



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

March 1, 2023

To: The Honorable David A. Tarnas, Chair,
The Honorable Gregg Takayama, Vice Chair, and
Members of the House Committee on Judiciary & Hawaiian Affairs

Date: Wednesday, March 1, 2023
Time: 2:00 p.m.
Place: Conference Room 325, State Capitol

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

Re: H.B. 1087 H.D. 1 RELATING TO THE WAGE AND HOUR LAW

I. OVERVIEW OF PROPOSED LEGISLATION

The **DLIR supports the intent** of the measure but prefers the introduced version. HB1087 HD1 proposes to amend the Wage and Hour Law, Chapter 387, Hawaii Revised Statutes (HRS), by amending the guaranteed compensation exclusion from coverage in the definition of "employee" to individuals employed at a guaranteed compensation that is at least equal to the monthly earnings of an individual who is compensated at the minimum wage rate pursuant to §387-2.

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

HB1087HD1 provides an exclusion from coverage under Chapter 387, HRS, for an individual who is employed at a guaranteed compensation that is at least equal to the monthly earnings of an individual who is paid minimum wage. Therefore, an individual who is paid minimum wage is excluded from the definition of "employee" and not covered under the law. An employer would not be required to pay overtime compensation or keep records for an employee earning minimum wage since the employee is exempt from the law in the HD1.

The DLIR strongly prefers the introduced version of this measure to delete 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. The introduced version will 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 promote the health, efficiency, and well-being of Hawaii's workforce.

Without the amendment proposed in the introduced version, 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.



Randy Perreira, President

HAWAII STATE AFL-CIO
Hawaii's Labor Unions

888 Mililani Street Suite 501, Honolulu, Hawaii'i 96813

The Thirty-Second Legislature, State of Hawai'i
Hawai'i State House of Representatives
Committee on Judiciary and Hawaiian Affairs

Testimony by
Hawai'i State AFL-CIO
March 1, 2023

H.B. 1087 H.D. 1 -- 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 H.B. 1087 H.D. 1.

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 H.B. 1087 H.D. 1.

Respectfully,

A handwritten signature in black ink, appearing to read 'Randy Perreira'.

Randy Perreira
President

TESTIMONY BEFORE THE HOUSE COMMITTEE ON FINANCE

RE: HB 1087 HD1 - RELATING THE WAGE AND HOUR LAW

THURSDAY, MARCH 2, 2023

JASON BRADSHAW, CHAIR
DEMOCRATIC PARTY OF HAWAII LABOR CAUCUS

Chair Yamashita and Members of the Committee:

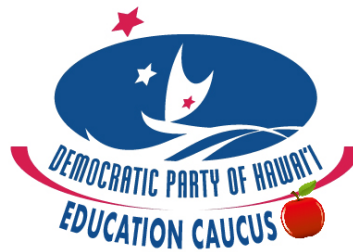
The Democratic Party of Hawaii Labor Caucus **supports HB 1087 HD1, relating to the wage and hour law.** This bill amends the definition of "employee" in wage and hour law in Hawai'i by realigning the guaranteed compensation of \$2,000 **or more to a sum that is at least equal to the monthly earnings of an individual who is compensated at the minimum wage rate pursuant to section 387-2, Hawai'i Revised Statutes.**

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 HB 1087 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." **The current law could mean paying workers, if converted to hourly wages, roughly \$11.54 an hour and clearly establishing a subminimum wage for salaried workers.**

We support the change in language in this bill to fix this loophole to protect workers in Hawai'i (1) At a guaranteed compensation [totaling \$2,000 or more a month,] that is at least equal to the monthly earnings of an individual who is compensated at the minimum wage rate pursuant to section 387-2, whether paid weekly, biweekly, or monthly.

Thank you for the opportunity to testify in support.



