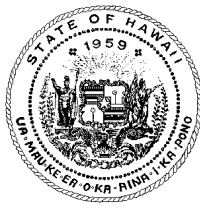


JOSH GREEN, M.D.
GOVERNOR



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII
DEPARTMENT OF PUBLIC SAFETY
Ka 'Oihana Ho'opalekana Lehulehu
1177 Alakea Street
Honolulu, Hawaii 96813

TOMMY JOHNSON
DIRECTOR

Melanie Martin
Deputy Director
Administration

Michael J. Hoffman
Acting Deputy Director
Corrections

William F. Oku
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON SENATE BILL 1385
RELATING TO THE WAGE AND HOUR LAW.

By

Tommy Johnson, Director
Department of Public Safety

Senate Committee on Housing Labor and Technology
Senator Sharon Y. Moriwaki, Chair,
Senator Chris Lee, Vice Chair

Wednesday, February 15, 2023; 3:10 p.m.
State Capitol, Conference Room 224 and via Video Conference

Chair Moriwaki, Vice Chair Lee, and Members of the Committee:

The Department of Public Safety (PSD) **supports** Senate Bill (SB) 1385, which proposes to broaden the coverage of employees and employers covered under the minimum wage, overtime, and recordkeeping requirements pursuant to Chapter 387 of the Hawai'i Revised Statutes, by deleting from the definition of "employee" those employees guaranteed a monthly compensation of \$2,000 or more.

Hawai'i's high cost of living makes it difficult for families to afford the most basic needs of food, shelter, and clothing. PSD believes this measure will provide protection under the law to a wider range of hard-working Hawai'i residents so that they can provide for themselves and their families.

Thank you for the opportunity to provide testimony in support of SB 1385.



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

February 15, 2023

To: The Honorable Sharon Y. Moriwaki, Chair,
The Honorable Chris Lee, Vice Chair, and
Members of the Senate Committee on Labor and Technology

Date: Wednesday, February 15, 2023
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. 1385 RELATING TO THE WAGE AND HOUR LAW

I. OVERVIEW OF PROPOSED LEGISLATION

The **DLIR strongly supports** this Governor's Package proposal. SB1385 proposes to amend the Wage and Hour Law, Chapter 387, Hawaii Revised Statutes (HRS), by deleting the exclusion from coverage for individuals guaranteed a monthly compensation of \$2,000 or more a month, from the definition of "employee" in §387-1.

II. CURRENT LAW

The definition of "employee" in §387-1 excludes an individual who is employed at a guaranteed compensation totaling \$2,000 or more a month. These employees are not provided the protection of minimum or overtime wage rates. Their employers do not have to comply with recordkeeping provisions also designed to protect workers.

III. COMMENTS ON THE SENATE BILL

The DLIR strongly supports this measure to provide more workers with protections afforded by the minimum wage rates, overtime rates, and recordkeeping requirements that exist for employers and employees covered under the Wage and Hour Law, and thereby promoting the health, efficiency, and well-being of Hawaii's workforce. Without this amendment an employer could schedule an individual to work unlimited hours and pay the worker a guaranteed monthly compensation of \$2,000 without regard to additional compensation for overtime.

The \$2,000 guaranteed monthly compensation for exemption is also less than an employee earning the current minimum wage of \$12.00 per hour and will be even lower when the minimum wage increases through 2028.

SB-1385

Submitted on: 2/11/2023 5:27:29 PM

Testimony for LBT on 2/15/2023 3:10:00 PM

Submitted By	Organization	Testifier Position	Testify
Mike Golojuch, Sr.	Testifying for Rainbow Family 808	Support	Written Testimony Only

Comments:

Rainbow Family 808 supports SB1385. Please pass this bill.

Mike Golojuch, Sr., Secretary/Board Member

IATSE LOCAL 665

FILM, TELEVISION, STAGE, PROJECTION AND TRADESHOWS

Since 1937

INTERNATIONAL ALLIANCE OF THEATRICAL STAGE EMPLOYEES, MOVING PICTURE TECHNICIANS, ARTISTS AND ALLIED CRAFTS
OF THE UNITED STATES, ITS TERRITORIES AND CANADA, AFL-CIO, CLC

Thirty-Second Legislature, State of Hawai'i
Senate Committee on Labor and Technology

Testimony by IATSE 665

February 11, 2023

S.B. 1385 - RELATING TO WAGE AND HOUR LAW

Aloha Chair Moriwaki, Vice Chair Lee, and members of the Senate Committee,

My name is Tuia'ana Scanlan, president of IATSE Local 665, the union representing technicians in the entertainment industry in Hawai'i. **Local 665 strongly supports SB 1385**, relating to wage and hour law.

