



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

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March 23, 2015

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

Date: March 24, 2015  
Time: 9:45 a.m.  
Place: Conference Room 309, State Capitol

From: Elaine N. Young, Acting 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.



# Chamber of Commerce HAWAII

*The Voice of Business*

**Testimony to the House Committee on Labor & Public Employment  
Tuesday, March 24, 2015 at 9:45 A.M.  
Conference Room 309, State Capitol**

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

Chair Nakashima, Vice Chair Keohokalole, 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.



**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 LABOR & PUBLIC EMPLOYMENT  
Representative Mark M. Nakashima, Chair  
Representative Jarrett Keohokalole, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION  
Lauren Zirbel, Executive Director

DATE: March 24, 2015  
TIME: 9:45am  
PLACE: Conference Room 309

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.