HOUSE BILL 1087, HD1, RELATING TO THE WAGE AND HOUR LAW

MARCH 1, 2023 · HOUSE JUDICIARY AND HAWAIIAN
AFFAIRS COMMITTEE · CHAIR REP. DAVID A.
TARNAS

POSITION: Support.

RATIONALE: The Democratic Party of Hawai'i Education Caucus supports HB 1087, HD1, relating to the wage and hour law, which amends the definition of "employee" in Hawai'i's wage and hour law by realigning the guaranteed compensation of \$2,000 or more to a sum that is at least equal to the monthly earnings of an individual who is compensated at the minimum wage rate pursuant to section 387-2, Hawai'i Revised Statutes.

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.

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



HB 1087, HD1, RELATING TO THE WAGE AND HOUR LAW

MARCH 1, 2023 · HOUSE JUDICIARY AND HAWAIIAN
AFFAIRS COMMITTEE · CHAIR REP. DAVID A.
TARNAS

POSITION: Support.

RATIONALE: Imua Alliance supports HB 1087, HD1, relating to the wage and hour law, which amends the definition of "employee" in Hawai'i's wage and hour law by realigning the guaranteed compensation of \$2,000 or more to a sum that is at least equal to the monthly earnings of an individual who is compensated at the minimum wage rate pursuant to section 387-2, Hawai'i Revised Statutes.

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.

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

HB-1087-HD-1

Submitted on: 2/28/2023 4:07:44 PM

Testimony for JHA on 3/1/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Doris Segal Matsunaga	Save Medicaid Hawaii	Support	Written Testimony Only

Comments:

Save Medicaid Hawaii supports HB1087 HD 1

HB-1087-HD-1

Submitted on: 2/27/2023 9:41:00 AM

Testimony for JHA on 3/1/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Mike Golojuch, Sr.	Individual	Support	Written Testimony Only

Comments:

I support HB 1087. Please pass this bill.

Mike Golojuch, Sr., Member Labor Caucus, DPH

HB-1087-HD-1

Submitted on: 2/27/2023 9:10:59 PM

Testimony for JHA on 3/1/2023 2:00:00 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.

HB-1087-HD-1

Submitted on: 2/28/2023 8:10:08 AM

Testimony for JHA on 3/1/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Justin Mark Hideaki Salisbury	Individual	Support	Written Testimony Only

Comments:

All workers should be protected by the state's minimum wage law.

I am a blind person, and I am grateful that the Aloha State recently outlawed the payment of subminimum wages to workers with disabilities. I am so grateful for this. We must make sure that nobody gets left behind.

Unless the minimum wage is truly the minimum wage, it is deceiving. Public decisions are sometimes made based off of what the minimum wage is, but, if that minimum wage is not the minimum for all workers, these decisions are based on a flawed assumption.

Mahalo for working to address this loophole in the state minimum wage law. I support this bill.

HB-1087-HD-1

Submitted on: 2/28/2023 8:37:47 AM

Testimony for JHA on 3/1/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
tlaloc tokuda	Individual	Support	Written Testimony Only

Comments:

Aloha HJA Chair, Vice Chair, & Committee, I support HB1087 HD1 and hope you support it to,

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.

Mahalo for your consideration,

tlaloc tokuda

Kailua Kona, HI 96740

HB-1087-HD-1

Submitted on: 2/28/2023 9:12:02 AM

Testimony for JHA on 3/1/2023 2:00:00 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.

HB-1087-HD-1

Submitted on: 2/28/2023 10:06:15 AM

Testimony for JHA on 3/1/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Greg Crawford	Individual	Comments	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.

HB-1087-HD-1

Submitted on: 2/28/2023 10:45:53 AM

Testimony for JHA on 3/1/2023 2:00:00 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.

--Shay Chan Hodges

Maui, Hawaii

HB-1087-HD-1

Submitted on: 2/28/2023 11:34:54 AM

Testimony for JHA on 3/1/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Shannon Rudolph	Individual	Support	Written Testimony Only

Comments:

Support

HB-1087-HD-1

Submitted on: 2/28/2023 11:17:03 AM

Testimony for JHA on 3/1/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
ANDREW ISODA	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.

