

JOSH GREEN, M.D.  
GOVERNOR

SYLVIA LUKE  
LIEUTENANT GOVERNOR



JADE T. BUTAY  
DIRECTOR

WILLIAM G. KUNSTMAN  
DEPUTY DIRECTOR

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

April 3, 2024

To: The Honorable Donovan M. Dela Cruz, Chair,  
The Honorable Sharon Y. Moriwaki, Vice Chair, and  
Members of the Senate Committee on Ways and Means

Date: Wednesday, April 3, 2024  
Time: 10:30 a.m.  
Place: Conference Room 211, State Capitol

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

**Re: H.B. 2463 H.D.2 S.D.1 RELATING TO THE WAGE AND HOUR LAW**

**I. OVERVIEW OF PROPOSED LEGISLATION**

The **DLIR supports** this Governor's Package proposal to amend the definition of "employee" in the Wage and Hour Law, Chapter 387, Hawaii Revised Statutes (HRS). The department supports the HD2 SD1 that increases the exclusion from coverage for individuals who receive a guaranteed compensation totaling \$2,000 or more a month to \$4,000 or more a month.

**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.

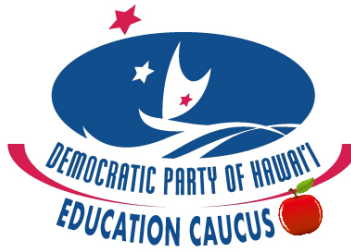
**III. COMMENTS ON THE HOUSE BILL**

The DLIR supports this measure to increase the exclusion from coverage for individuals who receive a guaranteed compensation totaling \$2,000 or more a month to \$4,000 or more a month. 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.

Moreover, the \$2,000 guaranteed monthly compensation for exemption is also less than an employee earning the current minimum wage of \$14.00 per hour and will be even lower when the minimum wage increases through 2028.

The DLIR notes that although the Legislature has frequently changed the minimum wage rate, it has not changed the level of the guaranteed compensation exemption correspondingly. Over the course of the last 82 years the guaranteed compensation level has changed nine times. Since the last time the guaranteed compensation level was raised to \$2,000 in 2002, the minimum wage rate has increased nine times with two more increases scheduled pursuant to § 387-2, HRS<sup>1</sup>.

<sup>1</sup> [https://www.capitol.hawaii.gov/sessions/session2024/bills/DC136\\_.pdf](https://www.capitol.hawaii.gov/sessions/session2024/bills/DC136_.pdf)



## HOUSE BILL 2463, HD2, SD1, RELATING TO THE WAGE AND HOUR LAW

APRIL 3, 2024 · WAM HEARING

**POSITION:** Support.

**RATIONALE:** The Democratic Party of Hawai'i Education Caucus **supports** HB 2463, HD2, SD1, relating to the wage and hour law, which changes the definition of "employee" in Hawai'i's wage and hour law to exclude any employee who receives guaranteed compensation totaling \$4,000 or more a month.

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 in 2022, which gradually raised 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.

**Kris Coffield · Chairperson, DPH Education Caucus · (808) 679-7454 · [kriscoffield@gmail.com](mailto:kriscoffield@gmail.com)**



# MAUI

CHAMBER OF COMMERCE

VOICE OF BUSINESS

HEARING BEFORE THE SENATE COMMITTEE ON WAYS AND MEANS  
HAWAII STATE CAPITOL, SENATE CONFERENCE ROOM 211  
Wednesday, April 3, 2024 AT 10:30 A.M.

To The Honorable Senator Donovan M. Dela Cruz, Chair  
The Honorable Senator Sharon Y. Moriwaki, Vice Chair  
Members of the committee on Ways and Means

## COMMENTS ON HB2463 HD2 SD1 RELATING TO THE WAGE AND HOUR LAW

The Maui Chamber of Commerce would like to offer **COMMENTS on HB2463 HD2 SD1.**

The Chamber opposed previous bills that made all salaried employees subject to overtime. We appreciate the legislature returning the exemption from overtime for salaried positions in an effort to find a compromise. However, we are concerned that \$4,000 a month, which equates to \$48,000 per year and roughly \$23.07 per hour is high compared to the \$29,120/ **\$2,426 per month that equals minimum wage**. We recognize that salary positions who are excluded from overtime and record keeping requirements are often for higher-paying positions, but also understand that various industries and job requirements may need the additional flexibility from a salaried position.

