal year 1966-67, the direct cost of overtime to the State will be at least \$810,000. We are unable to foresee or even approximate the total overtime hours which will be incurred in the year. But, based on the experiences of fiscal years 1965 and 1966, it is expected that overtime will total at least 168,000 hours--the same as in fiscal year 1965.⁹ The regular, hourly rate of pay of the employees working overtime will, however, increase, to an average

⁹See Appendix E, pp. 97 to 101, infra, for an explanation of this assumption.

of \$3.21, because some of the employees will enjoy an incremental step increase at various times during the year under section 4-9, RLH 1955, as amended.¹⁰

The estimated cost is calculated thus:

168,000 overtime hours
@ \$4.82 per hour
(1½ x \$3.21) = \$809,760.

Of course, holiday premium pay will constitute a portion of the \$810,000. However, holiday work accounts for not more than 25 percent of the State's total overtime cost. Thus, more than \$600,000 will be needed in fiscal year

¹⁰Under section 4-9, RLH 1955, as amended, the incremental step increase is 5%. However, because not all of the employees will be entitled to such increase during fiscal year 1967, and because those employees entitled to the increase will receive it at various times during the year, the \$3.21 was calculated on the basis of an average 2% increase in increment. See Appendix E, pp. 97 to 101, infra.

1967 to pay for all overtime, other than those caused by work on holidays.¹¹

The following observations are pertinent with respect to the estimated cost for fiscal year 1967: (a) the estimate is a conservative one and is only the minimum, anticipated cost to the State; and (b) the estimate reflects only the premium cost of overtime. There are other direct, overtime costs, such as the cost of extra bookkeeping, overhead and payroll taxes, the examination of which is beyond the scope of our study.

¹¹Act 40, SLH 1966, appropriated \$100,000 to meet the anticipated demand for more cash to pay for overtime in fiscal year 1967. The demand was anticipated in the light of the act's mandate for the payment of cash for all overtime, unless the employee elects to take time off. \$100,000 is, of course, much less than the estimated cost of \$810,000, and the departments will necessarily have to resort to "departmental savings" to meet overtime cash payment needs. \$100,000 was selected

INDIRECT COSTS OF OVERTIME

Overtime not only increases the direct cost of production, but it results in added indirect costs as well. Unlike the direct costs, however, indirect costs are difficult to measure. Nevertheless, the fact that indirect costs do increase whenever overtime is incurred is accepted as a natural consequence of overtime by those in the field of personnel administration.

Additional, indirect costs result because overtime disproportionately increases the cost of output. The premium for each hour of overtime work

arbitrarily by the State legislature, since none of the departments could supply statistical data to show how much overtime would cost the State. The departments have been unable to supply such statistical data because of their inadequate record-keeping system. The lack of adequate overtime records is discussed in chapters 3 and 4. The wisdom of using "departmental savings" to pay for overtime is discussed in chapter 4.

consists of the employee's regular, hourly rate, plus 50 percent. Theoretically, the 50 percent increase in the rate of pay should increase the cost of production by 50 percent. But, this would be true, only if the same productivity rate is maintained during an overtime hour as in a regular hour. In practice, an overtime hour does not produce the same amount as a regular hour. Thus, in fact, the additional cost of production is more than 50 percent.

Studies conducted in private industries reveal, for example,¹² that by increasing working hours 20 percent--from 40 to 48 hours--you do not get a 20 percent increase in production. More likely, the increase is 18 percent. In other words, the eight overtime hours will not result in production equal to that of eight regular time hours; rather, the

¹²Example is taken from Malley, "Overtime or More Help? - A Check List of Factors to Consider." 42 N.A.A. Bulletin 53, 55 (October, 1960).

eight overtime hours are likely to be equal in production to 7.2 regular time hours. Since the eight overtime hours must be paid for at a rate equal to 12 hours at straight time in order to get about 7.2 hours more productivity, this means that a premium of 67 percent is being paid to get this extra output. This is illustrated in the following example (at a straight hourly rate of \$2.00):

8 hours overtime		
@ \$3.00	\$24.00 paid	
Output (90% of 8)		
7.2 hours @ \$2.00	<u>14.40</u> earned	
	\$ 9.60 excess	
	\$9.60 + \$14.40 = 67%	

There are several reasons which account for this decrease in productivity during overtime hours. One of these is that additional hours of work cause mental and physical fatigue. Fatigue leads to inefficiency and inefficiency breeds errors. In one experiment,¹³ overtime

¹³Illustration is taken from "How Overtime Pads your Costs," 7 Supervisory Management 24, 25 (September, 1962).

workdays were alternated with normal workdays. Errors in employees' work rose from an average of about .7 percent for a normal workday to an average of more than 1.5 for each hour of overtime.

Not only does output costs increase during overtime hours, but if overtime is incurred regularly, frequently or continuously, the output costs during regular working hours may increase also. This is because when an employee becomes accustomed to overtime earnings, he may, consciously or unconsciously, tend to slow-down, stretch-out or "make work" when he notices that the production-load is diminishing.

EMPLOYEE'S EXPECTATION OF ADDED COMPENSATION

There is some uneasiness among the State departments that overtime is being incurred with such regularity and frequency that it has become an accepted practice and that employees are beginning to expect it and to consider over-

time pay as a part of their normal and regular compensation. Employees in some of our State departments have been known to turn down new job offers, because the offers were less than their regular pay, plus overtime pay.

Yet, premium pay for overtime was never meant to be a part of the regular wage structure nor to increase the total, regular earnings of the worker. Historically, premium pay for overtime gained emphasis as a result of the federal Fair Labor Standards Act of 1938. The act mandated all industries in interstate commerce, to pay time and a half for all work performed beyond 40 hours per week. The initial intent of this legislation was not to increase the earnings of the worker, but, born in the days of the depression of the 1930's, it was intended to reduce the work week and thereby spread the opportunity for employment. Overtime premium pay for government workers came about as a direct result of the increasing practice in private industry of paying premiums.

**PART II
ADMINISTRATION OF OVERTIME IN THE
STATE GOVERNMENT AND SOME
RECOMMENDATIONS FOR IMPROVEMENT
CHAPTER 3
DEPARTMENTAL ADMINISTRATION OF
OVERTIME**

While the validity of the theory underlying the Fair Labor Standards Act can and has been argued, it should be clearly understood that overtime pay was not intended to be, and is not now intended to be a part of the regular income of the workers. The prime purpose of overtime compensation is still to discourage work in excess of the normal work week.

POSTSCRIPT

That overtime is being incurred regularly and frequently in our State government, that it is costing us money, and that it harbors potentially undesirable effects, by themselves, do not justify any sweeping conclusion that the State government is not utilizing overtime properly. Nor do they suggest the opposite conclusion that overtime is being properly used to aid the State in achieving its missions efficiently and economically. Neither conclusion can be reached without an examination of the State's practices in administering overtime. The remainder

of this report is devoted to such an examination.

Whether or not overtime should be incurred is a decision which is made by each department at the operating level of government. The operating departments, therefore, have the direct and primary responsibility for the proper administration of overtime.

Each department has certain specific tasks which it must fulfill. The emphasis in each department, as an organizational unit, is on production. This stress on production requires management to reach out for those means which will aid the agency in getting its job done. Overtime offers one of those means. The extra hours provide the added man-hours needed to get the work out. But, because of overtime's natural characteristics, management's responsibility with respect to overtime neither begins nor ends with a mere stamp of approval to permit the agency's employees to work extra hours.

We believe that management's responsibility toward overtime is wider in scope. Management has at least three distinct

duties: to authorize, to supervise, and to review. Each of these, because one follows the other, may be viewed as a distinct phase in the entire overtime process. In this chapter, we discuss these duties, examine how well the operating departments are performing each, and, where required, recommend improvements in the discharge of each of them.

AUTHORIZATION

Except for overtime due to holiday work at institutions whose functions require 24-hour operations, each instance of overtime arises as a result of management's authorization. The decision to authorize overtime is generally made in the context of the "need (whether real or not) for more man-hours to get the job done." When management is faced with many problems, all pressing for solutions at the same time, the need appears real enough and overtime is an expedient means of disposing of at least this one knotty problem. However,

because overtime is not without its consequences, financial and otherwise, the decision to authorize extra hours of work ought to be a deliberate, rather than an expedient one.

Generally, the pressures under which management must make its decision on overtime do not allow for sophisticated research. Nevertheless, for the decision authorizing overtime to be sound, it is incumbent upon management to ask itself and consider, however briefly, the following questions.

(1) Is the need real? Can the deadline be postponed? Can the deadlines for other tasks the employee is required to perform be postponed to accommodate the need to get this particular work done?

(2) What are the skills required to get this job done? Can other employees in the section or department performing less essential work be used to finish this job?

(3) If additional man-hours must necessarily be incurred, is overtime the most efficient and the cheapest way of providing those additional man-hours? Is it cheaper to hire temporary help or to contract the work out? What funds are available to pay for overtime, to hire outside help or to contract the work out?

These questions suggest that there are alternatives, other than overtime, in getting the job done. It is not our purpose to evaluate the comparative advantages and disadvantages of the various alternatives. It is enough that we note that alternatives are available. Our purpose here is to determine to what extent, if at all, the various departments consider overtime as but one of several alternative means of accomplishing their tasks.

We find that management at the operating level generally authorizes overtime as a matter of expediency, rather than as a

result of a deliberate consideration of the alternatives and all relevant factors. This expedient use of overtime is perhaps best summed up in the comment made by the department of accounting and general services in response to our questionnaire. It candidly explained that it authorizes overtime "when money is available and work needs to be done." The department of accounting and general services is not alone in making "availability of funds" the primary criterion for management's decision to authorize or not authorize overtime. A memorandum issued by the assistant superintendent for personnel in the department of education, dated March 21, 1966, contains this passage:

"Due to the lack of funds for overtime payments, authorization for overtime work will be granted only upon special permission and prior approval as per my memo to branch officers dated February 14, 1966."

The February 14, 1966, memo, referred to by the assistant superintendent, states as follows:

"Having been advised that funds are becoming very tight, I am therefore directing that no overtime be permitted in this division until further notice. If there is an area wherein overtime is critically needed, you are to discuss this with me before permitting overtime."

The overtime policy of the department of regulatory agencies, dated August 15, 1961, and reiterated on March 13, 1964, states:

"Because each of our appropriations did not provide funds for overtime pay, the Treasurer will not authorize any payments of cash for overtime work unless extenuating circumstances warrant."

"Availability of funds" is certainly a factor to consider. However, it does not, by itself, determine whether overtime is the best solution. Moreover, since overtime is intended as a temporary measure to tide the department over in a workload pinch, it ought to occur but sporadically and should be authorized in all cases, even if funds are available, only when it is "critically

needed" or when "extenuating circumstances warrant."

That the departments consider overtime as an expedient device is further demonstrated by the informal manner in which it is authorized:

1. Except for the departments of agriculture, budget and finance, health, and regulatory agencies, no department requires, as a matter of department policy, prior written authorization to incur overtime. Overtime is permitted generally on the basis of "Come in tomorrow (Saturday)" or "Stay a few hours later today." Where prior written authorization is required as a matter of department policy, the policy is often violated, if not intentionally, at least in spirit. The department of budget and finance, for example, authorizes overtime "until further notice." Except in emergency cases, which threaten human life or property, the apparent need for overtime lends itself to prior management deliberation.

2. In some departments, the determination of whether or not overtime should be incurred is left to the employee himself. For example, in the department of education's Honolulu district office, the secretary herself determines whether or not she will work overtime. Self-determination does not permit independent judgment as to the "need" for overtime or to the selection of overtime in lieu of other alternatives. Such practice, moreover, amounts to an abdication by management of its responsibility to control and to make decisions on the expenditure of public funds.

Of course, for the departments to consider all alternatives, when pressures are demanding a quick decision, it is necessary that all relevant data on each of the alternatives be readily available. It is incumbent upon management to accumulate and store such data before pressures for more man-hours arise. Some data, such as the per hour cost of outside hires, can be secured at any time. Other data,

such as the relative importance of the various tasks which the departments must perform, arise as a result of management's review of the department's overtime experience.

Recommendations

We believe that unnecessary overtime can be greatly minimized if the various State departments would consider overtime as something more than an expedient device.

1. We, therefore, recommend that each State department authorize overtime only after a careful evaluation of the "necessity" for extra hours of work and full consideration of all possible alternative means of accomplishing its tasks.

2. To foster such careful evaluation and full consideration, we further recommend that each department require the prior written authorization of a superior officer before any overtime

work is performed by an employee, except in cases of emergency which threaten human life or property.

SUPERVISION

Overtime, when authorized, requires management control to insure that only that overtime which has been specifically authorized is performed; that it is performed properly; that the overtime produces the expected results; that overtime is properly compensated for; and that compensation is paid only for the overtime actually performed and only to the employee who has performed the extra hours of work. At present, none of the State departments exercises that needed control. This lack of control is evident in (1) the departments' inadequate maintenance of overtime records, and (2) the departments' undesirable and informal practices.

1. Inadequate maintenance of overtime records. Adequate control requires adequate records. Without the right

kind of records, management cannot render that supervision which is needed to insure proper performance of and payment for overtime. Currently, the state of the records of each State department is such that it is impossible to determine, at any given moment, or for any given month or period, for the organizational unit as a whole and for each employee, the hours of overtime actually worked, the hours paid for in cash, the hours paid for by compensatory time off and the hours still unpaid.

The following are specific deficiencies in the departments' maintenance of overtime records.

1. The departments have no system of reporting and recording. More than one-half of all State departments acknowledged, in response to our questionnaire, that they have no system of any kind for recording overtime. Those departments which responded that they do have a system, in fact, maintain records which are incomplete and fall far short of the minimum needed for supervision.

- Not all overtime is recorded as it is authorized and performed. The departments authorize overtime informally and verbally. Prior written authorization is hardly ever issued. In addition, no written record is kept as overtime is performed. Thus, management is unable to render any running account of how much overtime is being authorized or performed.
- Compensatory time off, when taken, is not always recorded. In response to our inquiry, all but five departments¹ admitted that they do not record in writing all instances of compensatory time off. Management thus lacks proof of payment for overtime when claimed by an employee.
- Cash payment records consist simply of carbon copies of the department of accounting and general services' "Time Sheet", (DAGS-29 form). All claims for cash payment for overtime performed must be submitted to the department of accounting and general services on the DAGS-29 form.^{1a} The form is essentially a claims form and is intended to assure mathematical

¹The departments of agriculture, budget and finance, Hawaiian homes, regulatory agencies and lieutenant governor.

^{1a}See Appendix G, p. 106, infra, for a copy of DAGS-29 form.

accuracy in the overtime premium calculation; it does not assure the correctness or propriety of the overtime hours.

Records, where kept, are maintained in a messy and shoddy manner. If records are kept, they reflect only the compensatory time off taken and cash paid for overtime. But, these records consist primarily of voluminous stacks of loose sheets of paper and cards, including the carbon copies of the DAGS-29 forms. A single sheet is for a single employee, and it sometimes notes only one instance of overtime; at other times, it notes several instances of overtime. There may be as many as 10 sheets for a single employee for 10 different instances of overtime occurring within a month. By the same token, there may be a single sheet for an employee for several instances of overtime worked over a period of several months, sometimes extending into the prior fiscal year. The number of sheets maintained for each employee depends on how often the employee files a claim for compensatory time off or cash payment. None of the departments has summarized any of the data by employee, month or other time period, or sought to maintain a running account of the department's overtime experience.

The foregoing inadequacies in the maintenance of overtime records were

the principal reason why we were not able to present in chapter 2, a precise figure on the State's overtime experience for fiscal years 1965 and 1966. First, since there is no running record of authorized overtime, overtime performed, and the hours remaining unpaid for any time period, it was necessary for us to rely upon the incomplete time-off records and the DAGS-29 cash payment claim forms and estimate therefrom the total overtime hours for both fiscal years. Second, we had to take each sheet of overtime claim, segregate the information contained on each sheet by employee, month and hours, and aggregate the totals by those categories in order to approximate the hours of overtime actually performed during each month of fiscal years 1965 and 1966.

2. Informal practices. The departments have further dissipated their power of control by the following informal and undesirable practices.

Employees are permitted to maintain their own records of overtime work performed. Employees in the several departments keep their own records of overtime. Claims for payment are submitted on the basis of the employees' personal records. In the absence of an official departmental record as to exactly what overtime work has been actually performed, there is no way in which the department heads are able to check the veracity of the claims.

