



STATE OF HAWAII
KA MOKU'ĀINA O HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
KA 'OIHANA PONO LIMAHANA

February 5, 2025

To: The Honorable Henry J.C. Aquino, Chair,
The Honorable Chris Lee, Vice Chair, and
Members of the Senate Committee on Labor and Technology

Date: Wednesday, February 5, 2025
Time: 3:10 p.m.
Place: Conference Room 224, State Capitol

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

Re: S.B. 458 RELATING TO EMPLOYMENT

I. OVERVIEW OF PROPOSED LEGISLATION

The **DLIR offers comments** on this proposal. SB458 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 SENATE 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

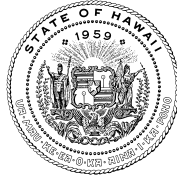
the law when a provision of Chapter 388, HRS, has no comparable provision in Chapter 78, HRS.

§§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 KIA'ĀINA



KEITH A. REGAN
COMPTROLLER
KA LUNA HO'OMALU HANA LAULĀ

MEOH-LENG SILLIMAN
DEPUTY COMPTROLLER
KA HOPE LUNA HO'OMALU HANA LAULĀ

STATE OF HAWAII | KA MOKU'ĀINA O HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES | KA 'OIHANA LOIHELU A LAWELAWÉ 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 AND TECHNOLOGY

FEBRUARY 5, 2025, 3:10 P.M.
CONFERENCE ROOM 224 AND VIA VIDEOCONFERENCE, STATE CAPITOL

S.B. 458

RELATING TO EMPLOYMENT.

Chair Aquino, 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** S.B. 458 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.

DEPARTMENT OF BUDGET AND FISCAL SERVICES
KA 'OIHANA MĀLAMA MO'OHELU A KĀLĀ
CITY AND COUNTY OF HONOLULU

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February 4, 2025

The Honorable Henry J.C. Aquino, Chair
The Honorable Chris Lee, Vice-Chair
and Members of the Committee on Labor and Technology
State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Aquino and Vice-Chair Lee and Committee Members:

SUBJECT: Testimony in Opposition to Senate Bill No. 458, Relating to Employment
Hearing: February 5, 2025, 3:10 p.m.
Conference Room 224 and via Videoconference

The City and County of Honolulu ("City") appreciates the opportunity to testify and explain our opposition to Senate Bill No. 458 ("SB458"), relating to employment.

The City opposes SB458, due to the potential impacts on the City's ability to pay employees timely and accurately, and possible administrative penalty of not less than \$500 or \$100 for each employee for every day of the violation plus interest at 6% per year. This bill will require the employer to pay wages within seven days after the end of a pay period versus the after-the-fact payroll schedule currently in place.

To illustrate the impact to the City, SB458 would require employees to be paid within seven days after the end of each bi-monthly pay period, adjusted for weekends and holidays (i.e. payroll pay period 7/1/25-7/15/25 would be required to be paid no later than 7/22/25). The City's bi-monthly payroll processing cycle is anywhere from eight to eleven working days, depending on weekends and holidays. The process includes, but is not limited to, submitting and approving timesheets, processing changes to employee pay and/or deductions, reconciling leave usage, reconciling payroll after closing, submitting the electronic net pay files to the banks for direct deposit, etc. If the City is required to pay wages within seven days after the end of the pay period, adjusted for weekends and holidays, the significantly shortened processing timeframe would require an earlier cutoff, thereby paying employees for estimated time worked which may not correspond to time actually worked as of the end of the pay period. We anticipate this will lead to multiple overpayments and/or underpayments as well as unintentional errors in employee payroll, payroll taxes and/or leave balances.

The Honorable Henry J.C. Aquino, Chair
The Honorable Chris Lee, Vice-Chair
and Members of the Committee on Labor and Technology
February 4, 2025
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Consequently, the proposed change in SB458 would greatly increase the City's costs as it will require the City to expend additional funds for additional temporary staff to implement the change, increase permanent staff levels and overtime and increase the cost of the contract with our Enterprise Resource Planning vendor for new system development to properly implement the required processing in the abbreviated payroll processing timeframe.

Finally, due to the anticipated additional work needed to effectuate SB458, we would not be able to meet the "take effect upon approval" deadline set by this proposed measure.

Thank you for the opportunity to provide testimony on our opposition to SB458.

Sincerely,



Andrew T. Kawano
Director Designate

APPROVED:



Michael D. Formby, Managing Director Designate
Office of the Managing Director



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TESTIMONY TO THE HAWAI'I SENATE COMMITTEE ON LABOR AND TECHNOLOGY

Item: SB 458 – Relating to Employment

Position: Support

Hearing: Wednesday, February 5, 2025, 3:10 pm, Room 224

Submitter: Osa Tui, Jr., President - Hawai'i State Teachers Association

Dear Chair Aquino, Vice Chair Lee, and members of the committees,

The Hawai'i State Teachers Association **strongly supports** SB 458 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 SB 458 to protect the rights of Hawai'i'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.