IATSE 665 strongly opposes any subminimum wage and believes all workers should be paid a living wage. The purpose of SB 1385 is to fix a loophole that currently exists that could allow employers to convert hourly workers to salaried positions and pay them below the current minimum wage of \$12 dollars an hour and eventually well below \$18 an hour.

The current language in section 387-1 of the Hawaii Revised Statutes states "at a guaranteed compensation totaling \$2,000 or more a month, whether paid weekly, biweekly or monthly." This could mean paying workers if converted to hourly wages roughly \$11.54 an hour and clearly establishing a subminimum wage for salaried workers. We believe deleting the fixed amount in section 387-1 is an acceptable solution or suggesting adding language such as **equal to the monthly earnings of an employee who is compensated at the minimum wage rate pursuant to section 387-2**. This will ensure salaried workers are paid at least the same as the current minimum wage.

Thank you for the opportunity to testify in support.

In Solidarity,



Tuia'ana Scanlan
President, IATSE 665
he/him/his

TESTIMONY BEFORE THE SENATE COMMITTEE ON LABOR & TECHNOLOGY

RE: SB 1385 - RELATING THE WAGE AND HOUR LAW

WEDNESDAY, FEBRUARY 15, 2023

JASON BRADSHAW, CHAIR
DEMOCRATIC PARTY OF HAWAII LABOR CAUCUS

Chair Moriwaki and Members of the Committee:

The Democratic Party of Hawaii Labor Caucus **supports SB 1385, relating to the wage and hour law.** This bill expands the coverage of employees and employers covered under the minimum wage, overtime, and recordkeeping requirements of chapter 387, Hawai'i Revised Statutes, by deleting from the definition of "employee" employees guaranteed a monthly compensation of \$2,000 or more.

The Democratic Party of Hawaii Labor Caucus strongly opposes any subminimum wage and believes all workers should be paid a living wage. **The purpose of SB 1385 is to fix a loophole that currently exists that could allow employers to convert hourly workers to salaried positions and pay them below the current minimum wage of \$12 dollars an hour and eventually well below \$18 an hour.**

The current language in section 387-1 of the Hawaii Revised Statutes states "at a guaranteed compensation totaling \$2,000 or more a month, whether paid weekly, biweekly or monthly." **This could mean paying workers if converted to hourly wages roughly \$11.54 an hour and clearly establishing a subminimum wage for salaried workers.**

We believe deleting the fixed amount in section 387-1 is an acceptable solution or suggesting adding language such as equal to the monthly earnings of an employee who is compensated at the minimum wage rate pursuant to section 387-2. This will ensure salaried workers are paid at least the same as the current minimum wage.

Thank you for the opportunity to testify in support.



HAWAII APPLESEED
CENTER FOR LAW & ECONOMIC JUSTICE

Testimony of the Hawai‘i Appleseed Center for Law & Economic Justice
In Support of SB 1385 – Relating to the Wage and Hour Law
Senate Committee on Labor & Technology
Wednesday, February 15, 2023, 3:10 PM
Conference Room 224 & Via Videoconference

Dear Chair Moriwaki, Vice Chair Lee, and members of the Committee:

Thank you for the opportunity to provide testimony in support of SB 1385, which would expand the coverage of employees and employers covered under the minimum wage, overtime, and recordkeeping requirements of chapter 387, Hawai‘i Revised Statutes, by deleting from the definition of “employee” employees guaranteed a monthly compensation of \$2,000 or more.

Closing this loophole in the state minimum wage law is an important action to ensure that all workers are protected by our state’s minimum wage law. However, we recommend amending the measure to change the language in HRS 387-1 to instead state that:

“Employee” includes any individual employed by an employer, but shall not include any individual employed: (1) At a guaranteed compensation [~~totaling \$4,000 or more a month~~] **equal to the monthly earnings of an employee who is compensated at the minimum wage rate pursuant to section 387-2**, whether paid weekly, biweekly, or monthly...

This amendment would strengthen the bill’s ability to protect workers from being exploited.