The departments grant time off in an informal fashion. Time off is often permitted by the departments on an informal basis. "Report to work late tomorrow, since you worked late today," is one of the ways in which time off is granted. Such informal method does not permit later evaluation of whether or not overtime has in fact been paid by time off.

Records, when kept, are destroyed too soon. In some departments, time-off records are destroyed almost as soon as commitments are met. Thus, at Hale Mohalu, the time-off records for the nursing section for fiscal year 1964-65 had been destroyed as early as May, 1966, when we first attempted to secure the institution's overtime records.

Filing and payment of claims are often delayed. The departments permit claims for overtime compensation to be filed many months after the over-

time work is performed. For example, employees in the department of education's personnel division were paid cash on July 31, 1964, for overtime work performed over a period of several months, dating as far back as June, 1963--a period of slightly over one year. The State Hospital has made cash payments as late as four months after the performance of overtime.² There are inherent dangers in allowing late filing of claims. Chances of committing errors, or receiving fraudulent claims, and of disagreements arising between management and the employee become proportionately greater as the time period between overtime work and the filing of claims is lengthened. This is especially so where management keeps no official record of overtime and the employee submits a claim based on his own personal record. Although Act 40, SLH 1965, requires that all cash for overtime be paid within 45 days, it does not, by its terms, provide for

²One of the reasons for these late payments was the lack of available cash. Just as availability of cash should not be the primary criterion upon which management should make its decision to permit or not permit overtime, it should not be the determinant as to when the employee should be paid for overtime work performed. In this connection, see our comments in chapter 5 on the need for budgeting for overtime.

the forfeiture of the right to cash or time off, if overtime is not actually paid within the 45 days. Thus, unless management insists on prompt filing of claims, an employee will not be precluded from filing a claim for cash payment or time off after the 45 days have elapsed.

Employees are allowed to borrow overtime credits from each other. Overtime credits accrue to the employee who earns them. Like vacation and sick leave credits, overtime credits are personal to the employee. Yet, in the department of the attorney general, the borrowing of overtime credits by those without from those with, for the purpose of taking time off from work, is practiced by the employees. This is not proper. We do not permit an exchange of vacation or sick leave credits among employees. Likewise, there is no justification for the exchange of overtime credits. Such practices add to the burdens and cost of maintaining full and accurate overtime records.

The departments permit informal waivers of legitimately earned overtime. Employees in various departments often work overtime without being compensated for it, either in cash or by time off. Sometimes, employees expressly waive their overtime hours, even though the hours are properly

recorded. For example, two employees in the department of agriculture waived over 300 hours of recorded overtime, because of insufficient funds and the inability of the department to schedule time off. In other instances, overtime is impliedly waived by simply failing to ask for overtime credits. Whether express or implied, waivers are often made informally, and no written records are maintained of such waiver. The fact that employees waive overtime is highly commendable. However, both express and implied waivers of overtime have occurred because of the assumption on the part of the employees that the department did not have sufficient funds to pay for overtime and the "inability", due to heavy work load, to take time off. Under Act 40, the determination of whether overtime should be paid for in cash or by time off is no longer to be made by management, as was the case prior to the enactment of the act. Act 40 vests the right of election to take cash or time off in the employee. This means that there is likely to be less and less waiver of overtime credits by employees. This, in turn, means that informal waivers of overtime will no longer suffice. If management is to retain control of overtime compensation, all waivers, whether express or implied, should be in writing.

Recommendations

We recommend that each department

1. establish a system of reporting and recording overtime so that an official written record may be kept of all overtime authorized, performed, compensated for, and not yet paid for;
2. as part of the system, summarize the department's overtime data by months, sections or units, and employees;
3. discontinue its practices of informally granting time off, relying on employees' records of overtime work performed, destroying records without maintaining them for a reasonable length of time, permitting late filing and payment of claims, permitting employees to exchange overtime credits and permitting informal waivers of overtime credits.

REVIEW

The third and last phase of the overtime cycle is review. Management must

periodically conduct a review of the department's overtime situation, if overtime is to be an effective instrument of management. Specific ends which are sought by the review process are (1) to identify and to solve, where possible, the underlying causes which give rise to the need for overtime, and (2) to accumulate the data needed to enable management to make rational, rather than expedient, decisions in authorizing future overtime.

1. Review to identify and solve underlying causes. Repeated overtime is often a symptom of some organizational or procedural defect. It may indicate an imbalance between organization and functions, or man-hours and work load, or methods and volume of work; sometimes, the shortcoming is in the failure properly to combine the resources--men, machines and material--to turn out the desired product or service as expected.³

³"Ten Ways to Save Overtime," 29 American Business 40 (September, 1959); Potter, "The Use and Abuse of Overtime," 27 Supervision 4 (September 6, 1965).

An identification of such underlying deficiencies and prompt action to correct them will keep pressures for overtime from building up.

While the necessity for review is clear, apparently, no State department ever seriously carries out this responsibility. Once overtime is performed, the cycle stops. Our attempt to determine the reason for this lack of review by the departments elicited the following kinds of replies. One department's view was that it couldn't keep up with its work load "to be bothered with evaluation." Another department simply stated that no evaluation was necessary because the reasons for overtime are "obvious." Some underlying causes are, indeed, obvious, and some departments have identified the basic problems. However, the review process seeks not only to identify the underlying problems, but also to find ways to alleviate them. In our opinion, the chief reason why the departments do not make a systematic review of their overtime experiences is that they are ill-equipped to do so.

This is not surprising, since the departments fail to maintain adequate records upon which a review can be conducted. The review process requires a record of overtime by sections, units, time, and employee, among other data.

In the absence of review, the departments have sought to justify, rather than analyze, their overtime hours. Thus, work load increase, deadlines, seasonal and cyclical demands, new programs and special projects are among the reasons cited over and over again by the departments.⁴ For example, the department of education blames overtime on increased work load, brought about as a result of the need to adjust teachers' pay to the new salary schedule and to implement new programs mandated by the legislature; the department of budget and finance maintains that it needs to work overtime to work on the administration's

⁴A summary of the causes cited by the departments for overtime is contained in Appendix F, pp. 102 to 105, infra.

annual operating budget; the department of taxation alleges that overtime is needed during the annual income tax processing season; the University of Hawaii says that overtime is required during semester registrations; and every department belabors the point that it needs overtime in the months of August to November to prepare the department's budget for submission to the State budget office.

Program expansions and additions, cyclical and seasonal needs, special projects and reports, and deadlines do sometimes require additional man-hours. But, legislatively-mandated increases in work load are normally accompanied by authorizations to increase staff, and the amount of work needed to complete special projects and to meet deadlines and cyclical and seasonal work loads is frequently predictable. This means that overtime cannot always be attributed to these apparent or superficial causes.

2. Some underlying causes of overtime and suggested actions. An in-depth

analysis of a department's overtime experience may well lead to any number and kinds of underlying problems. The following are among the kinds of organizational and procedural deficiencies which a review can suggest. The identification of the basic problems generally indicates the action needed to correct the deficiency. The listing, of course, is primarily illustrative, although the examples reflect the overtime situations as they currently exist in the State departments.

a. Unequal distribution of work. Where overtime occurs with frequency and it is centered in one or a handful of employees, the equality of distribution of work is immediately suspect. In the department of education's personnel office, for example, a small group of employees has a history of overtime occurring almost daily for two years or more. One of these employees earned at least 566 hours of overtime in fiscal year 1965 and 1,224 hours in fiscal year 1966. These hours were accumulated by working early in the morning, staying after 4:30 p.m., and

working at nights and on week-ends and holidays. For this overtime, the department's justification is increased work load and backlog. A closer examination reveals that this small group of employees is carrying more than its share of work. As compared to this group of employees, there is an apparent lack or disproportionate amount of overtime hours earned by other employees in the personnel office. When a group of employees in a section or unit work extra hours consistently, while others do not, the distribution of work among all of the employees in that section or unit should be thoroughly examined for inequity in work load.

b. Inadequate scheduling of work. Overtime is sometimes justified on the ground that the nature of the work required to be performed entails work at odd hours, in the evenings and on Saturdays, Sundays and holidays. This is particularly true with respect to employees whose duties are essentially those of inspections and investigations, which must, by necessity, be performed

from time to time after hours and on Saturdays, Sundays and holidays. Thus, overtime is earned by meat, commodities and plant quarantine inspectors in the department of agriculture, by fish and game wardens in the department of land and natural resources, and by inspectors and investigators in the department of regulatory agencies. In addition, harbor pilots in the department of transportation work overtime when ships arrive at hours other than the normal working hours; employees of the Youth Opportunity Center work with children at all hours and on week-ends; and the University of Hawaii bookstore is open in the evenings to care for the needs of students enrolled in the College of General Studies.

One of the faults which underlie overtime performed by employees whose duties require work at odd hours or at odd times, is inadequate scheduling of work. Part III of chapter 5, RLH 1955, as amended, specifies that State offices shall be open during the hours between 7:45 a.m. and 4:30 p.m., but it does not delineate those hours as the regular

working hours for all State employees. Further, it does not mandate a Monday to Friday work-week for all employees. In addition, section 5-72(c) provides:

"The limitation of eight hours of work a day or forty hours a week may be waived for the convenience of employees by an agreement between a majority of a group of officers or employees and the head of that agency in which they are employed. Such an agreement shall be cancelled or amended whenever a majority of the group wish to cancel or amend it."

These statutory provisions permit a department some flexibility in scheduling the hours of work of its employees. They should be used whenever the work requirements of the department suggest that their use will help alleviate the need for overtime.

We are aware that re-scheduling of work and staggering hours of work are not always possible. But, the departments of agriculture, land and natural resources and regulatory agencies admit that proper work scheduling is one of

their problems. They have made some limited attempts to re-schedule the work of the inspectors and investigators. For example, the department of regulatory agencies has staggered the hours of work of its inspectors and investigators to cover work needed on Saturdays, and the department of land and natural resources has handled work load and overtime by fish and game wardens through informal arrangements.

c. Lack of advanced planning or inadequate planning. The need for a certain type of work at a certain time each fiscal year occurs in many departments. For example, the department of accounting and general services closes its general fund accounts at the end of each quarter and at the end of the fiscal year; the department of budget and finance prepares the administration's proposed operating budget at the end of each calendar year, just prior to the opening of the legislative session; the University of Hawaii conducts registrations at the beginning of the fall, summer and spring semesters;

every department's business office processes payrolls twice a month, submits departmental summaries and allotment requests every quarter, and prepares the department's budget in the months of August to November of each year for submission to the State budget office; and nearly every department has staff or board meetings periodically.

These cyclical and seasonal needs are known in advance. The work required is generally a part of the normal functions and duties of the departments. Understandably, at times, additional man-hours may be needed at cyclical and seasonal peaks. However, when overtime occurs with regularity at each cycle and season, the underlying cause may be traced to a lack of adequate, advance planning. Advance planning includes estimating the man-hours which will be required to do the work which comes in cycles, beginning the cycle or season on a date sufficiently in advance, taking stock of other work needs and setting priorities for work which must be done, arranging for

temporary hires where it appears such hires will be more economical than the incurrence of overtime by regular employees, and simplifying work procedures.

That, with advanced planning, overtime can be kept to a minimum even if work is cyclical or seasonal in nature is exemplified by the experience of the department of taxation. That department has cyclical demands during tax filing periods and when real property assessment notices are mailed out twice a year. Yet, that department has one of the lowest overtime hour records among the State departments.

Sometimes the problem lies not so much in the lack of planning, but in the lack of adequate planning. Inadequacies in planning arise when man-hours are grossly under- or over-estimated, work load is improperly forecast, relative importance of various tasks or various phases of work are misjudged. In the highway design section of the department of transportation, for example, in fiscal year

1964-65, 25 percent of the time was spent on design revisions. Some of the revisions were required because bids on projects went beyond expectation. Other revisions occurred because physical changes to proposed land areas for highway routes took place after the design plans had been completed. We do not intimate that all design revisions can be eliminated. We do suggest, however, that better planning controls should be exercised to reduce, as much as possible, the frequency with which designs are revised.

d. Duplicating work or performing non-essential work. Overtime often occurs because employees are required to perform unnecessary or duplicating work. Earlier, we mentioned that continuous overtime, lasting for more than two years, is being experienced in the department of education's personnel section. Our analysis shows that much of the overtime is spent by the employees in the transaction section of the personnel division in checking on the "length-of-service" data of teachers for payroll purposes. This work is

a duplication of the work already performed by the certification section of the personnel division.

Sometimes, extra hours are unnecessarily worked because of faulty internal procedures. In September, 1965, the employees in the transaction section of the department of education's personnel division worked overtime filling out the department of accounting and general services form, known as "Form 5". Form 5's are required in establishing teachers' pay. Data needed to verify the experience and educational background of newly-hired teachers were late in arriving from universities and colleges and other school districts. Because of the lateness in the arrival of the data, the department of accounting and general services had informally waived the need for the filing of Form 5's for the purposes of the September payroll. Nevertheless, the employees in the transaction section worked overtime filling out the Form 5's for the September payroll. Such overtime work was, of course, under the circumstances, unnecessary. It appears

that the payroll section of the business office of the department of education had failed to notify the transaction section of the personnel division of the informal waiver granted by the department of accounting and general services. Such slip in communication points to the need for better procedure.

e. Vacancies. Vacancies contribute to overtime. The work load which would normally be assumed by employees in those positions must necessarily be spread among the existing personnel who are already burdened with full work load of their own. Long-standing vacancies are one of the major causes of overtime in the department of transportation and at the State Hospital.

At the department of transportation, the highway design section, which accounts for 25 percent of the department's overtime hours, had, at the time of our examination, 10 professional engineer and draftsman positions vacant. These

positions constituted 18.5 percent of the 54 authorized positions.⁵

At the State Hospital, the nursing section, which accounts for approximately 70 percent of the hospital's overtime hours, averages 12 vacancies a month. The hospital as a whole experienced a monthly vacancy rate of about 10 percent during the period between July 1965, and April 1966.

Other State departments experience vacancies. While the vacancies may not constitute the major cause of overtime in these departments, they do contribute to the total overtime hours. For example: the vacancy in the project

⁵The seriousness of the vacancies in the highway design section is illustrated by this comparative figure between man-days required and man-days available in the section during fiscal year 1964-65. For the entire fiscal year, 11,000 man-days were available, whereas just for a six-month period between January 1, 1965, to June 30, 1965, 10,900 man-days were required. The requirement, of course, was made up, in part, by overtime.

manager's position in the department of Hawaiian home lands is said to have caused some overtime; the Youth Opportunity Center has had three of the 29 authorized positions vacant for some time; and the University of Hawaii Computer Center has not been able to fill a third-shift position since August, 1965, causing the second-shift supervisor to work 25 to 30 hours overtime per month to make up for the loss.

Vacancies are to be expected from time to time, and we do not imply that every vacancy must be filled. However, positions in critical program areas, which, if left vacant, result in continuous overtime, should not be permitted to remain unfilled for extended periods of time. Yet, the filling of vacancies in these critical program areas are sometimes unnecessarily delayed. The following are examples of this delay.

The vacancies in the 10 professional positions in the highway design section of the department of transportation had been vacant, at the time of our examination, for the following time periods:

<u>Position</u>	<u>Months Position Remained Unfilled</u>
Civil Engineer III	14
Civil Engineer II	17
Civil Engineer I	18
Civil Engineer I	21
Civil Engineer I	11
Engineering Draftsman II	5
Engineering Draftsman I	22
Engineering Draftsman I	1
Draftsman	14
Draftsman	16

The failure to fill these positions with reasonable speed has been due, in part, to the following, time-consuming procedure required by the department of transportation to fill a vacancy: (a) staff study; (b) approval by the department head; (c) submission of request by the department to the department of budget and finance under the manpower control procedure of the State; (d) approval under the manpower control procedure; (e) preparation of the eligible register; (f) interview of eligible candidates by the department of transportation's evaluation board; (g) selection of the employee. The average time spent in these steps is as follows:

<u>Step</u>	<u>Av. monthly time spent</u>
Staff study) approval of dept. head) submission of request) to dept. of budget) and finance)	7 months
Approval under manpower control procedure	1 month
Preparation of eligible register	
Interviews by evaluation board) selection of employee)	3 months

From the chart above, it is evident that a good portion of the delay in filling positions is within the department of transportation itself. The State manpower control procedure has been relaxed so that, other than in newly-created ones, all vacancies in engineering positions, and all vacancies occurring after July 1, 1966, in draftsman positions can be filled without the necessity of securing prior "manpower" approval. Some streamlining of procedure has taken place within the department of transportation. For example, staff study time has been cut with respect to the filling of

vacant engineer's positions. But, overall, a considerable amount of time is still required to fill vacant positions.

