



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

830 PUNCHBOWL STREET, ROOM 321

HONOLULU, HAWAII 96813

www.labor.hawaii.gov

Phone: (808) 586-8844 / Fax: (808) 586-9099

Email: dlir.director@hawaii.gov

February 6, 2018

To: The Honorable Aaron Ling Johanson, Chair,
The Honorable Daniel Holt, Vice-Chair, and
Members of the House Committee on Labor & Public Employment

Date: Tuesday, February 6, 2018
Time: 8:30 a.m.
Place: Conference Room 309, State Capitol

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

Re: H.B. 1627 RELATING TO THE MINIMUM WAGE

I. OVERVIEW OF PROPOSED LEGISLATION

This proposal amends section 387-9, Hawaii Revised Statutes (HRS), by repealing the provision for individuals whose earning capacity is impaired by old age or physical or mental deficiency or injury to be employed at less than minimum wage.

DLIR provides comments on this measure.

II. CURRENT LAW

Section 387-9, HRS, allows both persons and clients with intellectual disabilities, the latter at sheltered workshops, to be employed under special certificates issued by the Director at wages lower than the minimum wage for a period stated in the special certificates.

III. COMMENTS ON THE HOUSE BILL

Currently, there are seven sheltered workshops statewide with an active special certificate permitting the payment of wages lower than the statutory minimum wage to clients with intellectual disabilities. These sheltered workshops collectively employ approximately 75 individuals.

Prior to issuing a special certificate to the sheltered workshop, DLIR reviews the employer's time records, payroll records, and time study information to determine whether the employer is complying with wage laws and certifying the proposed wages are commensurate with that person's productivity.

Generally, a special certificate is valid for one year and a renewal application is filed annually.

DLIR notes that the measure, as drafted, obviates the need for a special certificate since the Director would not be granting any exception to the law. DLIR suggests the following language for consideration by the Committee, which retains subminimum wages for persons with intellectual disabilities:

(2) Of [~~individuals whose earning capacity is impaired by old age or physical or mental deficiency or injury development~~] persons with intellectual disabilities, under special certificates issued by the director, at such wages lower than the applicable minimum wage and for such period as shall be fixed in the certificates.

HB-1627

Submitted on: 2/3/2018 7:14:06 PM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Louis Erteschik	Hawaii Disability Rights Center	Comments	No

Comments:

We certainly support the concept of this bill. There are a lot of preconceived notions about individuals with disabilities and so people often assume they are less capable than they are. Not so long ago people thought they could not live outside of institutions and now they do, very successfully here in Hawaii. Employment is the next frontier of community integration and if we can overcome the old assumptions, more and more people will be integrated into the work environment, just as they are now integrated in their housing. Employing people with disabilities at a competitive wage is a high national and local priority. We do have some concerns though that the Committee should consider. Despite the best intentions and efforts of everyone, there may well be some individuals with disabilities who are not capable of full competitive employment. That is just a fact and while it may not be the politically correct thing for a disability rights organization to state it nonetheless is the truth.

So, the question then is "what happens to these people". Under current law there are some limited situations where an employer is permitted to pay an individual with a disability a sub minimum wage. In Hawaii we believe there are approximately 50 people who fit this category. The trend nationally and locally is clearly to phase out "these sheltered workshops" and that is a good thing certainly. People with disabilities are entitled to earn a fair day's pay for a day's work as anyone should. However, in some cases what will simply happen if the sub minimum wage is eliminated is that these people will not be employed at all. Is that a good policy to enact? Not necessarily. For some of these people, this "job" is the lifeline to their sense of self-worth and to their social connection to the community. Eliminating that serves no useful purpose and could have the effect of leaving these people with few alternatives. Is it better for them to attend an adult day health program? Is it better for them to stay home all day? Clearly the goal should be to transition them to competitive employment. But if that is not feasible, we believe that there needs to be a full continuum of options available.

What we see as the more serious problem is the way the current system operates. Employers are required to conduct productivity studies to demonstrate that an individual with a disability is "less productive" in order to pay them the lower wages. In our experiences we have investigated abuses of the system and what we have seen is that the employers do not fairly rate the ability of the workers and so that is why they are being paid lower wages. The problem is compounded because the government

overseers often lack the resources to independently analyze the accuracy or veracity of the employer ratings and that too is a major cause of the lower wages being paid We believe that if there was better enforcement of the employers and the ratings that they submit, then the “exploitation” would be substantially reduced.

We are also concerned about the lack of appropriate services available in Hawaii. We do not want to see people staying home and watching TV as the alternative to their current placement in a sub minimum wage facility. The agencies that are supposed to assist them with employment do not always do so. For example, we have a dysfunctional Division of Vocational Rehabilitation and no new people are getting services. They recently entered into an Order of Selection so right now nobody is getting VR services unless they have an existing IPE. Even for those with an IPE we recently had several situations where VR told these clients they were "out of money" and would not receive services. Mismanagement over there has been the norm for years. We also have a DD system that has been getting increasingly restrictive in its eligibility criteria as people who should be receiving DD services are being told they are too high functioning. In theory those who are higher functioning should be good candidates for employment but without VR services or supported employment services it makes it much harder.

In sum, if the legislature truly wants to encourage the competitive employment of people with disabilities we believe the answer is not necessarily to eliminate the sub minimum wage but to provide more resources and oversight of the Division of Vocational Rehabilitation and the Developmental Disabilities Division so that they will serve individuals with disabilities in the manner they were intended to.

