JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LIEUTENANT GOVERNOR

JADE T. BUTAY
DIRECTOR

WILLIAM G. KUNSTMAN
DEPUTY DIRECTOR

STATE OF HAWAIʻI
KA MOKUʻĀINA O HAWAIʻI
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
KA ʻOIHANA PONO LIMAHANA

February 11, 2025

To: The Honorable Jackson D. Sayama, Chair,
The Honorable Mike Lee, Vice Chair, and
Members of the House Committee on Labor

Date: Tuesday, February 11, 2025
Time: 9:00 a.m.
Place: Conference Room 309, State Capitol

From: Jade T. Butay, Director
Department of Labor and Industrial Relations (DLIR)

Re: H.B. 478 RELATING TO EMPLOYMENT

I. OVERVIEW OF PROPOSED LEGISLATION

The **DLIR offers comments** on this proposal. HB478 proposes to amend the definition of “employer” in the Payment of Wages and Other Compensation Law, Chapter 388, Hawaii Revised Statutes (HRS), by deleting the exclusion of the State and any political subdivision thereof, and including the State and counties in the definition of "employer" when a provision of Chapter 388, HRS, has no comparable provision in Chapter 78, HRS.

II. CURRENT LAW

The Payment of Wages and Other Compensation Law, Chapter 388, HRS, is a broad law covering how and when wage agreements and payments are made by employers to their employees. The State, counties, and United States government are excluded from the definition of "employer".

Chapter 78, HRS, is the Public Service Law, covering various aspects of public service employment within State government.

III. COMMENTS ON THE HOUSE BILL

Currently, the State and counties are not subject to the requirements of the Payment of Wages and Other Compensation Law, Chapter 388, HRS, since the State and counties are excluded from the definition of "employer" in §388-1, HRS. Chapter 388, HRS, applies to private employers.

SB458 proposes to delete the State and counties’ exemption from the requirements of Chapter 388, HRS, and make the State and counties subject to the law when a provision of Chapter 388, HRS, has no comparable provision in Chapter 78, HRS.

§§388-9.5 through 388-10 provides for the DLIR to issue an Order of Wage Payment Violation to the employer when the DLIR's investigation finds that a violation of Chapter 388, HRS, has been committed. The employer in violation shall be liable for the following penalties: 1) To the employee, an amount equal to the amount of unpaid wages and interest at a rate of six per cent per year from the date that the wages were due; and 2) Not less than $500 or $100 for each violation, whichever is greater, that is deposited into the labor law enforcement special fund.

Under this proposal, if the DLIR finds the State or county to be in violation of Chapter 388, HRS, DLIR is required to issue an Order of Wage Payment Violation to the employing State or county agency and assess penalties as provided in §388-10, HRS.

If this measure is enacted as drafted, the proposal would create an additional burden upon the Wage Standards Division (WSD) as the DLIR expects an increase in the number of wage claims filed when State or county employees are not paid in accordance with the provisions of Chapter 388, HRS. WSD will require additional enforcement resources to address the anticipated increase in wage claims. DLIR appreciates favorable consideration of the Governor's fiscal biennium 2025-2027 budget request for two additional labor law enforcement specialists to facilitate the anticipated increase in claims and also reduce the backlog of prevailing wage complaints investigated by WSD.

JOSH GREEN, M.D.
GOVERNOR
KE KIAʻĀINA

KEITH A. REGAN
COMPTROLLER
KA LUNA HOʻOMALU HANA LAULĀ

MEOH-LENG SILLIMAN
DEPUTY COMPTROLLER
KA HOPE LUNA HOʻOMALU HANA LAULĀ

STATE OF HAWAIʻI | KA MOKUʻĀINA O HAWAIʻI
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES | KA ʻOIHANA LOIHELU A LAWELAWE LAULĀ
P.O. BOX 119, HONOLULU, HAWAII 96810-0119

WRITTEN TESTIMONY
OF
KEITH A. REGAN, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE

COMMITTEE ON LABOR

FEBRUARY 11, 2025, 9:00 A.M.
CONFERENCE ROOM 309 AND VIA VIDEOCONFERENCE, STATE CAPITOL

H.B. 478

RELATING TO EMPLOYMENT.

Chair Sayama, Vice Chair Lee, and Members of the Committee, thank you for the opportunity to submit testimony on this measure.

The Department of Accounting and General Services (DAGS) **opposes** H.B. 478 which proposes to amend the definition of “employer” in state law that governs payment of wages and other compensation to include State and counties when a provision in that law has no comparable provision in state law that governs public officers and employees.