The third-shift personnel for the University of Hawaii's Computer Center was proposed in August, 1965. It secured executive approval in October, 1965. The filling of the vacancy, however, is being delayed pending classification of the position by the department of personnel services.

f. Absenteeism. Absenteeism, like vacancies, in critical program areas, results in overtime. Employees with work loads of their own must fill in for those who are absent. In addition, the taking of a sick leave at the last minute requires changes in shifts among personnel without the usual 48-hour notice. Under the statute, a change in shift without a 48-hour notice requires the payment of overtime compensation.

Our analysis reveals that sick leaves appear to be excessive and therefore constitute an urgent problem at the health and protective institutions.

At the State Hospital, in fiscal year 1965, seven registered nurses in the Diamond Head unit and nine in the medical-surgical service unit averaged 20 sick days per person, and the 54 employees in food service averaged 16.6 days per person. The hospital as a whole averaged 12.2 days of sick leave per employee. In fiscal years 1965 and 1966, sick leaves accounted for 50 percent of all overtime in the nursing section and more than 75 percent in the food section. In addition, the nursing and food sections accounted for 86 percent of the State Hospital's total overtime hours in both fiscal years 1965 and 1966. The seriousness of the sick leave problem at the State Hospital is evident when the hospital's sick leave rate is compared with the latest state-wide average of 7.1 days of sick leave per employee.⁶ Significantly, overtime hours increased at the hospital, even though there has been a

⁶Hawaii State Hospital Audit: Termination and Sick Leave Study, September 1965, Tables III - V.

drop in patient load. The officials at the State Hospital admit that there is a need for new staffing patterns to take care of the manpower shortages caused by sick leaves and for stricter control over absences.

At the State Prison, sick leaves average 12 days per employee. Overtime at the prison, like at the State Hospital, is due in a large part to these sick leaves.

Hale Mohalu and the Detention Home both experience overtime due to sick leaves. In the case of the Detention Home, the sick leave problem has been aggravated by prolonged illnesses of the cook and a detention officer. Temporary help in such cases would have helped, but the Detention Home claims that such temporary help was impossible to secure.

Where sick leaves are a problem, as the State Hospital admits, staffing patterns need re-examination, and administrative controls over sick leaves need tightening.

g. Lack of performance standards. The necessity for overtime in many instances can be minimized by the establishment of standards spelling out the level of performance or output expected of employees during their regular hours of work and by insisting that employees adhere to such standards. Overtime is hardly justified if the overtime hours are spent on work that should have been accomplished during the employees' normal working hours. Overtime in such cases penalizes the efficient employee and rewards the incompetent and the inefficient.

Performance standards are needed particularly in those departments which experience overtime frequently or on a regularly recurring basis. The employees in such departments come to expect overtime work. Such expectation exists among the employees of the department of budget and finance, which incurs overtime annually in preparing the executive's operating budget. Expectation of overtime has the tendency to cause, consciously or unconsciously, a slow down in production

during the regular working hours. The employees may feel little need to produce during regular working hours when they know that they'll be working overtime anyway.

The lack of performance standards is common to all departments--not simply to the department of budget and finance. Although the mere mention of "performance standards" usually evokes unpleasant reactions, nevertheless, the economics of overtime require that they be established to avoid unnecessary extra hours of work.

While, in this report, we are concerned primarily with the establishment of standards for the purpose of controlling the need for overtime, we note that performance standards serve many other useful management purposes. For example, they are powerful problem finders. If production drops, performance standards will quickly reveal this adverse condition and enable management to take immediate corrective action. Performance standards are also useful in determining

staffing needs of the departments and in measuring and evaluating program size, content and progress.⁷

The establishment of performance standards require the accumulation of the following information, among others: a description of the output; a description of the work performed in each activity; past work load experience; and past employee performance. In essence, the information required is that which the departments should be recording for management control purposes in any event. There are many different ways of measuring performance, and there are many kinds of standards.⁸ The development of the standards is beyond the scope of this report.

⁷For a discussion on the uses of performance standards in general, see Dwyer, Yardsticks for Performance, Municipal Finance Officers Ass'n. of the United States and Canada Accounting Publication Series No. 11-7 (September, 1962).

⁸Id., see also "What are Work Standards", 7 Supervisory Management 50 (September, 1962).

h. Re-training and mechanization. We mention two more items, which are not so much identifications of underlying causes, but which aid in keeping overtime to a minimum. These items are re-training of employees and mechanizing departmental operations.

Overtime often occurs because there are only a few employees who are trained to do a particular kind of work. When one or more of these employees are absent due to illness or other reasons, the remaining employees are required to take up the slack. Temporary help in such cases may not provide an adequate solution because of the technical skills needed to accomplish the work. In the department of labor's unemployment compensation division, claims examiners II handle non-monetary claims. Sometimes there is an influx of non-monetary claims, placing a temporary, heavy load upon the claims examiners. Movement is under way to train all employees in the office to handle the work of a claims examiner II during periods when there is an unusually

large number of non-monetary claims being filed. Training employees to handle more than a single transaction or operation is indeed a manner in which the departments may be prepared to handle a sudden and temporary increase in the volume of work, without resorting to overtime.

Mechanization of procedures offers another method by which the need for overtime may be reduced. For example, overtime in the department of Hawaiian home lands is incurred largely in its business operations--opening and closing books, vouchering, issuing statements to tenants and computing interests. It has been acknowledged that mechanization in the posting, issuing and handling of financial statements will alleviate most of the overtime. There are other departments which process invoices and financial transactions. Mechanization of operations in such departments will make overtime less of a necessity in carrying out such operations.

Operations, once mechanized, will require constant reviews for simplification and improvement. The department of labor's unemployment compensation division, for example, issues at the end of each calendar year, a revised schedule of taxes which employers must pay in the subsequent year. Currently, the task is accomplished on a single, card-by-card basis. Mechanization improvements are being sought so that the new schedule may be issued on a mastersheet rather than on individual cards.

In summary. We emphasize, again, that the above-listed underlying causes are by no means complete. We enumerated these causes to make this point--that a review is both necessary and fruitful. Without review, and so long as overtime is justified rather than analyzed, overtime will continue to plague the departments.

3. Review to accumulate data. Earlier in this report, we mentioned the need for the departments to consider alternatives

CHAPTER 4
THE ROLE OF THE STATE STAFF DEPARTMENTS
IN THE ADMINISTRATION OF OVERTIME

and the relevant factors before deciding upon overtime as a solution to their apparent need for additional man-hours. We stated there, that for management to be able to do this, information on the alternatives and the relevant factors must be readily available.

It is in this review phase that each department develops and accumulates that data. The review process, by its very nature, will produce data which will enable the departments to determine the relative "urgency" for additional man-hours and the relative efficiency and economy of the various alternatives. For example:

A consideration of the advisability of re-training the department's employees will produce information relating to the skills possessed by the employees. Such information will aid management in its determination of whether or not the temporary pressures for more man-hours in one section of the department can be met by shifting employees from other sections.

A study of the department's overtime situation will reveal information relating to work distribution, work schedules and relative importance of the various tasks required to be performed. This information is helpful in management's determination of how real the need for additional man-hours is, how many additional man-hours will be required to complete the job, and whether or not it will be cheaper to hire outside help.

Recommendation:

To minimize pressures for overtime and to prevent the use of overtime as an expedient solution to apparent needs, there is clearly a need for management to review its overtime experience from time to time. We, therefore, recommend that each department conduct such periodic review to (a) identify and resolve, where possible, the underlying causes which give rise to pressures for overtime, and (b) to establish and accumulate all relevant data needed for management to make a rational, rather than an expedient, decision when pressures for overtime do arise.

Although the direct and principal responsibility for administering overtime lies with each department at the operating level, there are certain overview and service responsibilities which are required to be performed by the State staff departments. These overview and service responsibilities are to insure and promote the proper and uniform (where desirable or necessary) administration of overtime throughout the State.

The three State staff departments which have these overview and service responsibilities are the State departments of personnel services, budget and finance, and accounting and general services. The department of personnel services' responsibilities are specifically spelled out in section 5-72(k), RLH 1955, as amended. The section reads:

"The department of personnel services of the State . . . shall . . . be responsible for the proper administration of the provisions of this section . . . Rules and regulations for the proper administration and regulation of hours of work

and overtime compensation of officers and employees of the State . . . shall be promulgated by the . . . Personnel director of the State . . . subject to the approval of the governor . . . Such rules and regulations shall be such as to obtain, so far as possible, uniformity and practicability in the application of the provisions of this section."

There is no statutory provision spelling out the overview responsibilities of the department of budget and finance and the department of accounting and general services, specifically with respect to the administration of overtime. Their responsibilities stem from the general duties assigned to them by the Hawaii State Government Reorganization Act of 1959, as amended. That act specifies that one of the duties of the department of budget and finance shall be to "conduct a systematic and continuous review of the finances, organization and methods of each department of the State to assist each department in achieving the most effective expenditure of all public funds and to determine that expenditures are in accordance with the budget laws and

controls in force."¹ The same act provides that one of the duties of the department of accounting and general services shall be to "pre-audit and conduct after-the-fact audits of the financial accounts of all State departments to determine the legality of expenditures and the accuracy of accounts."²

The following sections discuss the specific kinds of activities which are required on the part of the three staff departments. With respect to each activity, the role of each staff department is identified and examined.

REVIEW LAWS

The overtime law and all amendments, immediately after their enactment by the legislature, require review by the State staff agencies to determine, at least, (1) the intent of the legislature,

¹Section 14A-13, RLH 1955, as amended.

²Section 14A-11, RLH 1955, as amended.

(2) clarity of legislative intent and the need for further clarifying legislation, (3) rationale of the legislation, and (4) probable impact on government operations, programs, procedures and finances.

The department of personnel services has the primary responsibility to make this review. It must, however, be aided by the departments of budget and finance and accounting and general services. The latter two staff departments should assist the department of personnel services, particularly with respect to the effect of the legislation on government operations, programs, procedures and finances.

Some review was necessarily made by the department of personnel services when it formulated and adopted rules and regulations governing overtime. Such rules and regulations could not have been fashioned without some examination of the intent of the law. However, except to this limited extent, the staff departments have not fully performed this review function. The following points this out.

1. Background information on the rationale for overtime legislation has never been gathered and disseminated to the operating departments. The reason for maximum hours and premium pay legislation is indeed useful information to foster the proper use of overtime. Such information is needed, if the operating departments are to consider overtime as having uses beyond that of simply "keeping up with the work load."

2. Data indicating the effects of the overtime legislation on program execution, on management and operational procedures, and on government finances have never been documented. For example:

. No estimate has ever been made, either prior or subsequent to the enactment of Act 40, SLH 1966, of the State's monetary or leave-time requirements to pay for overtime. This failure to measure overtime's fiscal impact was particularly evident at the time the legislature had under consideration the enactment of Act 40. In the absence of any such data, the legislature's appropriation of \$100,000 for the purposes of the act was determined arbitrarily.

. No study has been made to determine the kind of procedures which would be helpful or desirable for the State departments at the operating level to follow to fully and properly implement the intent of the legislation.

. No analysis has been made to determine the effect the overtime legislation has on departmental staffing, if the objective of the legislation to curtail extra hours of work is to be implemented.

Much of the foregoing should have been done when the State statute was first enacted in 1949 and at each time the legislation was amended by the legislature. We are aware that section 5-72(k) which places administrative responsibility in the department of personnel services was not enacted until 1963, and, thus, perhaps, the department of personnel services was not apprised of its role in the administration of overtime at the time the law first became effective. We are also aware that much of the impact of the review, even if now performed, has been lost because the overtime law has been on the books for more than 16 years. We believe, however,

that some useful purpose will be served if the review activities are begun even at this late date, especially with respect to the rationale of overtime legislation. If for no other purpose, such review will serve as a reminder to the operating departments of the purpose and intent of the legislation. A reminder of this sort is helpful in re-orienting the departments to the proper role and use of overtime in the operations of the State government.

Recommendation:

We recommend that the department of personnel services, with the assistance of the departments of budget and finance and accounting and general services, review the State's overtime statute to determine, ascertain and clarify (1) the rationale of the law, (2) intent of the legislature, and (3) the impact of the legislation on government operations, programs, procedures and finances.

We further recommend that such review be undertaken by the staff departments whenever the overtime statute is amended by the legislature.

ESTABLISHMENT OF RULES, POLICIES AND GUIDELINES

To insure the proper and uniform (where necessary or desirable and possible) administration of overtime at the operating level, rules and regulations, policies, and guidelines of state-wide application must be formulated. This task naturally follows from a review of the State's overtime law. The rules, policies and guidelines should furnish, at a minimum, (1) the rationale for maximum hours and premium pay, (2) a clarification of the statutory provisions, (3) an amplification of, and the details not spelled out in the law, and (4) uniform rules and procedures in the supervision of overtime work and payment of overtime compensation.

The establishment of these rules is basically the responsibility of the department of personnel services. The departments of budget and finance and accounting and general services should review all rules proposed by the department of personnel services and suggest such changes as may be necessary or desirable, particularly with respect to matters relating to management practices and fiscal policies. As necessary, both the departments of budget and finance and accounting and general services should supplement the rules and regulations with policies on matters which fall specifically within the functional areas of the two departments. For example, the manner of submitting claims for cash payment is a matter which falls specifically within the functional area of the department of accounting and general services.

There are at present rules and regulations of state-wide application

governing overtime.³ There are, in addition, various forms for use by the operating departments. There is, for example, a suggested agreement form, issued by the department of personnel services, for use in cases where the operating departments enter into mutual agreements with employees, changing the hours of work from the normal eight hours per day and 40 hours per week. There is also an official "time sheet", issued by the department of accounting and general services, popularly referred to as "DAGS-29 form", for use by the departments at the operating level in submitting claims for overtime cash payments.

Like the statute, the existing rules and forms focus on the compensation

³Overtime rules and regulations are contained in chapter B-3, State Personnel Manual, pp. B-3-42 to B-3-45. An extract of these rules and regulations is in Appendix C, pp. 86 to 95, *infra*.

aspect of overtime. That is, the rules and regulations, to a large extent, restate the provisions of the law and specify when overtime premium must be paid; and the DAGS-29 form outlines the method of computing overtime cash premium to insure accuracy in calculation. There are, at present, no rules or other state-wide guidelines which touch upon other pertinent aspects of overtime or clarify the more complicated phases of overtime administration. The following are specific examples of this deficiency.

1. The rationale of the overtime law, as we noted earlier, is missing. In addition, there are no guidelines spelling out when and the circumstances under which overtime should or can, as a matter of good administrative practice, be authorized. Such guidelines are necessary, if overtime is to be treated by the operating departments as something more than a means of providing added compensation to State employees. The responsibility for the establishment of these guidelines is in the department of personnel services.

2. There are no guidelines to aid the operating departments in making the more complicated computations of overtime premiums. For instance, premium pay for overtime incurred on a split shift is specially treated by statute, thus:

"Any work performed in a spread of more than ten hours per day, exclusive of meal periods, shall be considered as overtime work and the employee shall be paid for such work at the rate of time and one-half."⁴

In addition, the statute provides for a differential of nine cents per hour to workers on split shifts.⁵ The existing rules and regulations provide that an employee on split shift will earn overtime only for those hours which exceed 10 hours, exclusive of time for meals, "calculated from the time he starts and ends his work day," and that overtime

⁴Section 5-72(g), RLH 1955, as amended.

⁵Section 5-78, RLH 1955, as amended.

cash premium is to be computed on the basis of the employee's regular, hourly pay, including the nine cents differential.

Complicated mathematics is necessary to calculate premium cash payment for overtime in split shift situations under the provisions of the statute and the rules and regulations. An illustrative method of calculating this premium pay would have avoided miscalculations which occurred at Hale Mohalu.

