



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

February 6, 2024

To: The Honorable Scot Z. Matayoshi, Chair,  
The Honorable Andrew Takuya Garrett, Vice Chair, and  
Members of the House Committee on Labor & Government Operations

Date: Tuesday, February 6, 2024  
Time: 9:15 a.m.  
Place: Conference Room 309, State Capitol

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

**Re: H.B. 2463 RELATING TO THE WAGE AND HOUR LAW**

**I. OVERVIEW OF PROPOSED LEGISLATION**

The **DLIR strongly supports** this Governor's Package proposal. HB2463 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 Definitions.

A report<sup>1</sup> pursuant to S.R. 129 (SLH, 2023) provides a discussion of the exemptions under the Fair Labor Standards Act (FLSA) and Hawaii's Chapter 387 Wage and Hour Law. The report makes the recommendation to remove the exemption for the guaranteed compensation exclusion from the definition of employee in § 387-1, especially as the FLSA does not contain an analogous provision.

**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 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 Chapter 387

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.

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>2</sup>.

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

<sup>2</sup> [https://www.capitol.hawaii.gov/sessions/session2024/bills/DC136\\_.pdf](https://www.capitol.hawaii.gov/sessions/session2024/bills/DC136_.pdf)



**TESTIMONY FROM THE DEMOCRATIC PARTY OF HAWAII**  
**HOUSE COMMITTEE ON LABOR AND GOVERNMENT OPERATIONS**

**FEBRUARY 6, 2024**

**HB 2463, RELATING TO THE WAGE AND HOUR LAW**

**POSITION: SUPPORT**

The Democratic Party of Hawai'i **supports** HB 2463, 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**

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TESTIMONY FROM THE DEMOCRATIC PARTY OF HAWAII LABOR CAUCUS

HOUSE COMMITTEE ON LABOR AND GOVERNMENT  
OPERATIONS · FEBRUARY 6, 2024

HB 2463, RELATING TO THE WAGE AND HOUR LAW

POSITION: SUPPORT

The Democratic Party of Hawai'i Labor Caucus **supports** HB 2463, which amends the definition of "employee" in Hawai'i's wage and hour law by repealing the definition's categorical exclusion of any employee who receives guaranteed compensation totaling \$2,000 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.

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Mahalo,

**Jason Bradshaw**

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

**LATE**

To: House Committee on Labor  
Re: **HB 2463 – Relating to the Wage and Hour Law**  
Hawai'i State Capitol & Via Videoconference  
February 6, 2024, 9:15 AM

Dear Chair Matayoshi, Vice Chair Garrett, and Committee Members,

On behalf of Hawai'i Children's Action Network Speaks!, I am writing in **SUPPORT of HB 2463**. This bill amends the definition of "employee" in Hawai'i's wage and hour law by repealing the definition's categorical exclusion of any employee who receives guaranteed compensation totaling \$2,000 or more a month.

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>1</sup>

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>2</sup>

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 earnings as adults.<sup>3</sup>

That's why this bill is important. Categorically excluding 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 could enable employers to skirt our state's minimum wage laws. This loophole needs to be closed, for the well-being of our state's workers and their families.

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://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>2</sup> <https://www.auw.org/sites/default/files/pictures/ALICE-in-Focus-Children-Hawaii%20%283%29.pdf>

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

**HB-2463**

Submitted on: 2/5/2024 10:39:34 AM

Testimony for LGO on 2/6/2024 9:15:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Will Caron	Individual	Support	Written Testimony Only

Comments:

Please support HB2463 to fix the loophole in the state wage and hour law. Mahalo.