The purpose of the Act is to increase the accountability of state and county employers with respect to the timely payment of wages to their employees. This bill will extend administrative penalties of at least $500 or $100 per employee per day violation, plus back pay, damages and interest for employers who fail to pay wages within seven days after a pay period.

This change in the law will have a significant impact on the current payroll process as it will require the entire State to change its current payroll process.

Currently the State of Hawaii uses two pay groups: After-the-Fact (ATF), where the Pay End Date is 15 days prior to the dated pay advice and Payroll lag (LAG) where the Pay End Date is 5 days prior of the pay advice date. To adhere to the bill’s language, the State of Hawaii will be required to move all employees to a LAG pay group to meet the Check Date Requirement; of the current active employee population, approximately 80% (90,805) belong to the ATF pay group.

The implementation of this shift would have a wide-ranging impact on human resources, as well as financial impacts that would not be sustainable which include the following:

1. Move and fund the ‘catch-up’ salary for 90,805 ATF employees. DAGS estimates this amount to be approximately $138 million.
2. Coordinate this effort amongst all State Agencies/Departments. This effort would include those Departments outside and within the Executive branch who are operating on separate/secondary Human Resource and Payroll Systems.
3. Move the processing time for payroll up approximately 2 weeks. Payroll departments, Human Resource (HR) Staff and Central Payroll Processing would have a shortened deadline to process time and leave. This will create increased pressure on Time Attendants to enter all time that can be entered prior to the Payroll Calendar Time Cutoff. All time associated to a Pay Period will need to be entered no later than 1 day following a Pay Period End Date.
4. Payroll processing currently requires a payroll freeze of timesheets 6 days prior

to Advice Date. The shortened time will require an Off-Cycle Process to include remaining time not processed by the On-cycle payment process because of the shortened pay schedule. The current Off-Cycle process is used to priority-pay staff that entered/approved time late or incurred errors through the normal On-Cycle process. This process normally sees 20-40 transactions; the change in the pay period deadlines would require the state to employ this method to supplement the On-Cycle process. DAGS is estimating an increase in the thousands of transactions. The increase in transactions will translate into increased processing time, meaning Payroll processing will be continuous, requiring strict deadlines with no opportunity for audit review. Additional Full-Time positions would be needed for Central Payroll as well as each department to sustain this effort.

5. Leave Accruals for Exception Hourly will be inaccurate due to the payroll period being finalized based on half of a pay period. Accruals will be processed on a retroactive basis, once a full period has been processed and confirmed.
6. It is expected that there will be more Overpayments due to Payroll Calendar Deadline changes, especially for Salaried employees. Even if Leave Without Pay is entered timely, the system will forecast the assumption that the employee worked due to retroactive processing of Leave Accruals.
7. The increase in Off-Cycle transactions requires a new process which would include procedures incorporating entry and approval deadlines.
8. Department HR would face pressure to enter new hires in a timely manner as the paysheets will need to be created by the system to record time and leave from hire date. This will have to be communicated to Departments not using HIP. (i.e. HHSC,

DOE, UH)

Should this bill go into effect at approval, due to the magnitude of this change in the payroll deadlines, DAGS is estimating the fines for 90,805 ATF employees to equal $9,080,500 per day, $272,415,000 per month, $3,268,980,000 per year; this does not include interest and damages.

Thank you for the opportunity to testify on this matter.

1200 Ala Kapuna Street ● Honolulu, Hawaiʻi 96819
Tel: (808) 833-2711 ● Fax: (808) 839-7106 ● Web: www.hsta.org

Osa Tui, Jr.
President

Logan Okita
Vice President

Cheney Kaku
Secretary-Treasurer

Ann Mahi
Executive Director

TESTIMONY TO THE HAWAI'I HOUSE COMMITTEE ON LABOR

Item: HB 478 – Relating to Employment

Position: Support

Hearing: Tuesday, February 11, 2025, 9:00 am, Room 309

Submitter: Osa Tui, Jr., President - Hawaiʻi State Teachers Association

Dear Chair Sayama, Vice Chair Lee, and members of the committee,

The Hawai'i State Teachers Association **strongly supports** HB 478 which amends the definition of "employer" in state law that governs payment of wages and other compensation to include the State and counties when a provision in that law has no comparable provision in state law that governs public officers and employees.

We appreciate the legislature's attention to this matter. Recently, over 300 teachers in our public schools did not receive their paychecks on time, causing significant financial hardship and stress. This bill would help to prevent such situations from happening again by ensuring that state and county employers are held to the same standards as private employers with respect to the timely payment of wages.

We urge the committee to pass HB 478 to protect the rights of Hawaiʻi's public employees and ensure that they are paid the wages they are owed in a timely manner. If we expect this of the private sector employers, then the public sector employers should be held to the same standard, if not higher.

Mahalo.