



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

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April 6, 2015

To: The Honorable Sylvia Luke, Chair,  
The Honorable Scott Y. Nishimoto, Vice Chair, and  
Members of the House Committee on Finance

Date: April 7, 2015  
Time: 2:30 p.m.  
Place: Conference Room 308, State Capitol

From: Leonard Hoshijo, Deputy Director  
Department of Labor and Industrial Relations (DLIR)

**Re: S.B. No. 1122 Relating to Wage and Hour Law**

**I. OVERVIEW OF PROPOSED LEGISLATION**

SB1122 proposes to amend section 387-1, Hawaii Revised Statutes, (HRS) 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.

This housekeeping measure would correct the inequity of guaranteed compensation remaining at the same level, while the minimum wage increases over the next three years. Act 43, Session Laws of Hawaii 2002, similarly raised the minimum compensation due to scheduled increases in the minimum wage.

The department strongly supports this Administration proposal.

**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 SENATE BILL**

The minimum wage will increase three times over the next three years to \$10.10 per hour on January 1, 2018. To maintain a consistent wage proportion, this proposal uses a multiplier mechanism to keep the minimum guaranteed compensation on par with increases in the minimum wage. The DLIR suggests policy makers consider this type of multiplier mechanism to maintain a consistent average wage proportion for the exemption to minimum wage and overtime protections.

If enacted, employees paid at the guaranteed compensation will have their health, efficiency, and general well-being safeguarded. It is likely that employers will experience lower employee turnover and greater productivity, commitment and loyalty. Further, an increase in the guaranteed compensation will boost consumer demand and jobs because guaranteed compensation workers spend most if not all of their increased wages and therefore will generate economic activity.



April 3, 2015

VIA WEB TRANSMITTAL

Committee on Finance  
Senate, the 28<sup>th</sup> Legislature  
Regular Session of 2015

Re: Testimony against SB 1122

Dear Chair Luke, Vice Chair Nishimoto, and Committee Members

I am the Secretary of the Community Associations Institute (CAI) Legislative Action Committee (LAC). CAI LAC opposes SB 1122 for the following reasons:

First, we appreciate the intent of this bill to keep it in line with the changes of the minimum wage. However we have concerns on the adverse impact this will have on the financial health of our associations. Many community associations have a resident manager who is provided with a unit at the association. We propose amending the bill to allow for the housing to be counted as part of their compensation.

Proposed amendment:

(1) At a guaranteed compensation, **including the fair market value of housing given to the employee,** totaling [~~\$2,000 or more a month,~~] a monthly minimum of the amount of the applicable minimum wage under section 387-2 multiplied by two hundred seventy-six, whether paid weekly, biweekly, or monthly;

CAI represents the community associations and opposes SB 1122 as written.

Sincerely yours,

Alan Takumi



**Executive Officers:**  
John Schilf, RSM Hawaii - Chairperson  
Derek Kurisu, KTA Superstores - Vice Chair  
Lisa DeCoito, Aloha Petroleum - Treasurer  
John Erickson, Frito-Lay - Secretary  
Lauren Zirbel, Executive Director

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**TO:**  
COMMITTEE ON FINANCE  
Representative Sylvia Luke, Chair  
Representative Scott Y. Nishimoto, Vice Chair

**FROM: HAWAII FOOD INDUSTRY ASSOCIATION**  
Lauren Zirbel, Executive Director

**DATE:** April 7, 2015  
**TIME:** 2:30pm  
**PLACE:** Conference Room 308

**RE: SB1122**

**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 four 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.



# Chamber of Commerce HAWAII

*The Voice of Business*

**Testimony to the House Committee on Finance  
Tuesday, April 7, 2015 at 2:30 P.M.  
Conference Room 308, State Capitol**

**RE: SENATE BILL 1122 RELATING TO WAGE AND HOUR LAW**

Chair Luke, Vice Chair Nishimoto, and Members of the Committee:

The Chamber of Commerce of Hawaii ("The Chamber") **opposes** SB 1122, 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 that will only continue going up as it is tied to the minimum wage, which will increase every year until 2018.

Many companies have salaried employees who are not covered by the wage and hour law that start off at \$2,000 per month. In many of these cases, they are compensated with 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.

From: mailinglist@capitol.hawaii.gov  
Sent: Sunday, April 05, 2015 12:12 PM  
To: FINTestimony  
Cc: randy@kauaichamber.org  
Subject: \*Submitted testimony for SB1122 on Apr 7, 2015 14:30PM\*

**SB1122**

Submitted on: 4/5/2015

Testimony for FIN on Apr 7, 2015 14:30PM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Randall Francisco	Kauai Chamber of Commerce	Oppose	No

Comments:

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.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)



HAWAI'I LODGING & TOURISM  
ASSOCIATION

**LATE**

Testimony of George Szigeti  
President & CEO  
HAWAI'I LODGING & TOURISM ASSOCIATION  
House Committee on Finance  
Hearing on April 07, 2015, 2:30 p.m.  
SB 1122 Relating to Wage and Hour Law

Dear Chair Luke, Vice Chair Nishimoto, and Members of the Committee. My name is George Szigeti and I am the President and CEO of the Hawai'i Lodging & Tourism Association.

The Hawai'i Lodging & Tourism Association (HLTA) is a statewide association of hotels, condominiums, timeshare companies, management firms, suppliers, and other related firms that benefit from and strengthen Hawai'i's visitor industry. Our membership includes over 150 lodging properties, representing over 50,000 rooms, and over 400 other Allied members. The visitor industry was responsible for generating \$14.9 billion in visitor spending in 2014 and supported 170,000 jobs statewide – we represent one of Hawai'i's largest industries and a critical sector of the economy.

On behalf of HLTA, permit me to offer this testimony regarding SB 1122 which proposes to increase 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 Hawai'i Lodging and Tourism Association **opposes** SB 1122 with concerns regarding the increase in the exemption from the wage and hour law. The increase is sizable and will continue to increase as it is tied to a minimum wage that is set to increase over the next several years.

There are many companies that have salaried employees who are not covered by the wage and hour law and start off at \$2,000 per month. In many of these cases, they are compensated with 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.

Thank you for this opportunity to testify.

**LATE**



**TESTIMONY IN OPPOSITION OF SB1122  
RELATING TO WAGE AND HOUR LAW**

TO THE HOUSE COMMITTEE ON FINANCE

Hawaii State Capitol  
Conference Room 308  
April 7, 2015  
2:30 PM

Chair Luke, Vice Chair Nishimoto, and Members of the Committee:

The Chamber of Commerce of Hawaii ("The Chamber") **opposes** SB 1122, 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 Maui Chamber of Commerce believes in creating a strong economic environment that supports job growth while also protecting our environment and preserving our quality of life. We have approximately 500 members, 95% of whom are small businesses with 25 or fewer employees.

The Chamber has concerns regarding the increase in the exemption from the wage and hour law. This is a substantial increase that will only continue going up as it is tied to the minimum wage, which will increase every year until 2018.

Many companies have salaried employees who are not covered by the wage and hour law that start off at \$2,000 per month. In many of these cases, they are compensated with 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.

Sincerely,

Pamela Tumpap  
President