At Hale Mohalu, among the errors committed in computing overtime for split shifts have been: (a) failure to deduct meal time; (b) crediting an employee with overtime for both the actual hours worked in excess of eight hours and the split shift hours or time span exceeding 10 hours; (c) failure to include the split shift differential in determining the hourly rate of compensation to be applied to overtime hours; and (d)

failure to compute the premium on the basis of time and a half.⁶

The comptroller in the administrative services office of the department of health issued a memorandum regarding payment of overtime premium to workers on split shift. The memorandum, however, is insufficient in two respects: (1) it does not go far enough to illustrate how to calculate overtime premium;

⁶For example, an employee was paid \$14.40 for overtime worked on July 1, 1965. The records show that the time span of the split shift was 12½ hours; the hours actually worked was 10½ hours; meal time was ½ hour; regular, hourly rate of pay was \$1.92; split shift differential was nine cents. If we assume (our assumptions are examined thoroughly in chapter 6) that overtime premium is payable for all hours actually worked in excess of 8 hours and also for all hours in the time span in excess of 10 hours, and that the compensation for both regular hours worked and overtime hours should include the nine cents differential, the overtime pay should have been \$12.06, calculated thus:

and (2) it is not in accord with the State overtime rules and regulations when it provides that overtime for employees on split shifts shall be

Overtime for hrs. actually worked in excess of 8 hrs.:	
Hrs. in excess of 8 hrs.:	2.5
Time and one-half	x 1.5
Overtime hrs. earned:	3.75
Rate of pay (incl. 9¢ differential)	x 2.01
Overtime premium	§ 7.54

Overtime for hrs. in time span in excess of 10 hrs.	
Time span	12.5
Less meal time	- .5
Net time span	12.0
Less 10 hrs.	- 10.0
Net hrs. in excess of 10 hrs.	2.0
Less portion of net hrs. actually worked	- .5
Net hrs. in excess of 10 hrs.	1.5
Time and one-half	x 1.5
Overtime hrs. earned	2.25
Rate of pay (incl. 9¢ differential)	x 2.01
Overtime premium	4.52
Total overtime compensation	\$12.06

calculated on the basis of their regular, hourly rate of pay "as per salary schedule." The rules and regulations specify that both regular and overtime pay shall be calculated on the basis of regular hourly rate of pay plus the split shift differential. The DAGS-29 form, although it provides a space for the calculation of overtime premium for split shift, is deficient in its lack of explanation as to the ingredients which go into the calculation.

Both the department of personnel services and the department of accounting and general services are responsible for providing the necessary illustration showing how the premium for overtime on a split shift should be calculated.

3. Both the statute and the rules and regulations state that compensatory time off and cash premium shall be calculated on the basis of one and one-half hours for "each hour" of overtime. No statewide information is available as to how overtime of less than an hour is to be

treated for computational purposes. In the absence of a uniform rule, the departments have treated overtime of less than an hour in various ways. Some departments measure overtime in exact minutes; other departments round off to full 15 minutes any overtime which is a fraction of a quarter-hour. The issuance by the department of personnel services of some uniform guide in the treatment to be given to overtime of less than an hour is desirable in order that all State employees may be treated alike.

4. There are no guidelines establishing a uniform system of authorizing, recording and compensating for overtime. The result has been the informal method of granting overtime and time off, the lack of records in the operating departments, and the late filing of claims for cash payments, all of which we examined in chapter 3. The establishment of these guidelines is the joint responsibility of all three staff departments.

Recommendations:

1. We recommend that the department of personnel services, with cooperation from the department of budget and finance and the department of accounting and general services, re-examine the existing rules and regulations and the miscellaneous forms and instructions to determine their sufficiency and to establish such guidelines as necessary of uniform application to all State departments. Such guidelines should provide instructions at least with respect to:

- a. the rationale of the overtime law;
- b. when and the circumstances under which overtime should, as a matter of good administrative practice, be authorized;
- c. the more complicated computational aspects of overtime premiums, such as split shift pay; and

d. Those overtime matters which are absent in the overtime legislation but which, nevertheless, require uniformity, if overtime is to be fairly and evenly administered in all State departments.

2. We further recommend that the departments of personnel services, budget and finance, and accounting and general services, jointly establish a uniform system of authorizing, recording and compensating for overtime. In this connection, reference is made to the recommendations contained in chapter 5 of this report.

INSPECTION, ANALYSIS AND ASSISTANCE

The staff departments do not fully discharge their overview responsibilities unless they conduct periodic inspection and analysis of the operating departments' overtime experiences and practices. Such inspection and analysis are necessary (1) to determine whether or not the operating departments are conforming to State statute and rules and regulations;

(2) to ascertain the effectiveness with which overtime is being utilized by the departments in accomplishing their missions; (3) to identify the changes required in statute and the rules and regulations to clarify ambiguities, to further the objectives of the overtime law, and to promote the proper use of overtime; and (4) to assist the operating departments in uncovering and resolving underlying organizational, management and procedural deficiencies which tend to promote undue overtime within the departments.

Each of the staff departments should make such periodic inspection and analysis and assist the operating department, thus: (1) the department of budget and finance primarily along management organizational and procedural requirements; (2) the department of accounting and general services along proper compensation and fiscal records; and (3) the department of personnel services generally on the entire scope of overtime. Currently, none of the

staff departments effectively carries out this function.

1. No check of any kind is ever made by any staff department to determine whether or not the departments at the operating level are conforming to the overtime statute and the rules and regulations.

2. The department of accounting and general services makes no audit to determine the legality of cash payments made for overtime.

3. Neither the department of personnel services nor the department of budget and finance conducts a study of how effectively overtime is being used in the State government in accomplishing its missions.

4. None of the staff departments accumulates any overtime data, and none lends its technical knowledge and skills to assist the operating departments in identifying and resolving the underlying

problems which give rise to overtime. Often, the departments at the operating level are without the necessary knowledge and skills to conduct a full and proper analysis of their own overtime experience.

The fact that no study has ever been made of the State's overtime experience, that no estimate of overtime cost has ever been possible, and that the departments at the operating level have not administered overtime properly stem in a large measure from the failure of the State staff departments in carrying out their duties to inspect, analyze and to lend their assistance to the operating departments.

We do not intimate that inspections and analysis should be conducted on a continuing basis. What we suggest is periodic inspections. A good portion of the work required in these inspections can be accomplished through a system of reporting and recording overtime, a subject which we mentioned a number of

CHAPTER 5
STATEWIDE INFORMATION AND
BUDGETARY SYSTEMS

times previously and which we examine in detail in the next chapter.

Recommendation:

We recommend that the departments of personnel services, budget and finance, and accounting and general services conduct periodic inspections of the administration of overtime by the State departments at the operating level; analyze the State's overtime experience; and render assistance to the operating departments in identifying and resolving the underlying problems which give rise to pressures for overtime in the departments.

In the preceding chapters we noted that there are serious shortcomings at both the operating and staff levels of our State government in the administration of overtime. Clearly, improvements are needed, if the State is to control overtime and utilize it as a means of accomplishing the government's missions effectively, efficiently and economically.

In chapter 3, we suggested some improvements to be initiated by the departments at the operating level. In chapter 4, we suggested improvements in the discharge of the overview and service responsibilities of the staff departments. In this chapter, we suggest two other improvements which will aid materially in the performance of the responsibilities of the departments at both levels of government.

The implementation of the two suggested improvements will require the initiative of the State staff departments and the cooperation of the operating departments. One of the suggested improvements has

been touched upon in our discussions in chapters 3 and 4; the other has not as yet been mentioned in this report, except briefly in a footnote.

STATEWIDE INFORMATION SYSTEM

We suggest, first, that a system be devised whereby information on overtime in and from the various State departments may be uniformly reported, centrally recorded and summarized. We noted in the earlier chapters, that the absence of proper overtime records hampers the proper administration of overtime at both the operating and staff levels of our government, and that the other inadequacies in the administration of overtime probably stem from this lack of records.

1. Purpose and uses of the system. The objectives of the uniform system of reporting and recording are, of course, to maximize control of overtime by the State departments at the operating level and to facilitate the overview

responsibilities at the State staff level. The following illustrates how data from proper records will aid in the exercise of this control and in the performance of the overview responsibilities.

a. At the operating level, the reported and recorded information will enable each department to:

- . Assess how well the department is accomplishing its mission; that is, whether or not the desired or expected output of the department is being met by overtime.
- . Determine the efficiency and economy with which overtime is being used by the department; that is, whether or not the output being secured is worth the cost and the demands on employees.
- . Evaluate the relative merits of the various alternative ways of meeting the apparent need for additional man-hours to get the department's job done.
- . Ascertain readily the status of the department's overtime experience--that is, how many hours have been authorized, how many hours have been worked, how many hours have

been paid for by compensatory time off and in cash and how many hours remain to be paid.

- . Check and verify claims for compensation filed by employees for overtime work performed; check to insure that all overtime, performed as authorized, are properly compensated for and that the law, rules, regulations and policies governing overtime are otherwise being complied with.

- . Identify the sources of overtime by employees, sections, units or programs; identify and resolve, where possible, the underlying causes of overtime so that the need for future overtime may be reduced; and facilitate improvements in the department's internal management and operational procedures to further efficiency and economy.

b. At the staff level, the recorded data will facilitate:

- . The making of reasonably accurate forecasts by the department of budget and finance of future overtime needs and costs of the various State departments.
- . Reviews by all staff departments of existing overtime law, rules, regulations and policies; the data may well suggest improvements and

changes in existing law, rules, regulations and policies.

- . Pre-audits and after-the-fact audits by the department of accounting and general services to test the legality of overtime expenditures and the accuracy of overtime accounts of the various State departments.

- . Periodic inspections by the State staff departments, particularly the department of personnel services and the department of budget and finance, of the operating departments' management of overtime. The data will further facilitate the rendering of assistance by the staff departments to the operating departments; that is, the data will be useful in pinpointing problem areas, thereby enabling the staff departments to assist the operating departments in improving the departments' management and operational procedures and otherwise correcting existing deficiencies which give rise to the need for overtime.

2. Data required to be recorded by the system. To be of maximum use, the uniform reporting and recording system should provide, at the minimum, the following information:

a. The source of overtime, by department, section, unit, program and employee. The source may well suggest the underlying cause. For example, if overtime is confined to one section or unit of a department, the cause may lie in the organization or procedure of that section or unit; if overtime is traced to an employee, the cause may be an uneven distribution of work load among employees or the attitude or non-productivity of the employee.

b. The date of overtime. A record of when overtime is incurred may suggest that overtime in a department or section is seasonal or cyclical, and the cause improper planning of work schedule.

c. The hours of overtime. The magnitude of overtime in a department or section suggests the magnitude of the problems giving rise to overtime in that department or section.

d. Results of overtime. The data on output secured by overtime are necessary

to determine whether or not the overtime hours were worth the cost and whether or not some other solution must be sought to meet future needs of the department.

e. The disposition of overtime credits. Data on how many hours of overtime work were paid for by compensatory time off and how many hours were paid for in cash are essential in calculating the cost of overtime.

f. The reasons for overtime. A statement of the reasons for the overtime incurred is useful in determining whether overtime is being used as an expedient means or whether it is being resorted to as a result of analysis in meeting the apparent needs of the department.

3. Devising the system. There are perhaps many ways in which the format for reporting and recording overtime data may be devised. Whatever the format, the system should (a) enable the departments at the operating level to

maintain running records of overtime authorized, performed and compensated (whether by compensatory time off or in cash), (b) cause relevant overtime data to be placed on computers and (c) require the computers to print out monthly summaries of each department's overtime information.

Copies of the monthly summaries should, of course, be distributed to each of the three staff departments and to the operating department concerned.

In devising the system, the department of personnel services should assume the primary responsibility. It should be aided, of course, by both the department of budget and finance and the department of accounting and general services. Inasmuch as the bulk of all overtime will be paid for in cash and all cash payments for overtime must be made through the department of accounting and general services, it appears that the actual collection and assimilation of the overtime data should be the responsibility

of the department of accounting and general services. The department of accounting and general services currently utilizes the services of Computer Center No. 1 in processing payrolls. The reporting system, likewise, may be serviced by Computer Center No. 1.¹

Recommendation:

We recommend that the departments of personnel services, budget and finance, and accounting and general services, jointly establish a uniform system for the recording, reporting and storing of overtime data; that the system be integrated with Computer Center No. 1; and that it provide for running summaries of overtime experience of the various State departments on at least a monthly basis.

¹While this report is specifically concerned with overtime, the information system may well be devised to record and store data on other fringe benefits paid to employees, such as standby and split-shift premiums, vacations and sick leaves.

BUDGETING FOR OVERTIME

Our second suggestion for improving the statewide administration of overtime is that each operating department be allowed to budget specifically for overtime, especially where the fact that it will occur can reasonably be predicted. Currently, only the department of budget and finance, the department of planning and economic development, the department of education and the department of transportation are allowed to include overtime in their budgets.² The overtime allowances in the budgets of the first two departments are used primarily in preparing the governor's operating and

²The funds set aside for overtime in these departments are variously labeled, thus: "Other personal services" (education); "Overtime payment" (transportation harbor pilots); "Temporary assistance" (budget and finance); and "Overtime and temporary help" (planning and economic development). The intent in all cases, however, has always been to use the funds for overtime.

capital improvements budgetary requests to the State legislature. The department of education's overtime allowance is for preparing the department's fiscal budget, and the department of transportation's overtime amount is for the harbor pilots in the harbors division.

All other departments are discouraged from including overtime estimates in their departmental budgets. They are, rather, required to look to departmental turnover, salary savings to meet overtime cash payment needs.

We suggest that each department be permitted to budget specifically for overtime, for these reasons:

1. To require the departments to look to "savings" is unrealistic. Such requirement places an undue emphasis on "availability of funds" in the department's decision to authorize or deny overtime. "Availability of funds" should not be the sole or principal criterion upon which overtime decisions

should be made; the relative necessity and economy of overtime are among other important factors which should be considered. Emphasis on "availability of funds" can lead to one of two results, both of which are undesirable:

a. If the departments are short of funds, the departments consciously or unconsciously, may delay making payments for overtime properly incurred, encourage employees to waive their rightful claims to overtime compensation, or fail to fill vacancies in order to create savings and thereby hamper program execution. Act 40's mandate for payment of overtime in cash, rather than by compensatory time off, will increase the need for "savings", if the current rate at which overtime is being experienced in the State continues. Some idea of what this increased need is may be gathered from the following statistics: In fiscal year 1965, more than 50 percent of all overtime was paid for by compensatory time off, but in fiscal year 1966, not more than 25 percent of

all overtime was paid for by compensatory time off. With this increased need for "savings", late payments and waiver of claims are apt to continue, despite the act's requirement that cash be paid within 45 days after the overtime work has been performed.

b. If the departments have excess funds, because of vacancies or otherwise, such excess offers a temptation to incur overtime without adequate consideration of the relative need and cost of overtime. In fiscal year 1965-1966, the department of health expended \$90,000 for overtime, as compared with \$22,000 for fiscal year 1964-1965. The State Hospital paid out three times as much cash for overtime in 1966 as it did in fiscal year 1965, and Waimano Home paid in cash 92 percent of all overtime incurred in fiscal year 1966, as compared with 10 percent of all overtime in fiscal year 1965. In addition to the payment of more cash for overtime in fiscal year 1966, the department of health was able to meet the January 1, 1966, pay raise

requirement of \$519,000 from salary savings. Two things accounted for this increase in cash payments for overtime: (1) the department of health changed its policy on July 1, 1965, to pay overtime in cash, rather than by time off; and (2) the department of health's vacancy rate averaged 100 positions per month in fiscal year 1966. The point of this example is that when "savings" are substantial, there is a greater tendency to authorize overtime and to pay for it in cash.

2. Certain overtime can be anticipated. There are certain kinds of overtime which can be reasonably expected to occur within a department. For example, the number of holidays in a year is known, and thus, the cost of overtime due to holidays can be predicted with accuracy in departments which carry out around-the-clock operations. Frequency of "emergencies" and "seasonal" requirements can be predicted with some degree of accuracy based upon past experiences. In these instances, it would appear

that the department's budget may well allow for overtime.

3. Budgeting for overtime fosters staff level control. How many of the vacancies are to be filled, and how much of the department's savings are going to be siphoned off to pay for overtime are pretty much within the control of the operating department. There isn't very much that the staff departments can do directly to compel an operating department to fill vacancies or to refrain from using "savings" to pay for overtime.

On the other hand, if money for overtime is specifically set aside in the operating department's budget, the staff departments, particularly the department of budget and finance through its power of budget and finance through its power to review budgetary requests and through the allotment procedure, can exercise a greater degree of control over the use of overtime. We do not suggest, of course, that the department of budget and finance be the final authority to determine the need for and authorize the

incurrence of overtime in each department. The operating departments must be permitted flexibility, and the decision to authorize overtime should be theirs. Nor do we suggest that with budgeting, use of savings be discontinued. There are certainly unforeseen situations which arise from time to time which may require something more than the amount budgeted for foreseeable overtime.

However, budgeting fosters the operating departments to analyze carefully their overtime needs and to use overtime less as an expediency measure. Budgeting, further, minimizes the need to create artificial savings and the compulsion to incur overtime simply because savings exist.

4. Budgeting for overtime will assist the legislature. The State legislature is frequently asked to increase the staffing ratios of the various departments. Legislative decisions on such requests can be aided by information relating to the overtime experience of

the department. The amount of the department's overtime needs is one evaluator of the relative urgency and seriousness of the department's request for an increase in staffing ratios.

We are mindful that there are disadvantages and dangers in budgeting for overtime. In the first place, it may influence the departments to submit requests far in excess of the real needs of the departments and to consider overtime as an accepted manner of accomplishing the tasks of the departments. In the second place, the specific amounts set aside in the departmental budget for overtime may cause the employees to become less productive during normal working hours in anticipation or expectation of working overtime. We believe, however, that with proper control imposed at the staff level of government, particularly by the department of budget and finance, this potential hazard may be obviated.

Recommendation:

We recommend that each State department be authorized to budget specifically for overtime which is bound to occur, such as holidays, or which is reasonably predictable, such as seasonal needs. Of course, in all cases where overtime is specifically budgeted for, it should not be considered by the operating departments as a license to incur overtime indiscriminately, simply because funds are available.

PART III
SUGGESTED STATUTORY IMPROVEMENTS
AND SUMMARY
CHAPTER 6
STATUTORY IMPROVEMENTS

Some of the difficulties in the administration of overtime stem from deficiencies in the State's overtime statute. In this chapter we review a few of the more important inadequacies. All recommendations for amendment of our statute should, of course, be prepared for submission to the legislature by the department of personnel services, with assistance from both the office of the revisor of statutes and the department of the attorney general.

FORMAT

The format of the present overtime statute is confusing.¹ It is confusing for two reasons:

First, four different subject matters, all touching upon overtime in some way,

¹ Appendix A, pp. 78 to 82, *infra*, contains the complete text of section 5-72, RLH 1955, as amended, to 1965.

are combined in one lengthy section. Thus, section 5-72, RLH 1955, as amended, contains all of the following subject matters:

- Hours of work for employees in general.
- Overtime premium for employees in general.
- Hours of work and overtime premium for firefighters only.
- Applicability and administration of the general provisions on hours of work and overtime premium.

A separation of these four major topics into four different sections would add to clarity and understanding.

Second, separable aspects of the overtime premium pay provisions for public employees in general are scattered throughout the section without any semblance of order or sequence. Thus,

- Provisions which spell out when overtime should be credited are found in subsections (e), (g), (h-1) and (j).

- Provisions which specify the amount of the premium which must be paid for overtime are in subsections (e) and (h).
- Provisions which prescribe the manner in which the premium is to be paid (whether in cash or by time off) are in subsections (f) and (i).

All provisions which deal with one aspect of overtime premium should be grouped together, and the different aspects should be placed in a logical sequence.

Recommendation:

We recommend that the format of section 5-72, RLH 1955, as amended, be revised for clarity and easier understanding of its provisions.

OVERTIME PREMIUM FOR SPLIT SHIFTS

There is need for statutory clarification on the premium which an employee is entitled to receive for working on a split shift. Presently, section 5-72,

RLH 1955, as amended, in subsection (e) provides that overtime premium is to be paid for all hours worked in excess of 8 hours per day and 40 hours per week. Then in subsection (g), the statute provides as follows:

"Any work performed in a spread of more than ten hours per day, exclusive of meal periods, shall be considered as overtime work and the employee shall be paid for such work at the rate of time and one-half."

In addition, section 5-78, RLH 1955, as amended, provides that an employee on a split shift shall be paid, "in addition to his basic compensation, at the rate of nine cents for each hour of work that shall be deemed to be on a split-shift."

Several questions are raised by these statutory provisions.

- a. Is the employee on a split shift to be paid the nine cent differential only for the hours he actually works?

b. If the employee actually works more than eight hours in a split shift spread of more than 10 hours, is he entitled to overtime premium for those hours actually worked in excess of eight hours and also to overtime premium for those hours in excess of 10 hours?

c. An offshoot of question b: if the employee actually works, for example, 11 hours in a split shift spread of 15 hours (exclusive of meal time), is he entitled to overtime premium for the three hours of actual work and also for five hours in excess of 10 hours, or is he entitled to overtime premium for the three hours of actual work and for four hours in excess of 10 hours?

d. Is the nine cent differential to be added to the employee's regular rate of pay in computing the overtime premium for both those hours actually worked in excess of eight hours and those hours in excess of 10 hours?

The statute does not answer the foregoing questions. The State personnel

rules and regulations on overtime answer the first and fourth questions in the affirmative, thus:

"Sec. 8.310 a. An employee who works a split shift shall be paid an additional amount based on 9¢ per hour for each hour of actual work on a split shift.

"b. In determining the cash payment for overtime work credit granted because of off duty time as specified under Subsection 8.304(b)(1), the employee's basic compensation plus the split shift differential will be used in determining the cash payment due pursuant to Subsection 8.307 c (1)."

Under this section of the rules and regulations, clearly, the nine cents per hour differential is to be taken into account in determining both the straight time wages and the overtime premium.

The State personnel rules and regulations are not clear in their answer to the second question, although they seem to imply that the employee is entitled to overtime for actual work performed in excess of eight hours and also for all

hours in excess of 10 hours. The pertinent provisions of the rules are as follows:

"Sec. 8.304 Occurrence of Overtime Work

a. Overtime work will occur when an employee renders service at the direction of proper authority if the performance of such service is:

(1) in excess of 8 hours a work day,

* * *

(3) in excess of 40 hours per work week . . .

* * *

b. Additions and exceptions to the above provisions are as follows:

(1) Split Shift Work.

An employee who works a split shift will earn overtime for each hour which exceeds 10 hours, exclusive of time for meals, calculated from the time he starts and ends his work day.

* * * "

It is not clear as to whether or not the overtime provisions for split shift work are intended to be in "addition" or are "exceptions" to the usual rules on overtime contained in subsection a of section 8.304. There are three other instances listed under subsection b-- emergency work, exchange for perquisites, and absence from work in a four-day work week. All of these three instances are clearly exceptions to the rule stated in subsection a. Thus, it might be said that since subsection b contemplates both "additions and exceptions" and since all of the other subsection b provisions are "exceptions", the split shift rule must have been meant to be an "addition"--and the only addition at that; otherwise, the introductory words of subsection b, "additions and exceptions to the above provisions are . . ." would make no sense.

The State personnel rules and regulations on overtime make no attempt to answer the third question. It would appear reasonable that all work actually

performed in excess of eight hours should be paid for at the premium rate, including the nine cent differential. It also appears reasonable, that all hours which exceed the 10 hour spread, except those actually worked, should also be compensated for as overtime. Thus, in the example set forth in the third question, the employee would be paid overtime premium the three hours he actually worked in excess of eight hours, and also for the additional four (not five) hours in excess of 10 hours.

In the absence of clear direction, much confusion has been experienced at institutions which have split shifts. This confusion was pointed out and illustrated earlier in chapter 5. We believe that a statutory clarification is required.

Recommendation:

We recommend that the overtime statute be amended to clarify the split shift overtime provisions. The amendment should provide for (1) overtime compensation which includes the split shift differential; and (2) the payment of overtime for all hours actually worked in excess of eight hours and all hours in the time span in excess of 10 hours in which no work is actually performed.

PREMIUM PAY INEQUITY

The statute provides that when cash is paid for overtime, the overtime premium shall be at one and one-half times the regular rate of pay for employees in salary ranges 1 through 16, and at one and one-half times the minimum step of salary range 17 for employees in salary ranges 17 through 28. There is an inherent pay inequity under this statutory provision. In effect, the provision permits an employee who is anywhere on the 45 incremental steps between salary range

8, L-4, and salary range 16, L-4² to receive overtime compensation equal to or greater than that which an employee in salary range 17 and above receives, although both work the same number of overtime hours. For example, suppose employee A is at salary range 15, step G, and employee B is at salary range 17, step F, and each works two overtime hours. Under the present statute, employee A would be paid a premium of \$5.56 per hour, while employee B would be paid \$4.80 per hour, even though A's regular rate of pay is \$3.71 per hour and B's, \$4.30 per hour.

²Number of Incremental Steps

SR 8	L-4	=	1
SR 9	L-3 to L-4	=	2
SR 10	L-2 to L-4	=	3
SR 11	L-1 to L-4	=	4
SR 12	G to L-4	=	5
SR 13	F to L-4	=	6
SR 14	E to L-4	=	7
SR 15	D to L-4	=	8
SR 16	C to L-4	=	9
			<u>45</u>

There is, of course, a need to set some ceiling on the overtime premiums payable to employees. We do not believe, however, that the present limitations which permit an employee to receive more than his superior for the same number of hours of overtime performed, is equitable. The statute should be amended to establish a maximum rate of compensation for overtime, applicable to all employees.

The federal civil service regulations set overtime rates as follows:

- For an employee whose basic pay rate does not exceed the minimum rate for grade GS-9 of the classification act, the overtime rate is one and one-half times his basic pay rate.
- For an employee whose basic pay rate exceeds the minimum rate for grade GS-9, the overtime rate is one and one-half times the minimum rate for grade GS-9.

This means that no employee will receive more than the employee at the minimum step of GS-9 for the same hours of

CHAPTER 7
SUMMARY

overtime. In a similar fashion, a maximum rate of compensation for overtime, applicable to all State employees, can be established by amending our statute. For example, the statute can be amended to provide that (1) those employees whose attained hourly rate of pay does not exceed the hourly rate for the minimum step of salary range 17 shall be paid for overtime at the rate of one and one-half times his attained hourly rate of pay, and (2) those employees whose attained hourly rate of pay exceeds the hourly rate for the minimum step of salary range 17, shall be paid for overtime at the rate of one and one-half times the hourly rate for the minimum step of salary range 17.

Recommendation:

We recommend that the State's overtime statute be amended to provide a maximum rate at which any State employee may be paid for overtime, so that no employee may receive overtime compensation in an amount greater than that received by an

employee in a higher salary range or higher step, for the same number of hours of overtime work.

The State government often resorts to overtime in accomplishing its missions. Judiciously used, overtime can assist the State in performing its functions efficiently and economically. On the other hand, because of its innate characteristics, overtime, if improperly employed, can produce the opposite result--that is, it can cause inefficiency and waste. Because it can promote either efficiency or inefficiency, economy or waste, depending upon how it is used, and because one of the duties of the office of the auditor is to examine State management practices to determine the efficiency and economy with which the State is operating, overtime is an appropriate subject of our inquiry.

Two things led to our scrutiny of the State's overtime practices. (1) Although the State legislature has, since 1949, continuously increased the premium pay benefits to public employees for overtime work, no in-depth study has ever been conducted to determine the use

and effects of overtime in the State government. (2) The State legislature at its 1966 session, enacted Act 40, which requires that all overtime be paid for in cash, at time and a half, unless the employee elects to take compensatory time off. This act and its probable effect of increasing the need for more cash outlay have brought overtime under sharper focus.

Overtime is administered at two levels of government--the operating level and the central, staff level. It is directly administered at the operating level--that is, each operating department determines for itself when overtime is to be incurred. It is indirectly administered at the staff level--that is, the central, staff departments formulate rules and regulations of statewide applicability and generally oversee the operating departments' use of overtime.

Our examination was aimed at (1) determining the efficacy with which the

operating departments are utilizing overtime in accomplishing their tasks, (2) ascertaining how well the staff departments are carrying out their overview responsibilities, and (3) suggesting such corrective actions, as may be needed, to make overtime a more effective instrument of government. The study included the judiciary branch and all departments of the executive branch, including the lieutenant governor's office, but excluding the governor's office and the Act 97 agencies.

BACKGROUND

The following form the background against which our study was conducted.

1. In each of the last two fiscal years, 1964-1965 and 1965-1966, the State experienced approximately 168,000 hours of overtime. In 16 departments, overtime is frequent--that is, it occurs every month, at nearly the same rate throughout the fiscal year. Of the 16, seven departments also experience overtime

regularly--that is, additional hours of overtime are incurred at consistent intervals at certain times during each year. Two departments do not incur overtime frequently, but do work extra hours at regular intervals every year. In only the department of attorney general, is overtime sporadic.

2. Overtime always adds to the direct cost of operating the government. It adds to the direct cost not only because extra hours of work must be paid for, but because they must be paid for at a premium--at time and a half. In fiscal year 1964-1965, the direct cost to the State was \$684,000, and in fiscal year 1965-1966, \$726,000. In fiscal year 1966-1967, it is estimated that overtime will cost the State at least \$810,000. Not more than 25 percent of this cost will be due to holiday work, which is unavoidable at institutions, like the State Hospital, which must operate around-the-clock.

3. Overtime not only adds to the direct cost, but also increases the indirect cost of production. This is because one hour of overtime work does not produce the same amount as one hour of regular work, and, as a consequence, an extra hour of work does not increase the cost simply by 50 percent, but by much more. In private industries, the effective increase is estimated at 67 percent.

4. Overtime, if frequently or regularly incurred, can become such an accepted practice that employees begin to expect it and to consider overtime pay as a part of their normal compensation. Premium pay for overtime (which gained emphasis as a result of the federal Fair Labor Standards Act of 1938), was never intended and is not now intended to increase the earnings of the worker, but to limit the work week and to spread the opportunity for employment.

ADMINISTRATION OF OVERTIME BY OPERATING DEPARTMENTS

Its frequent and regular use and its costs and effects, in and of themselves, provide no clues as to the efficacy with which the operating departments are administering overtime. A close look, however, at the actual practices of the departments reveals serious deficiencies in the manner in which overtime is used. These shortcomings and our recommendations for improvements are as follows.

1. Management of each department generally authorizes overtime as a matter of expediency, rather than as a result of considered judgment that it is the most efficient and economical way of meeting the pressures for production. The emphasis is usually on availability of funds; that is, if funds are available to pay for extra hours of work, overtime is almost automatically authorized. Consideration is rarely given to postponement of deadlines, shifting temporarily other employees performing

non-essential or less urgent tasks, hiring temporary help, or contracting the work out. Generally, no prior written authorization is ever required, and sometimes the determination of whether or not overtime should be incurred is left to the employee himself. While overtime offers an expedient solution especially when management is faced with many problems, all pressing for solutions at the same time, its effects on the State's finances and on employee attitudes require that management resort to it only after a careful consideration of the alternatives.

We recommend that each operating department authorize overtime only after a careful evaluation of the "necessity" for extra hours of work and after a full consideration of all possible alternative means of accomplishing its tasks. We further recommend that each department require the prior written authorization of a superior officer before any overtime work is performed by an employee, except in cases of emergency which threaten human life or property.

2. The departments exercise little, if any, supervisory control over the performance of and compensation for overtime. Control to insure that only that overtime which has been specifically authorized is performed, that it is performed properly, that the overtime produces the expected results, that overtime is properly paid for, and that payment is made only for the overtime actually performed and only to the employee who has performed the extra hours of work, is not currently exercised. The departments are unable to exercise such control, because (a) they fail to maintain adequate overtime records and (b) they permit undesirable practices.

In every department, management is unable to determine, at any given moment, the precise hours of overtime authorized, worked, and paid for. No written record is ever kept of the hours authorized and performed. Only some records of overtime paid for by time off are kept. Cash payment records are maintained, but they, like the time off records (if

kept), are simply loose sheets of paper and generally carbon copies of claims submitted by the employees. There are no running summaries by employees, sections, units, or time period against which the claims of employees may be checked.

In addition, the departments generally permit employees to keep their own records, grant time off orally in an informal fashion (e.g., "Report to work late tomorrow, since you worked late today"), permit the early destruction of what little records they keep, allow filing and payment of claims as late as one year, acquiesce in the borrowing and exchange of overtime credits by employees among themselves for the purpose of taking time off from work, and accept oral and informal waivers of overtime legitimately earned.

We recommend that each department establish a system of records and maintain a running account of all overtime authorized, performed and compensated for. The system

should include summarizations of the department's overtime data by months, sections, units, and employees. We further recommend that the departments discontinue their practices of informally granting time off, relying on employees' records of overtime work performed, destroying records without maintaining them for a reasonable period, permitting the late filing and payment of claims, allowing the exchange of overtime credits among employees and permitting informal waivers of overtime credits.