*Before a measure like this is put forth, we would like to see the data on the impacts to businesses and encourage Legislators to work with business organizations across the state. We also feel that a measure like this should always be run through the Small Business Regulatory Review Board, which is one of the reasons for its existence.*

Again, please consider the high cost of doing business in Hawaii.

Mahalo for the opportunity to offer **COMMENTS on HB2463 HD2 SD1.**

Sincerely,

Pamela Tumpap  
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.

To: Senate Committee on Ways and Means  
Re: **HB 2463 HD2 SD1 – Relating to the Wage and Hour Law**  
Hawai'i State Capitol & Via Videoconference  
April 3, 2024, 10:30 AM

Dear Chair Dela Cruz, Vice Chair Moriwaki, and Committee Members,

On behalf of Hawai'i Children's Action Network Speaks!, I am writing in **SUPPORT of HB 2463 HD2 SD1**. This bill changes the definition of "employee" in Hawai'i's wage and hour law to exclude any employee who receives guaranteed compensation totaling \$4,000 or more a month.

Our current law's categorical exclusion of any worker who receives guaranteed compensation totaling \$2,000 or more a month (or \$24,000 per year) from the definition of "employee" in our state's wage and hour law is a loophole that can enable employers to avoid paying our state's minimum wage.

This dangerous loophole needs to be closed, for the well-being of our state's workers, their families, and our state's finances.

Nearly half of children in Hawai'i live in households experiencing financial hardship. While almost 1 in 8 are in poverty, an additional 1 in 3 aren't officially poor but still don't earn enough to afford the basic life essentials.<sup>1</sup>

According to the Department of Business, Economic Development and Tourism, a single parent with one child needed to earn nearly \$70,000 per year – or over \$5,800 per month – in order to be "self sufficient" in our state in 2022.<sup>2</sup>

When families don't earn enough to be self sufficient, then they are forced to rely on public benefits, at a cost to our state.

In addition, it is well established that the stresses of childhood poverty have both immediate and long-term effects on keiki's physical and mental health, behavioral self-control, academic achievement, and future earnings as adults.<sup>3</sup>

Mahalo for the opportunity to provide this testimony. Please pass this bill.

Thank you,

Nicole Woo  
Director of Research and Economic Policy

---

<sup>1</sup> <https://www.auw.org/sites/default/files/pictures/ALICE-in-Focus-Children-Hawaii%20%283%29.pdf>

<sup>2</sup> [https://files.hawaii.gov/dbedt/economic/reports/self-sufficiency/self-sufficiency\\_2022.pdf](https://files.hawaii.gov/dbedt/economic/reports/self-sufficiency/self-sufficiency_2022.pdf)

<sup>3</sup> <https://www.apa.org/pi/ses/resources/indicator/2014/06/childhood-poverty>



**LATE**

## TESTIMONY FROM THE DEMOCRATIC PARTY OF HAWAI'I

### SENATE COMMITTEE ON WAYS AND MEANS

APRIL 3, 2024

HB 2463, HD 2, SD1, RELATING TO THE WAGE AND HOUR LAW

POSITION: SUPPORT

The Democratic Party of Hawai'i **supports** HB 2463, HD 2, SD1, relating to the wage and hour law. Pursuant to the “Economic Justice and Labor” section of the official Democratic Party of Hawai'i platform, the party believes “that the minimum wage should be a living wage on which a worker can not only survive, but thrive. We oppose all subminimum wage policies, including the tip credit.”

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 in 2022, which gradually raised 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.

Mahalo nui loa,

**Kris Coffield**

*Co-Chair, Legislative Committee*

(808) 679-7454

kriscoffield@gmail.com

**Abby Simmons**

*Co-Chair, Legislative Committee*

(808) 352-6818

abbyalana808@gmail.com



**LATE**



TESTIMONY FROM THE DEMOCRATIC PARTY OF HAWAI'I LABOR CAUCUS

SENATE COMMITTEE ON WAYS AND MEANS · APRIL 3, 2024

HB 2463, HD2, SD1, RELATING TO THE WAGE AND HOUR LAW

POSITION: SUPPORT

The Democratic Party of Hawai'i Labor Caucus **supports** HB 2463, HD2, SD1, relating to the wage and hour law, which changes the definition of "employee" in Hawai'i's wage and hour law to exclude any employee who receives guaranteed compensation totaling \$4,000 or more a month.

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 in 2022, which gradually raised 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.

Mahalo,

**Jason Bradshaw**

*Chairperson, Democratic Party of Hawai'i Labor Caucus*