Mahalo for the opportunity to testify. We appreciate your consideration of the proposed amendment above.



Randy Perreira, President

HAWAII STATE AFL-CIO
Hawaii's Labor Unions

888 Mililani Street Suite 501, Honolulu, Hawaii 96813

The Thirty-Second Legislature, State of Hawai'i
Hawai'i State Senate
Committee on Labor and Technology

Testimony by
Hawai'i State AFL-CIO
February 15, 2023

S.B. 1385 – RELATING TO THE WAGE
AND HOUR LAW

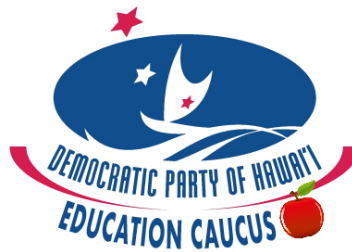
The Hawai'i State AFL-CIO is a state federation of 74 affiliate local unions and councils with over 68,000 members across both public and private sectors. We appreciate the opportunity to testify in **support** of S.B. 1385.

With minimum wage on the rise, the Wage and Hour law must protect workers who receive guaranteed compensation of \$2,000 or more a month from falling below the minimum and overtime wage rates. Mere exclusion from the list of exempt employees will protect workers with guaranteed pay on the lower end from falling below the current minimum and overtime wage rates.

We appreciate your consideration of our testimony in **support** of S.B. 1385.

Respectfully,

Randy Perreira
President



SENATE BILL 1385, RELATING TO THE WAGE AND HOUR LAW

FEBRUARY 15, 2023 · SENATE LABOR AND
TECHNOLOGY COMMITTEE · CHAIR SEN. SHARON
Y. MORIWAKI

POSITION: Support with amendments.

RATIONALE: The Democratic Party of Hawai'i Education Caucus **supports and suggests amendments** for SB 1385, relating to the wage and hour law, which expands the coverage of employees and employers covered under the minimum wage, overtime, and recordkeeping requirements of chapter 387, Hawai'i Revised Statutes, by deleting from the definition of "employee" employees guaranteed a monthly compensation of \$2,000 or more.

A living wage is a human right. Currently, the MIT Living Wage Calculator estimates a living wage in Honolulu to be \$22.76/hour for a single individual with no children. Similarly, according to the Department of Business, Economic Development, and Tourism, a single adult required an income of \$37,646 to achieve self-sufficiency in Hawai'i in 2020, while a single parent with one child required \$64,926. Adjusted for inflation, DBEDT's reporting shows that in 2022, a single minimum wage worker must earn at least \$19.36/hour to survive on our shores, a number that rises to \$19.94/hour for Honolulu.

Lawmakers responded to this economic strain by passing Act 114 last year, which gradually raises the state's minimum wage to \$18/hour by 2028. A technical correction is needed to fully effectuate this measure, however, and ensure that businesses are not able to subvert the minimum wage

law that legislators passed last session—which established the highest state-level minimum wage rate in the nation—by surreptitiously moving hourly workers into salaried positions that pay monthly earnings of less than the minimum wage rate.

Currently, the definition of employee that is contained in HRS §387-1 includes an exemption for employees who earn \$2,000 each month. That equates to an \$11.54/hour wage, which is already less than the state’s \$12/hour minimum wage. If left unchecked, this gap will only widen in the future. Thus, action is needed to close this loophole in Hawai’i’s wage and hour law and protect the financial security of low-income workers.

That said, we suggest amending this measure to prevent any future recurrence of this problem by tying the monthly amount referred to in HRS §387-1 to the minimum wage rate, rather than deleting the amount altogether. A simple deletion of the monthly wage amount could pose complications for our state’s overtime laws, especially with regard to certain managerial positions. We recommend the following language to effectuate this change:

*"Employee" includes any individual employed by an employer, but shall not include any individual employed: (1) At a guaranteed compensation [~~totaling \$4,000 or more a month~~] **equal to the monthly earnings of an employee who is compensated at the minimum wage rate pursuant to section 387-2**, whether paid weekly, biweekly, or monthly...*

This amendment will strengthen this measure’s ability to protect workers from being exploited.

Kris Coffield · Chairperson, DPH Education Caucus · (808) 679-7454 · kriscoffield@gmail.com



SB 1385, RELATING TO THE WAGE AND HOUR LAW

FEBRUARY 15, 2023 · SENATE LABOR AND TECHNOLOGY COMMITTEE · CHAIR SEN. SHARON Y. MORIWAKI

POSITION: Support with amendments.