3. Effective use of overtime requires that management periodically review its overtime experience. Such review should be conducted (a) to identify and to solve, where possible, the underlying causes which give rise to the pressures for overtime and (b) to accumulate the data needed to enable management to make rational, rather than expedient, decisions in authorizing future overtime. While the necessity for review is clear, it appears that no State department ever seriously carries out this responsibility. In the absence of review, the departments have sought to justify,

rather than analyze, their overtime hours. Thus, the departments generally blame work load increase, deadlines, seasonal and cyclical demands, new programs and special projects for their overtime hours.

An in-depth analysis of a department's overtime experience can lead to the identification of any number and kinds of organizational and procedural problems, the resolution of which may prevent pressures for overtime from building up in the future. Some such underlying causes which exist in the departments are: unequal distribution of work among employees; inadequate scheduling of work hours where the nature of the work requires labor at times other than the normal work-week and work hours; lack of advance planning or inadequate planning to meet anticipated work loads; duplicating work already performed by others or performing non-essential tasks; failing to fill vacancies for long periods of time; excessive sick leaves; absence of production standards

to insure minimum outputs by employees during regular working hours; failure to institute re-training programs to train employees to perform two or more skills, thus enabling employees to be shifted from time to time, as the need arises, to those tasks which require more immediate attention; and failure to mechanize operations.

We recommend that each operating department periodically review its overtime experience and seek to identify and resolve, where possible, the underlying causes which give rise to pressures for overtime. During such review process, the departments should accumulate all relevant data needed for management to make rational, rather than expedient, decisions when pressures for overtime do arise.

THE ROLE OF THE STAFF DEPARTMENTS IN THE ADMINISTRATION OF OVERTIME

The departments of personnel services, budget and finance, and accounting and general services are the three State staff departments which have state-wide

overview and service responsibilities in the administration of overtime. Their overview and service responsibilities are to insure and promote the proper and uniform (where desirable or necessary) overtime use and procedures among the operating departments.

These responsibilities are of three major kinds. First, the staff departments, particularly the department of personnel services, should review the overtime law, as it is enacted or amended, to determine the intent of the legislature, the clarity of legislative intent, the need for further clarifying legislation, the rationale of the law, and the probable impact of the law on government operations, programs, procedures and finances. Except to determine legislative intent in the formulation by the department of personnel services of state-wide rules and regulations, none of the staff departments has ever reviewed the law to ascertain its rationale and none has determined the law's impact on State finances, operations, programs and procedures.

Second, the staff departments must establish and issue, for the guidance of the operating departments, rules and regulations, policies, and guidelines which spell out the rationale, clarify and amplify the law, and provide uniform procedures in the supervision of overtime work and payment of overtime compensation. Although the department of personnel services has issued its rules and regulations and the department of accounting and general services has devised a claims form for cash payments, all such efforts have been directed solely toward guiding the operating departments as to when and how much premium should be paid. No staff department has issued guidelines explaining the rationale of the overtime law, advising the operating departments as to when and under what circumstances, as a matter of good administrative practice, overtime should be authorized, outlining the procedures which should be used in authorizing, recording and paying for overtime, and clarifying the more complicated computational aspects of overtime.

Third, the staff departments must periodically inspect and analyze the operating departments' overtime experience and practices to determine compliance with the State's overtime law and rules; to ascertain the effectiveness with which overtime is being utilized in the State government; and to identify the changes which are required in the statute or the rules and regulations to clarify ambiguities. They should, in addition, lend their technical skills and knowledge to assist the operating departments in identifying and resolving the departments' underlying organizational and procedural deficiencies. None of the staff departments has ever conducted any inspection and analysis of the operating departments' overtime experience and practices; and none has aided any operating department in identifying and resolving the department's underlying organizational and procedural deficiencies.

We recommend:

1. That the department of personnel services, in cooperation with the department of budget and finance and the department of accounting and general services, review the overtime law and all amendments which may from time to time be made to ascertain the intent, rationale, and clarity of the law and the impact of the law on government operations, procedures and finances.

2. That the department of personnel services, in cooperation with the department of budget and finance and the department of accounting and general services, re-examine the existing rules and regulations, miscellaneous forms and instructions to determine their sufficiency and to establish such additional guidelines as necessary of uniform application to all operating departments with respect to the rationale of the law, the circumstances under which overtime should, as a matter of good administrative practice, be authorized, the more complicated computational aspects of overtime premium, and the procedures for authorizing, recording and compensating for overtime.

3. That the departments of personnel services, budget and finance, and accounting and general services conduct periodic inspections of the administration of overtime by the operating departments; analyze the State's overtime experience; and lend their technical knowledge and skills to assist each operating department in identifying and resolving its organizational and procedural defects which lead to pressures for overtime.

STATEWIDE INFORMATION SYSTEM

Both the operating and staff departments of government will be materially aided in the discharge of their duties toward overtime, if a system is devised whereby information on overtime in and from the various departments may be uniformly reported, centrally recorded and summarized. Such system will aid the operating departments in assessing the effectiveness, efficiency and economy with which they are utilizing overtime in accomplishing their missions, in maintaining a running check on their overtime experience, in insuring accuracy in their payment of overtime premium,

and in identifying the departments' organizational and procedural problems. The system will aid the staff departments in their review of the overtime law, in determining the revisions needed in the law and the rules and regulations in the conduct of pre- and after-the-fact financial audits to test the legality of overtime expenditures, in the conduct of periodic inspections to determine compliance by the operating departments with the State statute and the rules and regulations, and in analyzing the State's overtime experience in general.

We recommend that the departments of personnel services, budget and finance, and accounting and general services, jointly, establish a uniform system for the recording, reporting and storing of overtime data; that the data include the source of overtime by departments, sections, units, programs and employees, the date and hours of overtime, the reasons for and the results of overtime, and the manner in which overtime credits have been disposed of. We further recommend that the system be managed by the department of accounting and general

services and that it be integrated with Computer Center No. 1, and that it be so devised that running summaries of the overtime experiences of the various departments may be issued at least monthly.

BUDGETING FOR OVERTIME

Currently, except for the departments of budget and finance, planning and economic development, education, and transportation (harbors division), no State department is authorized to budget specifically for overtime. Each department is expected to look to departmental, salary-turnover savings to pay for any overtime incurred.

It is unrealistic to require the departments to look to savings. In a department which is short of funds, such requirement causes the department to create "savings" artificially by failing to fill vacancies or to delay payment of overtime until the department accumulates sufficient funds. If the department has excess funds, such requirement causes the department to grant overtime

without much thought to its relative need and consideration of alternate means of accomplishing the department's tasks. In either case, the tendency will be to emphasize unduly "availability of funds" as the principal criterion upon which decisions to authorize or not authorize overtime are to be made.

We believe that each department should be permitted to budget for overtime, especially where overtime is expected, such as holiday work in institutions which operate 24 hours a day, and where it can be reasonably anticipated, such as seasonal and cyclical demands. Budgeting for overtime enables the department of budget and finance, through its review of departmental budgets, to encourage the operating departments to analyze their overtime needs carefully. Budgeting will minimize the need to create artificial savings and the compulsion to incur overtime simply because savings exist. It will also be helpful to the legislature in determining the legitimacy of departmental requests for increases in staffing ratios.

We, therefore, recommend that each State department be authorized to budget specifically for overtime which is bound to occur, such as holidays, or which is reasonably predictable, such as seasonal needs.

SUGGESTED STATUTORY IMPROVEMENTS

There are several shortcomings in our overtime statute. The format is confusing, the provisions relating to premium pay for split shift work are ambiguous, and the premium rate is unfair to higher-salaried employees.

We recommend:

1. That the contents of section 5-72, RLH 1955, as amended, be broken up into four sections, each section to encompass one of the following four, major subject matters which are now all found in section 5-72: (a) general administration of overtime; (b) hours of work of employees in general; (c) overtime premium for employees in general; and (d) hours of work and overtime premium for firefighters only. We further recommend that the general provisions on overtime premium, which are now scattered

throughout section 5-72, be regrouped and set forth in sequential order, thus: (a) when an employee is to be credited with overtime; (b) what overtime rate should be paid; and (c) how overtime should be paid for (by time off and in cash).

2. That overtime premium for split shift work be clarified. At present, neither the statute nor the rules and regulations are clear as to the amount and rate of premium which should be paid if an employee who is on a split shift, the time span of which exceeds 10 hours, actually performs work during a portion of those hours which exceed 10 hours.

3. That a maximum rate for overtime premium be set which will be applicable to all employees. At present, the premium rate provisions of the statute permits an employee who is at a salary range below SR 17 to receive more premium pay than an employee at SR 17 or above, although both work the same number of overtime hours.

APPENDICES

Appendix A

OVERTIME LAW OF THE STATE OF HAWAII: SECTION 5-72, RLH 1955, AS AMENDED TO 1965

Section 5-72. Hours of work of officers and employees, compensation for overtime, and premium pay. (a) The provisions of this section shall apply to every officer or employee of the State or any of its political subdivisions, or of any department, board, commission or other agency of the State or any of its political subdivisions, where pay is established by chapter 4, except:

- (1) Elected officials;
 - (2) The head of any department, first deputy or first assistant;
 - (3) Officers and employees assigned to salary ranges 29, 30, and 31.
- (b) Except as otherwise provided in this section the normal work-week of all government personnel shall be forty hours with not more than eight hours of work in any day. The normal work-week shall be applicable to all such personnel, irrespective of whether their work is performed during the hours specified in section 5-70.

For pay and leave purposes, if a legal holiday falls on a Saturday and the preceding Friday is observed as a holiday pursuant to section 1-43:

- (1) For employees whose regular work-week does not include Saturday the work day preceding such Saturday shall be held and considered to be a legal holiday in lieu of such holiday which so occurs on such Saturday.

- (2) For employees whose regular work-week includes Saturday, such holiday shall be observed on Saturday, but not on Friday.

For pay and leave purposes, if a legal holiday falls on a Saturday and the preceding Friday is not observed as a holiday, employees whose regular work-week includes Saturday shall be entitled to observe such holiday.

For pay and leave purposes, if a legal holiday falls on a Sunday and the following Monday is observed as a holiday pursuant to section 1-43:

- (1) For employees whose regular work-week does not include Sunday, the next regular work day following such Sunday shall be held and considered a legal holiday, in lieu of such holiday which so occurs on such Sunday.
- (2) For employees whose regular work-week includes Sunday, such holiday shall be observed on Sunday, but not on Monday.

For pay and leave purposes if a legal holiday falls on a regular weekly nonwork day of any employee whose regular work-week is other than Monday-Friday, the next work day following such regular weekly nonwork day shall be held and considered to be a legal holiday for such employee in lieu of such day which so occurs on such regular weekly nonwork day.

- (c) The limitation of eight hours of work a day or forty hours a week may be waived for the convenience of employees by an agreement between a majority of a group of officers or employees and the head of that agency in which they are employed. Such an agreement shall be cancelled or amended whenever a majority of the group wish to cancel or amend it.

(d) The hours of work and compensation of the fire-fighting members of the fire departments of the political subdivisions of the State shall be governed by the following provisions:

(1) The maximum number of hours of work shall be two hundred and eighty-eight hours of actual service for twenty-eight days;

(2) Not more than one hundred forty-four hours of work shall be required in any two-week period;

(3) The number of hours of each day's work shall be fixed from time to time by the head of the department; and

(4) Any other provision herein to the contrary notwithstanding, if any fire-fighting member of the fire departments of the political subdivisions of the State is required to report for duty on a legal holiday, he shall receive double-time credit for all hours of duty. This double-time credit shall include and not be in addition to his regular straight-time pay.

(e) Employees in salary ranges 1 through 16 shall be paid for all hours worked in excess of the foregoing limitations in cash at the rate of one and one-half hours for each hour of overtime worked.

Employees in salary ranges 17 through 28 shall be paid for all hours worked in excess of the foregoing limitations in cash at the rate of one and one-half times the minimum step of salary range 17.

(f) If compensation for overtime worked is due an officer or employee at the time of severance, it shall be paid in cash.

(g) Any work performed in a spread of more than ten hours per day, exclusive of meal periods, shall be considered as overtime work and the employee shall be paid for such work at the rate of time and one-half.

(h) Whenever an employee is required to report to work because of an emergency outside of his regular scheduled working hours, he shall be paid for a minimum of two hours of work, calculated from the time he leaves his home until he returns from work.

(h-1) Whenever an employee is required, with less than forty-eight hours advance notice, to report for work on a shift other than the shift for which he was officially scheduled, he shall be credited for overtime work for each hour of work performed on the first work day of such new shift.

(i) The provisions of this section in regard to payment in cash shall be applicable when compensatory time off for the overtime cannot be taken by the employee within thirty days after the overtime work.

(j) An employee who, by agreement with the head of his department, performs stand-by or emergency service in excess of his normal hours of work in exchange for accommodations provided him for the convenience of the government, shall not be entitled to overtime credit for such service except for emergency service rendered on his scheduled day off.

(d) The hours of work and compensation of the fire-fighting members of the fire departments of the political subdivisions of the State shall be governed by the following provisions:

(1) The maximum number of hours of work shall be two hundred and eighty-eight hours of actual service for twenty-eight days;

(2) Not more than one hundred forty-four hours of work shall be required in any two-week period;

(3) The number of hours of each day's work shall be fixed from time to time by the head of the department; and

(4) Any other provision herein to the contrary notwithstanding, if any fire-fighting member of the fire departments of the political subdivisions of the State is required to report for duty on a legal holiday, he shall receive double-time credit for all hours of duty. This double-time credit shall include and not be in addition to his regular straight-time pay.

(e) Employees in salary ranges 1 through 16 shall be paid for all hours worked in excess of the foregoing limitations in cash at the rate of one and one-half hours for each hour of overtime worked.

Employees in salary ranges 17 through 28 shall be paid for all hours worked in excess of the foregoing limitations in cash at the rate of one and one-half times the minimum step of salary range 17.

(f) If compensation for overtime worked is due an officer or employee at the time of severance, it shall be paid in cash.

(g) Any work performed in a spread of more than ten hours per day, exclusive of meal periods, shall be considered as overtime work and the employee shall be paid for such work at the rate of time and one-half.

(h) Whenever an employee is required to report to work because of an emergency outside of his regular scheduled working hours, he shall be paid for a minimum of two hours of work, calculated from the time he leaves his home until he returns from work.

(h-1) Whenever an employee is required, with less than forty-eight hours advance notice, to report for work on a shift other than the shift for which he was officially scheduled, he shall be credited for overtime work for each hour of work performed on the first work day of such new shift.

(i) The provisions of this section in regard to payment in cash shall be applicable when compensatory time off for the overtime cannot be taken by the employee within thirty days after the overtime work.

(j) An employee who, by agreement with the head of his department, performs stand-by or emergency service in excess of his normal hours of work in exchange for accommodations provided him for the convenience of the government, shall not be entitled to overtime credit for such service except for emergency service rendered on his scheduled day off.

~~[(k)]~~ The department of personnel services of the State and the departments of civil service in the political subdivisions of the State shall each be responsible for the proper administration of the provisions of this section in the respective jurisdictions. Rules and regulations for the proper administration and regulation of hours of work and overtime compensation of officers and employees of the State and its municipal subdivisions shall be promulgated by the respective personnel directors of the State and its municipal subdivisions, subject to the approval of the governor for the state rules, the mayor of the city and county of Honolulu for the rules of the city and county; and the chief executive officer for the rules of each of the counties of Hawaii, Kauai and Maui. Such rules and regulations shall be such as to obtain, so far as possible, uniformity and practicability in the application of the provisions of this section.

ACT 40, SLH 1966, RELATING TO THE PAYMENT OF CASH FOR OVERTIME WORK OF
PUBLIC OFFICERS AND EMPLOYEES

SECTION 1. Purpose. Section 11 of Article III of the Constitution of the State of Hawaii provides for the consideration and enactment in a budget session of all urgency measures deemed necessary in the public interest. Said Section 11 further provides that no urgency measure shall be considered unless a statement of facts constituting such urgency shall be set forth in a section thereof and until such section shall have been first approved by each house. Pursuant to said Section 11 of Article III of the Constitution of the State of Hawaii, this Act is hereby declared to be an urgency measure deemed necessary in the public interest. The following is a statement of facts constituting such urgency:

Section 5-72 of the Revised Laws of Hawaii 1955, as amended by Act 164 of Session Laws of Hawaii 1961 and Act 256, S.L.H. 1965, provides for payment of cash for overtime work only when compensatory time off is not granted within thirty days.

