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January 29, 2016

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

Date: Friday, January 29, 2016
Time: 10:00 a.m.
Place: Conference Room 309, State Capitol

From: Linda Chu Takayama, Director
Department of Labor and Industrial Relations (DLIR)

Re: H.B. No. 953 Relating to Wage and Hour Law

I. OVERVIEW OF PROPOSED LEGISLATION

HB 953 proposes to amend Section 387-1, Hawaii Revised Statutes, to increase the guaranteed monthly compensation to two hundred seventy-six times the minimum wage for exempting individuals from the minimum wage and overtime protections in the law.

The department strongly supports increasing the guaranteed amount of monthly compensation for exemption to minimum wage and overtime provisions, which would provide stronger protections for workers under the Hawaii Wage and Hour Law.

II. CURRENT LAW

The Hawaii Wage and Hour Law was 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.

The current \$2,000 guaranteed compensation was enacted as Act 43 (SLH, 2002) when the minimum wage was \$5.75 per hour. Employers who are subject to the Fair Labor Standards Act (“FLSA”), which usually includes business with an annual dollar volume of at least \$500,000, would not be eligible for this type of exemption. This guaranteed salary exemption applies only to employers that are not subject to the FLSA.

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

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 minimum salaried compensation is now closer to a covered employee making the 2016 minimum wage of \$8.50 per hour.

Since the last change in this compensation thirteen years ago in 2002, there has been a 30% increase in the Consumer Price Index (CPI).

Indexing the exemption to the minimum wage will ensure the guaranteed compensation would keep pace with increases in the minimum wage moving forward.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, January 26, 2016 4:50 PM
To: LABtestimony
Cc: KarinNomura1@gmail.com
Subject: Submitted testimony for HB953 on Jan 29, 2016 10:00AM

Follow Up Flag: Follow up
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HB953

Submitted on: 1/26/2016

Testimony for LAB on Jan 29, 2016 10:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Karin Nomura	Individual	Support	No

Comments: I hope this goes through, as abuse of said labor laws seem to be still present - my experience has been during my years of hourly pay to have it spread out or "postponed" so maybe a day off the following week or somewhere down the line; not paid for over time or other issues - as the whole "be glad you have a job" was prevalent. Not to mention, the abuse of "salary" where working from 7:30 am to 10 pm daily and sometimes called in to work a "few hours" over the weekend were not uncommon. With the ever looming threat of losing ones job possible as "you're replaceable". Not to mention the whole, "something's wrong with her" and "we thought she was stupid" making the promotion a means to reduce pay or later complaining about lack of ability, supposedly the reason for a reduction in pay - all the while in my neighborhood to ensure a negative impact on work performance; as well as shouts from above... Which in my experience has led to employees not as well protected by the laws and rights supposedly afforded to them. As these seem to be still considered "common work practice"...

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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TO: COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
Representative Mark Nakashima, Chair
Representative Jarrett Keohokalole, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

DATE: January 29, 2016
TIME: 10:00am
PLACE: Conference Room 309

RE: HB 953

Position: Oppose

The Hawaii Food Industry Association is comprised of two hundred member companies representing retailers, suppliers, producers, and distributors of food and beverage related products in the State of Hawaii.

This bill will lead to very sudden and drastic increases in the minimum compensation. Tying the minimum compensation to the minimum wage, which will be steadily increased each January for the next two years, means that a person who is making a wage that exempts them in December of one year may not be exempted in January of the following year, even if nothing about their employment has changed in that time. This places an extreme financial and administrative burden on employers.

For employers in the food industry this burden could have especially wide reaching and negative consequences. Hawaii has one of the lowest unemployment rates in the country, and we pay substantially more than many other parts of the country for food. Food retailers generally operate at a profit margin of around 1 percent. For many it may simply not be possible to change their pay scales and budget around this kind of extreme and abrupt change. This is the kind of thing that can force businesses to downsize or even close their doors, which leaves

people without jobs. In addition to which this will lead to increased labor costs which drive up the price of food.

Potentially costing jobs in the food industry and driving up the price of food is not the right choice for our state, for these reasons we ask that this measure be held.

Thank you for the opportunity to testify.



**Testimony to the House Committee on Labor & Public Employment
Friday, January 29, 2016 at 10:00 A.M.
Conference Room 309, State Capitol**

RE: HOUSE BILL 953 RELATING TO WAGE AND HOUR LAW

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

The Chamber of Commerce Hawaii ("The Chamber") **opposes** HB 953, which increases the amount of guaranteed monthly compensation required to exempt an individual from minimum wage, overtime, and record keeping requirements under the Hawaii Wage and Hour Law by way of a formula.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 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 members and the entire business community 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. This is a substantial increase and will only continue growing as it is tied to the minimum wage, which will increase every year until 2018.

Many companies have salaried employees not covered by the wage and hour law that start off at \$2,000 per month. In many of these cases, they receive compensation through other benefits that are different than hourly employees. Benefits such as flexible time, leave, full health premium coverage and many others may be lost. Increasing this entry level amount could hurt many businesses and employees.

Lastly, the effective date of this bill is unfair as it interferes with existing employment agreements for the current year.

Thank you for the opportunity to testify.