

STAND. COM. REP. NO.

2152

Honolulu, Hawaii

FEB 11 2014

RE: S.B. No. 2366

S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 2366 entitled:

"A BILL FOR AN ACT RELATING TO WAGE AND HOUR LAW,"

begs leave to report as follows:

The purpose and intent of this measure is to increase the
guaranteed monthly compensation amount of an employee from \$2,000
to \$5,000, at which amount the employee will be exempt from
minimum wage, overtime, and recordkeeping requirements under the
wage and hour laws.

Your Committee received testimony in support of this measure
from the Department of Labor and Industrial Relations. Testimony
in opposition to this measure was submitted by the Hawaii Food
Industry Association, The Chamber of Commerce of Hawaii, and
Island Princess.

Your Committee finds that the wage and hour laws were
established to safeguard existing minimum wage and maximum hour
standards to maintain the health, efficiency, and general
wellbeing of workers. Under existing law, an individual who
receives a guaranteed compensation of \$2,000 or more per month is
excluded from the wage and hour laws, enabling the employer, if
subject to the wage and hour laws, to mandate the individual to
work an unlimited number of hours without having to pay the
individual overtime. Since the \$2,000 guaranteed compensation
threshold amount was established, increases in the minimum wage
rate have resulted in the guaranteed compensation amount being

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closer to the monthly compensation of a minimum wage worker who is covered under the wage and hour laws. This measure raises the threshold amount for guaranteed compensation to more closely align with increases in the minimum wage rate and inflation.

Your Committee recognizes the concerns raised in the written testimony that the increase in the guaranteed compensation amount is too large and sudden and may impose heavy financial burdens on businesses. Your Committee also notes that the guaranteed compensation threshold amount proposed under this measure could more closely reflect the increases in the minimum wage rate and inflation. The Department of Labor and Industrial Relations testified that the \$2,000 guaranteed compensation threshold amount was enacted in 2002, when the minimum wage rate was \$5.75 per hour and increased to \$6.25 per hour on January 1, 2003. The minimum wage rate is currently \$7.25 per hour. Also since 2002, the consumer price index has increased thirty percent. Thus, the \$2,000 guaranteed compensation threshold amount is approximately \$2,590 in 2013 dollars. Rather than setting a fixed guaranteed compensation threshold amount, the Department proposed a mechanism that would maintain consistency with minimum wage and inflation over time without the need for frequent legislative intervention. This mechanism determines the guaranteed compensation threshold by multiplying the minimum wage by 320. Three hundred twenty represents the current exemption amount (\$2,000) divided by \$6.25, which was the minimum wage increase going into effect the last time this exemption was increased in 2002.

Accordingly, your Committee has amended this measure by:

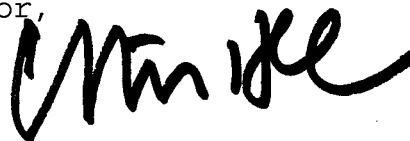
- (1) Adopting the language proposed by the Department of Labor and Industrial Relations that establishes the guaranteed compensation amount by multiplying the minimum wage rate by three hundred twenty, which retains the same proportion of the existing guaranteed compensation threshold amount to the applicable minimum wage (\$2,000:\$6.25); and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2366, as amended herein, and recommends that it pass Second



Reading in the form attached hereto as S.B. No. 2366, S.D. 1, and
be referred to the Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,



CLAYTON HEE, Chair



The Senate
 Twenty-Seventh Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* SB 2366	Committee Referral: JDL, WAM	Date: 01-30-14		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile S.L. (VC)	✓			
GABBARD, Mike	✓			
GALUTERIA, Brickwood	✓			
IHARA, Jr., Les				✓
SOLOMON, Malama	✓			
SLOM, Sam			✓	
TOTAL	5	0	1	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes