



EXECUTIVE CHAMBERS

HONOLULU

March 15, 2013

LATE TESTIMONY
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Aloha Chair Nakashima, Vice-Chair Hashem, Chair Tsuji, Vice-Chair Ward and Committee Members:

My testimony is **IN SUPPORT of SB535 SD1.**

This is an important policy reform that will help close the gap between Domestic Workers and the rest of Hawaii's workforce. This will extend basic labor rights to a population that has been traditionally excluded from many of the fundamental protections most other workers enjoy under the federal labor law. Domestic workers are comprised of nannies, cooks, babysitters and other caregivers whose labor allows households to function smoothly, thus contributing greatly to the larger community. Domestic Workers are an often hidden and easily exploited labor force, which needs protection.

This legislation follows national trends to provide DOMESTIC WORKERS basic labor protections. Similar legislation has been passed in New York State and is pending in California and other states as well. This legislation will shed light on the abuses that are rampant in this largely unregulated industry. Many of these workers are immigrants, women who toil behind closed doors in private homes, often suffering in silence. The nature of their jobs makes it difficult for them to organize and be noticed, much less win the protections they deserve.

SB535 SD1 will entitle workers to overtime pay, rest breaks, and provide civil rights protections against abuse and harassment and afford them the dignity of other workers.

My gratitude to all of you for responding to this vulnerable population of Hawaii's most hard-working citizens.

Sincerely,
Nancie Caraway, Ph.D.
First Lady of the State of Hawaii



LATE TESTIMONY

DWIGHT Y. TAKAMINE
DIRECTOR
AUDREY HIDAND
DEPUTY DIRECTOR

LATE TESTIMONY

STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
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March 15, 2013

To: The Honorable Mark Nakashima, Chair, the Honorable Mark Hashem, Vice Chair, and
Members of the House Committee on Labor & Public Employment

The Honorable Clift Tsuji, Chair, the Honorable Gene Ward, Vice Chair, and
Members of the House Committee on Economic Development & Business

Date: Friday, March 15, 2013
Time: 11:00 a.m.
Place: Conference Room 309, State Capitol

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

Re: S.B. No. 535 SD1 Relating to Labor

The DLIR presumes the intent of the measure is to afford more protections under Hawaii's labor laws for domestic workers. If so, the department has the following recommendations:

1. The apparent intent of section 1 and section 2 is to limit the exemption from minimum wage and overtime for domestic workers. DLIR suggests deleting those sections and instead amending § 387-1, Hawaii Revised Statutes (HRS), in the following manner:

(3) ~~(In domestic service in or about the home of the individual's employer or as)~~ As a house parent in or about any home or shelter maintained for child welfare purposes by a charitable organization exempt from income tax under section 501 of the federal Internal Revenue Code;
2. DLIR defers to the Hawaii Civil Rights Commission and supports the Commission's input regarding sections 3 and 4 of the proposal.
3. Section 5 of the proposal amends Workers' Compensation law unnecessarily as current law provides for only very limited exemptions. DLIR recommends deleting this section from the proposal as section 386-1, HRS, excludes from the definition of employment the following types of domestic workers:

- “Service performed by an individual for another person solely for personal, family, or household purposes if the cash remuneration received is less than \$225 during the current calendar quarter and during each completed calendar quarter of the preceding twelve-month period;”
 - “Domestic, in-home and community-based services for persons with developmental and intellectual disabilities under the Medicaid home and community-based services program;” (Act 158, SLH 2012)
 - “Domestic services, which include attendant care, and day care services authorized by the department of human services under the Social Security Act, as amended, or when provided through state-funded medical assistance to individuals ineligible for Medicaid, when performed by an individual in the employ of a recipient of social service payments.” (Act 157, SLH 2012)
4. Amend section 6 as in #1 above to limit the exemption from minimum wage and overtime for domestic workers. DLIR notes that this would make the state enforcement of wage and hour law regarding domestic workers different from federal enforcement of the Fair Labor Standards Act (FSLA). Enforcing provisions in state wage and hour laws, which do not exist in federal law, complicates enforcement. Although DLIR believes that the number of domestic workers in Hawaii is relatively low, should the department receive numerous complaints or if other complications arose, DLIR would likely seek favorable consideration from the legislature for additional resources.
 5. Section 7 requests the DLIR to submit a report to the 2014 Legislature on the feasibility and practicality of allowing domestic workers to organize for the purposes of collective bargaining. The department concurs with the Hawaii Labor Relations Board (HLRB), that considering current resource limitations and uncertainties due to the so-called “fiscal cliff”— it may be more prudent to seek another entity to undertake the proposed study or delete this section from the measure. DLIR understands that the Industrial Relations Center is willing to undertake the study if an appropriation for \$50,000 is included in the measure. If an appropriation is unavailable, then DLIR would request that this section be deleted from the proposal.