This provision has compounded a difficult situation. When a public employee is required to work overtime because of the rush of work, he then must take compensatory time off within thirty days. If he is given time off, the already-rushed department then loses his services while he is on compensatory time off.

It would be in the public interest and in the interest of efficiency to provide for payment in cash for all overtime work.

SECTION 2. Paragraph (d) (4) of Section 5-72 of the Revised Laws of Hawaii 1955, as amended, and as amended by Act 256, Session Laws of Hawaii 1965, is hereby amended to read:

"(4) Any other provision herein to the contrary notwithstanding if any fire-fighting member of the fire departments of the political subdivisions of the State is required to report for duty on a legal holiday, he shall receive payment in cash at the rate of two times his regular rate of pay for all hours of duty. This double time payment shall include and not be in addition to his regular straight time pay."

SECTION 3. Paragraph (i) of Section 5-72 of the Revised Laws of Hawaii 1955, as amended by Act 164 of the Session Laws of Hawaii 1961, is hereby further amended to read:

"(i) The provisions of this section in regard to payment in cash shall be applicable in all cases except where the employee who has performed the overtime work elects, in writing, to take compensatory time off in lieu of cash. Such employee shall receive as compensatory time off one and one-half hours for each hour of overtime worked. Such compensatory time off shall be scheduled by mutual agreement of the affected employee and his appointing authority. All cash payments shall be made within 45 days after the overtime work is performed."

SECTION 4. The sum of \$100,000 or so much thereof as may be necessary is hereby appropriated from the general revenues for the additional cost of payment in cash for overtime work for the period July 1, 1966 up to and including June 30, 1967; provided that the department of budget and finance shall report expenditures made from this appropriation during the next session of the legislature.

The appropriation made by this section shall be allotted by the director of finance to the several boards, commissions, officers of the state, and to county agencies whose functions were transferred to the state by Act 97, Session Laws of Hawaii 1965, or any extension thereof. It is provided that special, separate and federal fund monies shall be used to the maximum extent before state funds are utilized and that unexpended funds shall be returned to the state director of finance who shall deposit the same into the general fund.

SECTION 5. If any section, subsection, paragraph, sentence, clause, phrase or appropriation contained in this Act is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Act.

SECTION 6. This Act shall take effect on July 1, 1966.

(Approved April 27, 1966) H.B. 526

Extract from Chapter B-3, State Personnel Manual

OVERTIME WORK REGULATIONS

Sec. 8.303 Coverage: Credit for Compensatory Time for Overtime Work.

- a. Employees who are entitled by law to receive credit for compensatory time because of overtime work are those employees who are paid according to the salary schedule for officers and employees under Chapter 4, Revised Laws of Hawaii 1955, as amended, and whose pay rates are between salary range 1 and salary range 28 inclusive.
- b. Persons not entitled to earn compensatory time credit for overtime work are:
 - (1) elected officials,
 - (2) head of a department, first deputy, or first assistant,
 - (3) officers and employees who are paid at salary range 29, or higher salary ranges of the salary schedule for general employees under Chapter 4, Revised Laws of Hawaii 1955, as amended, and
 - (4) officers and employees whose pay or compensation are exempted from the provisions of Chapter 4, Revised Laws of Hawaii 1955, as amended.

Sec. 8.304 Occurrence of Overtime Work.

- a. Overtime work will occur when an employee renders service at the direction of proper authority if the performance of such service is:
 - (1) in excess of 8 hours a work day,
 - (2) in excess of 8 hours whenever an employee, after completing his scheduled 8 hour shift, is directed to continue working without stopping and works into the next calendar day,
 - (3) in excess of 40 hours per work week without a holiday, subject to a reduction of said 40 hours by 8 hours for each holiday observed,
 - (4) on any day which is observed as a legal holiday; whenever the major portion of a shift falls on a day observed as a legal holiday, work performed during the entire 8 hour shift shall constitute overtime work provided that no further credit because of the overtime work shall be granted notwithstanding any other provision of these regulations,
 - (5) on the employee's scheduled day off and there has been no change, by mutual consent or by due prior notice, in the work schedule, or
 - (6) in accordance with specific conditions stipulated by law or by regulations under this Part, which provide for overtime compensation.

b. Additions and exceptions to the above provisions are as follows:

(1) Split Shift Work.

An employee who works a split shift will earn overtime for each hour which exceeds 10 hours, exclusive of time for meals, calculated from the time he starts and ends his work day.

(2) Emergency Work.

An employee on off duty status who is called back to duty because of an emergency will be credited with either:

- (a) a minimum of 2 hours regular pay, calculated from the time he leaves his home and until he returns home from work, or
- (b) overtime work calculated from the time he leaves his home and until he returns home, whichever is greater in value.

(3) Exchange for Perquisites.

An employee who by agreement with his department head receives perquisites or accommodations in exchange for rendering stand-by or emergency duty in excess of his normal hours of work:

- (a) will not earn overtime for rendering scheduled stand-by duty,
- (b) will not earn overtime when called to render emergency service during his scheduled hours of such duty, and
- (c) will earn overtime for each hour of work when called to emergency duty on his scheduled day off.

- (4) In any week during which a holiday is observed and the employee is scheduled to work four normal 8 hour days (including or not including the day on which the legal holiday is observed), absence from work on any of the four days of scheduled work shall be accounted for in the normal manner and no overtime shall be earned thereby.

Amendment

- (5) Whenever an employee is required, with less than 48 hours advance notice, to report for work on a shift other than the shift for which he was officially scheduled, he shall be credited for overtime work for each hour of work performed on the first work day of such new shift.

Sec. 8.305 Conversion to Compensatory Time Credit.

The number of actual hours of overtime worked shall be converted to compensatory time credit at the rate of 1½ hours of compensatory time credit for each hour of overtime work, except as provided in Sub-section 8.304 b(2) above, relating to emergency work.

Sec. 8.306 Compensatory Time Off Charged as Compensatory Leave.

- a. An employee who has compensatory time credit may be scheduled for or granted compensatory time off by his department head. Such compensatory time off shall be charged as compensatory leave.
- b. An employee on compensatory leave shall be deemed to be on official leave with pay status.

- c. An employee who notifies his department head in advance or substantiates to the satisfaction of his department head that he was sick on a scheduled day of compensatory leave shall be charged only for sick leave.

Sec. 8.307 Compensation for Compensatory Time Credit.

- a. Cash payment for compensatory time credit shall be made when compensatory time off is not granted within 30 days of the day on which the overtime work occurred.
- b. At the time of termination or resignation from State service, the employee shall be paid in cash for all compensatory time credit earned but not yet taken as compensatory time off except as noted in Sub-section 8.307 d.
- c. Such cash payments for overtime work shall be determined as follows:
 - (1) employees in salary ranges 1 through 16 shall be paid in cash at the rate of one and one-half hours for each hour of overtime worked based on their existing hourly pay rates, and
 - (2) employees in salary ranges 17 through 28 shall be paid in cash at the rate of one and one-half times the minimum step of salary range 17.
- d. Cash payment for overtime work which occurred prior to July 1, 1959 is not authorized.

Sec. 8.308 Furnishing of Meals.

- a. When an employee is required with less than 24 hours prior notice to work overtime because of an emergency and therefore is unable to go home for a meal he usually consumes at home, his department shall furnish him with such a meal or the reasonable cost of one, provided it does not exceed two dollars.
- b. Overtime work necessary in the usual operational routines to meet deadlines or to overcome a backlog of work shall not be considered as emergency duty.

Sec. 8.309 Mutual Agreement

a. Overtime Work.

- (1) A mutual agreement in writing may be entered into between the appointing authority and a majority of a group of employees in a work unit. Through this agreement, the limitations of an 8 hour day and a 40 hour work week with respect to overtime work may be modified for the convenience of the employees. Any modification shall provide within a reasonable period for an average work week of at least 40 hours.
- (2) An agreement may be cancelled by management or by a majority of the employees concerned provided written notice is given to the employees or to the appointing authority, respectively, at least 30 days in advance of the date of cancellation; provided that such 30 day notice may be waived by mutual consent.

(3) When a majority of the employees concerned desire to amend an agreement, a new agreement shall be executed with the appointing authority.

b. Stand-by and Emergency Service.

An appointing authority may enter into an agreement with an employee to furnish perquisites or accommodations for the convenience of the government in exchange for the performance of stand-by duty and emergency service after his scheduled or normal hours of work.

c. Such agreement shall be submitted to the Director of Personnel Services for prior review to assure compliance with the provisions of law and these regulations.

SPLIT SHIFT

Sec. 8.310 a. An employee who works a split shift shall be paid an additional amount based on 9¢ per hour for each hour of actual work on a split shift.

b. In determining the cash payment for overtime work credit granted because of off duty time as specified under Sub-section 8.304 (b) (1), the employee's basic compensation plus the split shift differential will be used in determining the cash payment due pursuant to Sub-section 8.307 c(1).

STAND-BY DUTY

Sec. 8.311 a. For each day or portion of a day of stand-by duty, the employee shall be paid an additional amount equal to 5% of his daily pay rate.

b. Whenever it is necessary for an employee on stand-by duty to render service in response to an emergency call, he shall be entitled to further compensation as provided in Sub-section 8.304 b(2). The fact that an employee may be called to duty in cases of emergency shall not, unless such employee is on stand-by duty, entitle such employee to the additional 5% compensation; but if called to duty, he shall be entitled to the overtime compensation.

Sec. 8.312 Legal Holidays.

a. Legal holidays shall be observed as provided in Section 1-43, Revised Laws of Hawaii 1955, as amended. These holidays are:

*New Year's Day	*Independence Day
*Presidents' Day	*Labor Day
Kuhio Day	*Veterans' Day
Good Friday	*Thanksgiving Day
*Memorial Day	*Christmas Day
Kamehameha Day	Primary Election Day
	General Election Day

*National Holidays

b. A legal holiday which falls on Sunday shall be observed on the Monday which immediately follows. An employee who works on such a Monday earns overtime unless otherwise provided by a mutual agreement.

- c. A legal holiday which falls on Saturday and is also a national holiday shall be observed on the Friday immediately preceding. An employee who works on such a Friday earns overtime unless otherwise provided by a mutual agreement.
- d. For each legal holiday observed during a week, the number of hours of work for that week shall be reduced by eight hours.
- e. Whenever a holiday is observed on a week day (i.e., on a day other than Saturday or Sunday) and such day coincides with an employee's regularly scheduled day off, he shall be entitled to a day off on another day in lieu thereof.

Sec. 8.313 Appeal.

- a. An officer or an employee to whom the regulations in this part are applicable and who is in disagreement with the application to him of any of the provisions of these regulations in an actual situation, may submit a request in writing to the Director of Personnel Services for consideration.
- b. The employee's request shall be submitted in duplicate and shall include the following information:
 - (1) schedule of work as follows:
 - (a) the starting and ending dates for the work week in which the situation arose,
 - (b) The days on which he was scheduled to work, and
 - (c) the hours of his work day or shift as scheduled;

- (2) during that work week:
 - (a) the actual days worked, and
 - (b) the actual hours worked each day (show the time work began, when meal time began and ended, the time work resumed, the time work ended each day)
 - (3) other factual information which is directly related
 - (4) the determination made by the employee's department for which consideration by the Director of Personnel Services is requested
 - (5) the employee's belief as to what is proper
 - (6) when applicable, any designation for someone to serve as the employee's official representative, and
 - (7) the employee's signature, position held, organizational work unit, department, and island on which employed.
- c. The Director of Personnel Services shall conduct such study and investigation as may be necessary, shall make his findings, and shall inform the employee of his findings and his decision.

OVERTIME HOURS
(to the nearest hundredths)

Appendix D

<u>Departments</u>	<u>Fiscal Year 1964-65</u>	<u>1st Three Quarters Fiscal Year 1965-66</u>
Accounting and General Services	2,600	2,800
Agriculture	9,600	7,000
Attorney General	200	100
Budget and Finance	4,000	5,100
Defense	400	300
Education	5,800	7,400
Hawaiian Home Lands	700	800
Health	46,800	35,400
Judiciary	7,300	3,300
Labor	4,100	4,800
Land and Natural Resources	2,200	1,200
Lieutenant Governor	300	--
Personnel Services	1,800	1,400
Planning and Economic Development	700	900
Regulatory Agencies	200	200
Social Services	18,600	10,200
Taxation	2,400	3,100
Transportation	55,300	36,700
University of Hawaii	4,900	5,900
	<u>167,900</u>	<u>126,600</u>

DIRECT COST OF OVERTIME IN FISCAL YEARS 1965-1966,
1966-1967: SOME ASSUMPTIONS IN CALCULATION

Appendix E

In chapter 2, it was estimated that the direct cost of overtime to the State was \$726,000 in fiscal year 1965-1966, and will be \$810,000 in fiscal year 1966-1967. We estimated the costs for these fiscal years, because at the time of our examination, the actual data for these years were not available. In arriving at the estimated costs, certain facts were necessarily assumed. Here, we test the validity of those assumptions.

1. Fiscal year 1966. The assumptions underlying our estimate of \$726,000, are as follows:

Assumption 1. The total overtime hours for 1966 were the same as the total for 1965-- that is, 168,000 hours. This assumption is not as far-fetched as it might appear. During the first nine months of fiscal year 1966, State employees' overtime hours totaled 127,000. A natural projection of the nine months' figure indicates that, by June 30, 1966, the State overtime hours should have totaled at least 169,000, or 1,000 hours more than the total for 1965. In all probability, the year-end total was more than 169,000, inasmuch as the rate at which overtime was being incurred during the first nine months of fiscal year 1966 exceeded the rate at which overtime was incurred during the same time period in fiscal year 1965.

Assumption 2. The employees who worked overtime in fiscal year 1966 were substantially the same employees who worked overtime in fiscal year 1965. To estimate the

cost of overtime for fiscal year 1966, we need to know what overtime premium rate we may reasonably apply to the 168,000 overtime hours. In the absence of actual data for the year, the only available base from which we can deduce a rational premium rate is the \$2.71 average, hourly, regular rate of pay of employees who worked overtime in 1965. This base figure of \$2.71, of course, is useful only if the employees who worked overtime in fiscal year 1966 were substantially the same employees who worked overtime in fiscal year 1965. Any substantial difference in the identity of the overtime workers might well require a base other than \$2.71, in calculating the premium rate of overtime pay for fiscal year 1966.

This assumption--that the same employees worked overtime in both fiscal years--is a reasonable one. A perusal of the rosters of overtime workers for both 1965 and 1966 reveals that the same names appear on both. To be sure, there are some names on the 1966 list which are not on the 1965 list, and, conversely, there are names which are on the 1965 list but not on the 1966 list. We are also mindful that some of the names appearing on the 1966, but not on the 1965, roster are names of those who were first-time employees in 1966. Their salaries are generally lower than the salaries of the "old-timers", and the introduction of such lower salaries tends to lower the average, hourly, regular pay per employee. However, the difference between the 1965 and 1966 rosters of overtime workers is relatively small, and the average, hourly, regular pay per employee is but only slightly affected.

Assumption 3. The average, regular, hourly rate of pay of all employees who worked overtime in fiscal year 1966 was \$2.78 during the first half and \$2.98 during the second half of the fiscal year. In fiscal year 1966, all public employees enjoyed a substantial increase in pay. The pay increase came about as a result of Act 223, in 1965, which (a) raised the pay of all public employees by 7.5 percent, effective

January 1, 1966, and (b) granted a 5 percent longevity step increase, effective July 1, 1965, to employees at the maximum step in a salary range, who would not otherwise have been entitled to such increment advance during the fiscal year. In addition, employees, other than those at the maximum step in a salary range, received their normal 5 percent increment step increases at various times during the fiscal year on their respective "service anniversary dates."

The 5 percent incremental increase (whether gained under Act 223 or through normal increments) were not received by the employees all at the same time, but rather at various times throughout the fiscal year. We assume that the effect of the incremental increase was felt by the workers at an even rate over the year, for an average incremental increase of 2.5 percent. This means that effective July 1, 1965, the average, regular, hourly rate of pay of employees working overtime in fiscal year 1966 was 2.5 percent more than \$2.71, or \$2.78.

The 7.5 percent pay increase granted to all public employees became effective on January 1, 1966. This means that effective that date, the average, regular, hourly rate of pay of employees working overtime in fiscal year 1966 was 7.5 percent more than \$2.78, or \$2.98.

