



**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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January 24, 2014

To: The Honorable Mark M. Nakashima, Chair,
The Honorable Kyle T. Yamashita, Vice Chair, and
Members of the House Committee on Labor & Public Employment

Date: January 24, 2014
Time: 8:30 a.m.
Place: Conference Room 309, State Capitol

From: Dwight Y. Takamine, Director
Department of Labor and Industrial Relations (DLIR)

Re: H.B. No. 1485 Relating to Wage and Hour Law

I. OVERVIEW OF PROPOSED LEGISLATION

H.B. No. 1485 proposes to amend Section 387-1, Hawaii Revised Statutes (HRS), to increase the guaranteed monthly compensation to \$3,000 for exempting individuals from the law.

The department strongly supports this proposal that would provide stronger protections for workers under the Hawaii Wage and Hour Law.

II. CURRENT LAW

The current \$2,000 guaranteed compensation was enacted in 2002 when the minimum wage was \$5.75 per hour. The exemption was expected to apply to individuals who were highly compensated and worked long hours in a small business environment.

III. COMMENTS ON THE HOUSE BILL

Due to the fixed amount of this compensation, increases in the minimum wage have steadily eroded the differences in the compensation such that the compensation is now closer to a covered employee making the current minimum wage of \$7.25 per hour.

The Hawaii Wage and Hour Law was originally established to safeguard existing minimum wage and maximum hour standards to maintain the health, efficiency and general well-being of workers. Under the current definition of an “employee” in Section 387-1, HRS, an individual who receives a guaranteed compensation of \$2,000 or more per month is excluded from the requirements of the law. By paying a guaranteed compensation, employers who are subject to the State law may schedule such individuals to work unlimited hours without being required to pay overtime compensation.

Furthermore, there are many bills being heard this session that would increase the minimum wage to as much as \$10.00 per hour. If the guaranteed compensation is not increased, those affected will bear an increasing economic erosion of their purchasing power for such necessities as food, shelter and clothing.

Employers who are subject to the State minimum wage and overtime law are those employers who are exempt from the federal Fair Labor Standards Act (“FLSA”). These employers generally have annual dollar volumes of less than \$500,000, and do not engage in interstate commerce.

**Testimony to the House Committee on Labor and Public Employment
Friday, January 24, 2014 at 8:30 A.M.
Conference Room 309, State Capitol**

RE: HOUSE BILL 1485 RELATING TO WAGE AND HOUR LAW

Chair Nakashima, Vice Chair Yamashita, and Members of the Committee:

The Chamber of Commerce of Hawaii ("The Chamber") **opposes** HB 1485 Relating to Wage and Hour Law.

The Chamber is the largest business organization in Hawaii, representing more than 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber has concerns regarding the increase in the exemption from the wage and hour law from \$2,000 per month to \$3,000 per month. This is a 50% increase in the requirement for businesses to have salaried employees. Many companies have salaried employees who are not covered by the wage and hour law that start off at \$2,000 per month. Also in many cases they are compensated with other benefits that are different than hourly employees. Increasing this entry level amount would hurt many businesses.

We ask that this bill be held. Thank you for this opportunity to express our views.



Executive Officers:
Stanley Brown, ConAgra Foods - Chairperson
John Schilf, RSM Hawaii - Vice Chair
Derek Kurisu, KTA Superstores - Treasurer
Lisa DeCoito, Aloha Petroleum - Secretary
Lauren Zirbel, Executive Director

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TO:
THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
Mark Nakashima, Chair
Kyle Yamashita, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

DATE: January 24, 2014
TIME: 8:30am
PLACE: Conference Room 309

RE: HB1485

Position: Strong Opposition

This bill proposes a dramatic 50% increase in the level of compensation required to make an individual exempt from the definition of “employee” under state law. This large and arbitrary increase would have far reaching negative impacts for businesses here in Hawaii.

A change like this impacts the entire pay structure of a business from top to bottom. We believe that many of our businesses may not be able to shoulder the burden of completely re-creating their pay structure in this way and could have to let employees go, or worse, close their doors.

The real cost to business includes all of the other employee benefits and taxes that are tied to the employee wages. Those include, social security tax, unemployment tax and workers compensation premiums, which increase the cost of employing workers, which reduces the number of available jobs. The change proposed in this bill will require employers to pay additional costs after adding the additional taxes of FICA, Medicare and FUTA.

This bill will make things hard for businesses and employees and may jeopardize our low unemployment rate. It will also likely make things harder for everyone who patronizes our local businesses. When the cost of labor increases, especially by so much so quickly, the costs of food and other goods goes up as well.

Passing a measure like this at this time could undermine efforts made to turn Hawaii’s economy around. Hawaii’s business community is at a critical point – where any additional mandates could mean the difference

between continued existence, or bankruptcy. A huge wage changes like this will hurt businesses in Hawaii at a time when we should be looking to grow our economy, support local businesses, and keep our unemployment rate low.

Please help Hawaii businesses and vote NO on this measure.

Thank you for the opportunity to testify.