RATIONALE: Imua Alliance supports and suggests amendments for SB 1385, relating to the wage and hour law, which expands the coverage of employees and employers covered under the minimum wage, overtime, and recordkeeping requirements of chapter 387, Hawai'i Revised Statutes, by deleting from the definition of "employee" employees guaranteed a monthly compensation of \$2,000 or more.

A living wage is a human right. Currently, the MIT Living Wage Calculator estimates a living wage in Honolulu to be \$22.76/hour for a single individual with no children. Similarly, according to the Department of Business, Economic Development, and Tourism, a single adult required an income of \$37,646 to achieve self-sufficiency in Hawai'i in 2020, while a single parent with one child required \$64,926. Adjusted for inflation, DBEDT's reporting shows that in 2022, a single minimum wage worker must earn at least \$19.36/hour to survive on our shores, a number that rises to \$19.94/hour for Honolulu.

Lawmakers responded to this economic strain by passing Act 114 last year, which gradually raises the state's minimum wage to \$18/hour by 2028. A technical correction is needed to fully effectuate this measure, however, and ensure that businesses are not able to subvert the minimum wage law that legislators passed last session—which established the highest state-level minimum wage

rate in the nation—by surreptitiously moving hourly workers into salaried positions that pay monthly earnings of less than the minimum wage rate.

Currently, the definition of employee that is contained in HRS §387-1 includes an exemption for employees who earn \$2,000 each month. That equates to an \$11.54/hour wage, which is already less than the state’s \$12/hour minimum wage. If left unchecked, this gap will only widen in the future. Thus, action is needed to close this loophole in Hawai’i’s wage and hour law and protect the financial security of low-income workers.

That said, we suggest amending this measure to prevent any future recurrence of this problem by tying the monthly amount referred to in HRS §387-1 to the minimum wage rate, rather than deleting the amount altogether. A simple deletion of the monthly wage amount could pose complications for our state’s overtime laws, especially with regard to certain managerial positions. We recommend the following language to effectuate this change:

*"Employee" includes any individual employed by an employer, but shall not include any individual employed: (1) At a guaranteed compensation [~~totaling \$4,000 or more a month~~] **equal to the monthly earnings of an employee who is compensated at the minimum wage rate pursuant to section 387-2**, whether paid weekly, biweekly, or monthly...*

This amendment will strengthen this measure’s ability to protect workers from being exploited.

Kris Coffield · Executive Director, Imua Alliance · (808) 679-7454 · kris@imuaalliance.org

SB-1385

Submitted on: 2/11/2023 3:44:26 PM

Testimony for LBT on 2/15/2023 3:10:00 PM

Submitted By	Organization	Testifier Position	Testify
Larry Alfrey	Individual	Support	Written Testimony Only

Comments:

Mahalo for working to address this loophole in the state minimum wage law. I support this bill and think all workers should be protected by the state's minimum wage law. Please change the language in HRS 387-1 to state that:

*"Employee" includes any individual employed by an employer, but shall not include any individual employed: (1) At a guaranteed compensation [~~totaling \$4,000 or more a month~~] **equal to the monthly earnings of an employee who is compensated at the minimum wage rate pursuant to section 387-2, whether paid weekly, biweekly, or monthly...***

This amendment will strengthen the bills ability to protect workers from being exploited. Mahalo

SB-1385

Submitted on: 2/11/2023 9:00:38 PM

Testimony for LBT on 2/15/2023 3:10:00 PM

Submitted By	Organization	Testifier Position	Testify
Elizabeth Hansen	Individual	Support	Written Testimony Only

Comments:

Aloha and mahalo for working to address this loophole in the state minimum wage law. I support this bill and think all workers should be protected by the state's minimum wage law. Please change the language in HRS 387-1 to state that:

*"Employee" includes any individual employed by an employer, but shall not include any individual employed: **equal to the monthly earnings of an employee who is compensated at the minimum wage rate pursuant to section 387-2**, whether paid weekly, biweekly, or monthly.*

This amendment will strengthen the bills ability to protect workers from being exploited.