Assumption 4. The 168,000 total overtime hours were evenly distributed between the first and second halves of fiscal year 1966. Since the 7.5 percent general wage increase granted to all employees by Act 223 did not become effective until January 1, 1966, our calculation of the overtime cost for fiscal year 1966 must be made in two stages. We must first calculate the overtime cost for the first half of the fiscal year to December 31, 1965, using only the average 2.5 percent incremental step increase. We must then calculate the overtime cost for the second half of the

fiscal year from January 1, 1966, to June 30, 1966, utilizing both the 2.5 percent increment step increase and the 7.5 percent general increase. In doing so, we assume that the total 168,000 overtime hours were evenly distributed between the two halves of the fiscal period. This assumption is reasonable, in the light of 1965's experience which shows that more overtime was incurred in the second half than in the first.

We calculated the overtime cost for fiscal year 1966, on the foregoing assumptions, as follows:

<u>First half</u>	84,000 overtime hours @ \$4.17 per hour ($1\frac{1}{2}$ x \$2.78)	=	\$350,280
<u>Second half</u>	84,000 overtime hours @ \$4.47 per hour ($1\frac{1}{2}$ x \$2.98)	=	375,480
			<u>\$725,760</u>

2. Fiscal year 1967. The estimated cost of \$810,000 is anchored upon the same assumptions used in estimating the cost for fiscal year 1966, with this one additional assumption.

Additional assumption. The average, regular, hourly rate of pay of all employees working overtime in fiscal year 1967 is \$3.21. By June 30, 1966, every State employee gained a total of 12.5 percent increase in wages due to Act 223 and the normal increments. This means that on June 30, 1966, the average, regular, hourly rate of pay of the overtime workers was \$3.15. The employees, except some of those at the maximum step in a salary range, will again enjoy a 5 percent incremental step increase at various times during fiscal year 1967. We assume that the effect of this

incremental increase will be felt by the employees at a reasonable rate throughout the fiscal year, for an average incremental increase (after taking into account those employees who will receive no increments at all) of 2 percent. This 2 percent incremental increase raises the regular, hourly rate of pay to \$3.21 (or an average overtime premium rate of \$4.82). The cost of overtime for fiscal year 1967 is calculated thus:

168,000 overtime hours @ \$4.82 per hour = \$809,760.

SUMMARY OF OVERTIME CAUSES

Appendix F

DEPARTMENT	SECTION OR PERSONS INVOLVED	REASONS GIVEN FOR OVERTIME
Education	Personnel, business and data processing; library	Work load increase due to increased emphasis in education: the new pay schedules have increased the work load for clerical workers in the personnel and payroll areas; the personnel section has increased work to do in recruitment, certification and placement; the business office has more work in its fiscal operations.
University of Hawaii	Colleges; business, admissions and records offices; maintenance and security operations	Peak work loads at the beginning and end of semesters for pre-registration, registration, grading.
Agriculture	Inspectional and enforcement (plant and animal quarantine inspection, meat inspection and commodities inspection)	Work loads and work schedules are based largely on the needs and demands of private industry and the seasonal nature of agricultural commodities.
Land and Natural Resources	1. Forestry 2. Fish and game	1. Field work involves long and unusual hours, some overnight or over a period of days. Long distance to project area makes overtime work preferable to complete the project rather than return another day to finish job. 2. Nature of work requires working irregular hours, on weekends and on holidays.

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Planning and Economic Development	Planning division	Preparation of the governor's capital improvements budget; legislative services on the CIP during legislative sessions.
Transportation	a. <u>Highways division</u> 1. Design section 2. Fiscal section 3. Maintenance b. <u>Harbors division</u> 1. Design section 2. Fiscal section 3. Harbor pilots c. <u>Airports division</u> , airport operations	a. <u>Highways division</u> 1. Manpower difficulties caused by constant turnover of personnel and unfilled positions. 2. Increased work load due to expanded program. 3. Emergencies caused by storm damages and traffic accidents. b. <u>Harbors division</u> 1. Manpower difficulties caused by constant turnover of personnel and unfilled positions. 2. Program expansion. 3. Irregular ship movements. c. <u>Airports division</u> Personnel turnover.
Defense	Patrol guards	Holiday work; sometimes sick leaves and vacations.
Hawaiian Home Lands	Fiscal operations	Posting monthly statements sent to homesteaders and processing monthly records; and position vacancies.

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Health	State Hospital and Waimano Home	Sick leaves, holiday work, accidents, changes in shift without 48 hours' notice, personnel turnover and position vacancies.
Judiciary	1. Detention home 2. Court reporters, court clerks, and bailiffs 3. Probation officers	1. Sick leaves, vacant positions, and changes in shifts without 48 hours' notice. 2. Court session sometimes extends beyond the normal working hours to await jury verdicts. 3. Need to counsel juvenile traffic offenders on Saturdays.
Labor and Industrial Relations	1. Youth Opportunity Center 2. Unemployment compensation 3. Data processing	1. Need to meet federal deadlines in establishing programs. Unfilled counseling positions. 2. Increased number of requests for job clearances for immigrants. Field servicing of rained-out, plantation, unemployment compensation claimants. 3. Preparation of new employer tax rates for unemployment compensation during the period between December and March.
Social Services	1. Corrections division 2. Business and personnel offices	1. Holiday work; sick leaves, position vacancies; changes in shifts without 48 hours' notice. Emergencies caused by riots and escapes. 2. Adjustments of welfare payments required by increases in benefits.

Accounting and General Services	1. Accounting division 2. Data processing	1. Closing of books at the end of each quarter and at the end of the fiscal year. Late submission of claims and work load fluctuations require overtime to examine vouchers and record claims. 2. Need to process payroll requires stoppage of its regular work.
Attorney General	Stenographic staff	Preparation of administration bills prior to the convening of the legislature; preparation of complicated briefs and legal opinions.
Budget and Finance	Budget division SWIS	Preparation of the governor's operating budget; providing services to the legislature during legislative sessions. SWIS needs to get going.
Lieutenant Governor	Elections administration	Preparation for primary and general elections.
Personnel Services	Examination, Classification and Pay divisions	Administering examinations on Saturdays and processing yearly increments; special projects.
Regulatory Agencies	Various units	Investigations, in-service training after working hours, attending board meetings, administering examinations at times other than the normal working hours; complying with legislative requests.
Taxation	1. Real property tax 2. Income tax	1. Need to meet deadline in mailing tax assessment notices to real property owners. 2. Income tax season.

TIME SHEET Appendix G

Name _____		Department _____		For Payroll Period _____	
Social Security No. _____		Month Earned _____		Payroll No. _____	
	Time Started	Time Ended	Hours Worked	Type of Payment	Remarks
1	16				
2	17				
3	18				
4	19				
5	20				
6	21				
7	22				
8	23				
9	24				
10	25				
11	26				
12	27				
13	28				
14	29				
15	30				
16	31				

Total Hours Worked _____

1. Hourly Employee

Total Hours _____ x _____ hourly rate

2. Overtime

Total hours _____
 x 1 1/2 _____
 Less Comp. time off _____
 Net Due _____ x _____ hourly rate

3. Stand-by Time

Total Days Worked _____
 5% of _____ is _____ daily rate

4. Split Shift

Total hours _____
 Less meal time off _____
 Net Due _____ x .09

Hours span of work _____
 Less meal time off _____
 Net Hours _____
 x 1 1/2 over 10 hrs _____
 Less comp. time off _____
 Net Due _____ x _____ hourly rate

Signature of Employee _____

Approved: _____ Title _____

MEMORANDA OF COMMENTS BY AFFECTED AGENCIES

MEMORANDA OF COMMENTS BY AFFECTED AGENCIES

This overtime report was completed in December, 1966. On January 11, 1967, we distributed copies of the report to all affected departments for their comments, via a transmittal letter, a copy of which is attached as Attachment #1.

As noted in our letter, because of the relatively large number of departments affected by the report, we requested the departments of personnel services, budget and finance, and accounting and general services (the three State staff departments which have overview responsibilities for statewide administration of overtime) to coordinate all departmental responses. We asked the three staff departments to submit to us, by no later than January 31, 1967, a single, cohesive and comprehensive response.

The department of personnel services assumed the leadership in drafting the comprehensive response. It was received on February 6, 1967, after the report itself had been sent to the printers for publication. The response is attached as Attachment #4.

The comprehensive report is a brief one, touching only upon the overtime records. Other aspects of the overtime report are not discussed. It is apparent from the letter of the department of personnel services that it does not agree that the overtime records are insufficient. We do not think it necessary to comment on this point, since the nature of the deficiency in the maintenance of the records and the difficulty we experienced in securing the necessary data for our report are fully discussed in the main body of our report.

Inasmuch as we asked for a coordinated reply, we did not expect to receive any direct replies from the various State departments, and we received none, except from the department of Hawaiian home lands and the department of taxation. Their responses are attached as Attachments #2 and #3.

PROJECT OFFICES

WAIKOA OFFICE
P. O. BOX 138
KAMUELA, HAWAII

KAUKAHA OFFICE
P. O. BOX 835
HILO, HAWAII



STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
P. O. BOX 1878
HONOLULU, HAWAII 96808

January 13, 1967

Attachment # 2

PROJECT OFFICES

MAUI OFFICE
P. O. BOX 28
KAMUHOU, MAUI

MOLOKAI OFFICE
P. O. BOX 188
MOOLENAU, MOLOKAI

HAWAII OFFICE
P. O. BOX 332
LIIHUE, HAWAII

RECEIVED

JAN 16 1967

OFFICE OF THE AUDITOR
TIME

Mr. Clinton T. Tanimura
Auditor, State of Hawaii
Iolani Palace
Honolulu, Hawaii

Dear Mr. Tanimura:

Thank you for the opportunity to read and examine your REPORT TO THE GOVERNOR AND THE LEGISLATURE OF THE STATE OF HAWAII ON OVERTIME IN THE STATE GOVERNMENT, December, 1966. I find the report comprehensive and detailed, as it should be, and feel the recommendations contained therein can be of great help in bringing about an acceptable, unified method of overtime management and control.

We both agree, I'm certain, that overtime cannot be totally eliminated but it can and should be fairly and properly managed and controlled. Your report is a proper step in this direction.

Very truly yours,

A. K. PIHANAIA, Chairman
Hawaiian Homes Commission

cc: Personnel Services
Budget and Finance
Accounting and General Services

Clinton T. Tanimura
Auditor

Attachment #1

THE OFFICE OF THE AUDITOR
State of Hawaii
Iolani Palace
Honolulu, Hawaii 96813

January 11, 1967

I transmit herewith for your studied consideration our preliminary report entitled, "Overtime in the State Government." Our study was conducted pursuant to the duties and powers vested in me by Article VI, Section 8, of the Constitution of the State of Hawaii and Chapter 2, Part III, of the Revised Laws of Hawaii, 1955.

The term, "preliminary," indicates that the report has not been released for general distribution. However, copies of this report have been submitted to the Governor, the Speaker of the State House of Representatives, the office of the Senate President, and all state agencies affected by this examination.

It is our policy to afford all agencies affected by our examination with an opportunity to comment on our findings and recommendations and to incorporate all such agency responses in our final report. However, because of the statewide nature of our recommendations and the relatively large number of agencies that are affected by this report, we have requested the departments of personnel services, budget and finance, and accounting and general services to jointly coordinate all agency responses in order that we might receive a single, cohesive and comprehensive report. I would appreciate receiving this report by no later than January 31, 1967.

If you wish to discuss any aspect of this report with us, we will be pleased to meet with you on or before January 20, 1967.

I wish to take this opportunity to thank you for the excellent cooperation and assistance we have received from your agency.

Yours truly,

Clinton T. Tanimura
Auditor



STATE OF HAWAII
DEPARTMENT OF PERSONNEL SERVICES
825 MILILANI STREET
HONOLULU 13, HAWAII
February 6, 1967

Attachment #4
EDNA TAVARES TAUFASAU
DIRECTOR OF PERSONNEL SERVICES
EDWARD L. MCINTOSH
DEPUTY DIRECTOR OF PERSONNEL SERVICES

RECEIVED
FEB 6 1967

OFFICE OF THE AUDITOR
TIME

Honorable Clinton T. Tanimura
Legislative Auditor
State of Hawaii
Iolani Palace
Honolulu, Hawaii

Dear Mr. Tanimura:

Thank you for the opportunity to read and examine your REPORT TO THE GOVERNOR AND THE LEGISLATURE OF THE STATE OF HAWAII ON OVERTIME IN THE STATE GOVERNMENT, DECEMBER, 1966. As requested by you the three staff agencies, Budget and Finance, Accounting and General Services and Personnel Services have received the replies from the various departments, copies of which were transmitted directly to you.

We find your report to be comprehensive and detailed and we agree that some of your points are well taken. However, we feel that you have over-generalized the situation as it exists among the various departments and we do not agree that the overtime records are insufficient.

Task Force No. 1 which was established in connection with the operations of Computer Center No. 1 held a series of meetings over the past four years for the purpose of investigating the mechanical accumulation of personnel data. The collection and distribution of statistical data through Computer Center No. 1 is still in the process of refinement. Among the processes which will be added to the system in the near future are the recording and accumulation of data on vacation, sick leave and overtime.

Sincerely yours,

Edna Tavares Taufasaau
EDNA TAVARES TAUFASAU
Director of Personnel Services

MEMBER
Public Personnel Association
Since 1960



DEPARTMENT OF TAXATION
STATE OF HAWAII

RECEIVED
JAN 24 1967
OFFICE OF THE AUDITOR
TIME

Honolulu, Hawaii
January 23, 1967

Mr. Clinton T. Tanimura
Auditor, The Office of the Auditor
Iolani Palace
Honolulu, Hawaii 96813

Dear Mr. Tanimura:

Thank you for your courtesy in sending me a copy of your preliminary report entitled "Overtime in the State Government."

We have reviewed the report and it is our conclusion that all of your recommendations are sound. Your recommendation that there be specific budgeting for overtime indicates a recognition of the realities of the situation as it exists. We agree that the existing premium pay inequity should be corrected. Also, we are in full agreement with you that there should be a uniform system of recording and reporting overtime.

Specific references to the department of taxation are made throughout the report and we would like to submit our comments on these as follows:

1. See Page 2, footnote 2. It is true that our policy manual contains the statement that "(The) objective of the department is to eliminate all overtime." However, it is not true, as you have stated editorially, that we consider overtime an evil to be eliminated. With so many statutory deadlines to contend with, we would be the first to admit that overtime cannot be entirely eliminated in the department of taxation. Expediently used, overtime is a valuable "tool" for us.
2. See Page 26 (line 1 left column). You have stated in the report that, "the department of taxation alleges that overtime is needed during the annual income tax processing season . . ." A check with our operating personnel has shown that no overtime, compensated by compensatory time-off or premium pay, was incurred by this department in the fiscal year ending in 1966, or in any later period, with respect to the net income tax program.
3. See Appendix F, page 103 (bottom of page in extreme right column). As reasons given for overtime and allegedly attributable to this department, you have stated: "Need to meet deadline in mailing tax assessment notices to real property owners." We feel that this statement should be corrected to read: "Need to meet statutory deadlines in assessing real property tax."

As another reason, you have stated: "Income tax season." We are unable to find data to support this statement. See item 2 above.

It is my opinion that your report properly calls attention to a problem which needs to be corrected. I also feel that all of the State departments will gain from any implementation of your recommendation.

Sincerely,

John A. Burns
JOHN A. BURNS
Director of Taxation

**PUBLISHED REPORTS
OF THE LEGISLATIVE AUDITOR**

Long and Short Range Programs of the Office of
the Auditor. Dec. 1965.

A Preliminary Survey of the Problem of Hospital
Care in Low Population Areas in the State of
Hawaii. Dec. 1965.

Examination of the Office of the Revisor of Statutes.
Audit Report No. 66-1 Jan. 1966.

An Analysis of H.B. No. 16, Entitled: A Bill for an
Act Relating to the Preparation of a Revision of
the Statutes of Hawaii and Making an Appropriation
Therefor. Feb. 1966.

An Analysis of the State-wide Information System
Including Comments on its Operating Budget
for Fiscal 1966-1967. Feb. 1966.

Comments on Act 97 Agencies' Operating Budgets
1966-1967. Feb. 1966.

Procedural Changes for Expediting Implementation
of Capital Improvement Projects. March 1966.

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