To: Hawaii State House Committee on Judiciary & Hawaiian Affairs

Hearing Date/Time: Wednesday, March 1, 2023, 2:00pm

Place: Hawaii State Capitol, CR 325 & Videoconference

Re: Judith Ann Armstrong is in support of HB 1087 HD1

Dear Members of the Finance Committee,

I, Judith Ann Armstrong, am in support of HB 1087 HD1 relating to the Wage and Hour Law.

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.

Thank you for this opportunity to testify in support of HB1087.

Sincerely,

Judith Ann Armstrong

Chair David Tarnas
Vice Chair Gregg Takayama

House Committee on Judiciary & Hawaiian Affairs

Wednesday, March 1, 2023
2:00 PM

**TESTIMONY IN SUPPORT OF HB1087 HD1 RELATING TO THE WAGE & HOUR
LAW**

Aloha Chair Tarnas, Vice Chair Takayama, Members of the House Committee on Judiciary & Hawaiian Affairs,

My name is Jun Shin. I am a recent graduate of the University of Hawai'i at Mānoa, a son of the working class, and a member of the Hawai'i State Youth Commission, testifying as an individual in **SUPPORT** of **HB1087 HD1**, Relating to the Wage & Hour Law.

Currently, the definition of an employee/worker that is contained in HRS §387-1 includes an exemption for employees who earn \$2,000 each month. That is around \$11.54/hr, which is already less than the state's current minimum wage of \$12/hr. Thanks to years of struggle, the minimum wage will rightfully continue to increase \$2 in 2024, \$2 in 2026, and \$2 in 2028, which will ultimately bring up Hawai'i's minimum wage to \$18/hr.

This means that the current gap in pay between a worker covered under the wage and hour law and a worker who is exempted from that law has the potential to grow (legally!) because while some employers may out of moral, ethical, or logical reasons decide to raise the pay for exempted workers, they will not be obligated to do so. To be very frank, \$12/hr or even \$18/hr is far from a livable wage, the legislature must do much, much more to make life livable and easier for working class families, but in the meantime, workers deserve to have as much money as possible in their pockets at the end of the day. Please **PASS House Bill 1087 HD1** out of your committee. All workers should be protected by the state's minimum wage law.

Mahalo for the opportunity to testify,

Jun Shin,
State House District 23 | State Senate District 12
Cell: 808-255-6663
Email: junshinbusiness729@gmail.com

HB-1087-HD-1

Submitted on: 2/28/2023 8:32:30 PM

Testimony for JHA on 3/1/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Diane Ware	Individual	Support	Written Testimony Only

Comments:

Dear Chair JHA and Committee Members,

My name is Diane Ware and I live in the Moku of Ka'u. *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.*

Thank you for an opportunity to comment at hearing,

99-7815 Kapoha Place Volcano 96785

HB-1087-HD-1

Submitted on: 2/28/2023 9:48:54 PM

Testimony for JHA on 3/1/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Evelyn Aczon Hao	Individual	Support	Written Testimony Only

Comments:

This bill will close a loophole in the existing law. Doing this will protect workers.

Thank you

HB-1087-HD-1

Submitted on: 3/1/2023 6:53:53 AM

Testimony for JHA on 3/1/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Matthew Grover	Individual	Support	Written Testimony Only

Comments:

Thank you 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.

Research shows that phasing out the tip penalty is good for workers, businesses and the whole economy.

HB-1087-HD-1

Submitted on: 3/1/2023 2:59:54 PM

Testimony for JHA on 3/1/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Zack Stoddard	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.

HB-1087-HD-1

Submitted on: 3/1/2023 3:08:28 PM

Testimony for JHA on 3/1/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dana Keawe	Individual	Support	Written Testimony Only

Comments:

support