Mahalo,

Elizabeth Hansen, Hakalau HI 96710

SB-1385

Submitted on: 2/11/2023 9:30:32 PM

Testimony for LBT on 2/15/2023 3:10:00 PM

Submitted By	Organization	Testifier Position	Testify
Rodger Hansen	Individual	Support	Written Testimony Only

Comments:

Aloha and mahalo for working to address this loophole in the state minimum wage law. I support this bill and think all workers should be protected by the state's minimum wage law. Please change the language in HRS 387-1 to state that:

*"Employee" includes any individual employed by an employer, but shall not include any individual employed: **equal to the monthly earnings of an employee who is compensated at the minimum wage rate pursuant to section 387-2**, whether paid weekly, biweekly, or monthly..*

This amendment will strengthen the bills ability to protect workers from being exploited.

Mahalo.

Rodger Hansen, Hakalau HI 96710

SB-1385

Submitted on: 2/12/2023 5:15:36 AM

Testimony for LBT on 2/15/2023 3:10:00 PM

Submitted By	Organization	Testifier Position	Testify
Tony Radmilovich	Individual	Support	Written Testimony Only

Comments:

Mahalo for working to address this loophole in the state minimum wage law. I support this bill and think all workers should be protected by the state's minimum wage law. Please change the language in HRS 387-1 to state that:

*"Employee" includes any individual employed by an employer, but shall not include any individual employed: (1) At a guaranteed compensation [~~totaling \$4,000 or more a month~~] **equal to the monthly earnings of an employee who is compensated at the minimum wage rate pursuant to section 387-2, whether paid weekly, biweekly, or monthly...***

This amendment will strengthen the bills ability to protect workers from being exploited. Mahalo.

SB-1385

Submitted on: 2/12/2023 1:34:52 PM

Testimony for LBT on 2/15/2023 3:10:00 PM

Submitted By	Organization	Testifier Position	Testify
Marsha Hee	Individual	Support	Written Testimony Only

Comments:

Mahalo for the opportunity to submit **my support of SB1385**, so all workers are protected by the state's minimum wage law. I ask the committee to support the amendment as proposed in both bills. This amendment will strengthen the bill's ability to protect workers from being exploited.

Respectfully submitted by,

Marsha Hee, Hawaii Island resident

SB-1385

Submitted on: 2/12/2023 1:38:55 PM

Testimony for LBT on 2/15/2023 3:10:00 PM

Submitted By	Organization	Testifier Position	Testify
Shay Chan Hodges	Individual	Support	Written Testimony Only

Comments:

Mahalo for working to address this loophole in the state minimum wage law. I support this bill and think all workers should be protected by the state's minimum wage law. Please change the language in HRS 387-1 to state that:

"Employee" includes any individual employed by an employer, but shall not include any individual employed: (1) At a guaranteed compensation [totaling \$4,000 or more a month] equal to the monthly earnings of an employee who is compensated at the minimum wage rate pursuant to section 387-2, whether paid weekly, biweekly, or monthly...

This amendment will strengthen the bills ability to protect workers from being exploited. Mahalo.

SB-1385

Submitted on: 2/12/2023 7:23:15 PM

Testimony for LBT on 2/15/2023 3:10:00 PM

Submitted By	Organization	Testifier Position	Testify
Will Caron	Individual	Support	Written Testimony Only

Comments:

Mahalo for working to address this loophole in the state minimum wage law. I support this bill and think all workers should be protected by the state's minimum wage law. Please amend this measure to follow the recommendations submitted by Hawai'i Appleseed in its testimony.

SB-1385

Submitted on: 2/12/2023 9:54:59 PM

Testimony for LBT on 2/15/2023 3:10:00 PM

Submitted By	Organization	Testifier Position	Testify
Randy Gonce	Individual	Support	Written Testimony Only

Comments:

IN SUPPORT

Workers earning a salary of over \$2,000 per month are exempt from minimum wage protections and are vulnerable for wage exploitation. Someone earning this much working full-time would be the equivalent of earning only \$11.54 per hour. That is below the current \$12 per hour minimum wage and well below the \$18 minimum wage that will be in place in a few years.

Please amend this exemption in HRS 387-1 to state that:

"Employee" includes any individual employed by an employer, but shall not include any individual employed: (1) At a guaranteed compensation [totaling \$4,000 or more a month] equal to the monthly earnings of an employee who is compensated at the minimum wage rate pursuant to section 387-2, whether paid weekly, biweekly, or monthly...

Mahalo,

Nate Hix
808.469.8740