HB-1627

Submitted on: 2/4/2018 12:28:17 PM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Dawn Morais Webster Ph.D.	Independent Issue Advocate	Support	No

Comments:

Isn't it enough that individuals have to cope with a disability without having state-sanctioned discrimination on pay added to the challenges facing them? Would we want a member of our family treated this way? Paying these individuals less than the minimum wage is discriminatory. Let's end this embarrassing and demeaning practice. Thank you for moving this bill forward.

HB-1627

Submitted on: 2/4/2018 4:13:14 PM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Zahava Zaidoff	StressFreeSouls	Support	Yes

Comments:

Aloha Chairman and Vice Chairman, and members of the LAB committee,

I am writing in support of bill 1627.

People living with disabilities are people. I feel as though that fact is often forgotten. We discuss what disabled people need and what they deserve and what they should be getting as if we are talking about inanimate objects. Work breeds a sense of purpose. Work is dignity inducing. However, when some workers are paid less than other workers, there is an effect not only on self esteem and self confidence, but it cultivates an environment of discrimination and prejudice.

Paying people less than minimum wage is discrimination, stigma causing, and takes away people's dignity. It is sending a message to people that being different equals being less than. I do understand that businesses crave productive workers. But having a law on the books that allows for some people to be paid less than others creates an unsafe and unhealthy environment: one that creates a hierarchy, not in job positions, but in status of human beings. Where will it end? People living with autism who may need a little extra help can be paid lower? What about someone living with anxiety disorder who takes two extra trips to the restroom to engage in deep breathing? How about the person living in chronic pain who needs to sit down once an hour? Any employer can request a certificate to pay these individuals lower than minimum wage by citing that they are 'less productive' employees under the discriminatory and archaic law. It is time for Hawaii to be the leader in standing up to this unacceptable form of legal discrimination.

Thank you for your support and helping Hawaii to be a leader in fighting for equality for all citizens.

Zahava Zaidoff



HAWAII APPLESEED

CENTER FOR LAW & ECONOMIC JUSTICE

Testimony of Hawai'i Appleseed Center for Law and Economic Justice
Supporting HB 1627 – Relating to the Minimum Wage
House Committee on Labor & Public Employment
Scheduled for hearing at Tuesday, February 6, 2018, 8:30 AM, in Conference Room 309

Dear Chair Johanson, Vice Chair Holt, and members of the Committee:

Thank you for the opportunity to testify in SUPPORT of **HB 1627**, which would repeal the exemption authorizing compensation of impaired individuals at less than minimum wage.

Current law allows employers to pay workers with disabilities subminimum wages. It is already almost impossible for workers in Hawai'i to make ends meet while earning the regular minimum wage. We should make that the wage floor for all workers in our state.

The subminimum wage for workers with disabilities was first written into federal law 80 years ago, when there were almost no technologies available to help such workers be as productive as other workers. As a result, many of these workers have been segregated into workshops where their labor is exploited, with some employers paying only pennies per hour.

In this day and age, there are technologies available that can enable people with disabilities to reach their full vocational and socioeconomic potential. According to the National Federation for the Blind, several successful models have been developed that help people with disabilities gain the skills needed to perform competitive work.

The Democratic and Republican party platforms in 2016 both called for the end of subminimum wages for workers with disabilities. It makes sense for Hawai'i to do so.

To strengthen HB 1627, we suggest that you amend it to leave no ambiguity for subminimum wages for people with disabilities to continue. We also suggest that you amend the bill to address contracting with entities paying subminimum wages.

We appreciate your consideration of this testimony.

The Hawai'i Appleseed Center for Law and Economic Justice is committed to a more socially just Hawai'i, where everyone has genuine opportunities to achieve economic security and fulfill their potential. We change systems that perpetuate inequality and injustice through policy development, advocacy, and coalition building.

HB-1627

Submitted on: 2/5/2018 7:55:38 AM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mary Whispering Wind	Patients Without Time	Support	No

Comments:

I SUPPORT HB1627.

Everyone should be paid at least the minimum wage, regardless of disability, impairment, or incarceration.



Randy Perreira
President

HAWAII STATE AFL-CIO

345 Queen Street, Suite 500 • Honolulu, Hawaii 96813

Telephone: (808) 597-1441
Fax: (808) 593-2149

The Twenty-Ninth Legislature, State of Hawaii
Hawaii State House of Representatives
Committee on Labor and Public Employment

Testimony by
Hawaii State AFL-CIO

February 6, 2018

H.B. 1627 – RELATING TO THE
MINIMUM WAGE

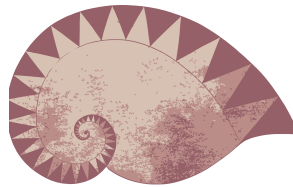
The Hawaii State AFL-CIO supports the intent H.B. 1627 which repeals exemption authorizing compensation of impaired individuals at less than minimum wage.

The Hawaii State AFL-CIO recognizes some workers could potentially be paid below the minimum wage under certain circumstances. Often times, this can be very emotional and challenging for the employee and employer and as a result, we hope that a solution can be developed that helps level the playing field for all workers while taking into account everyone's perspective.

Thank you for the opportunity to testify.

Respectfully submitted,

Randy Perreira
President



Pono Hawai'i Initiative

Josh Frost - President • Kau'i Pratt-Aquino - Secretary • Patrick Shea - Treasurer
Kristin Hamada • Nelson Ho • Summer Starr

Tuesday, February 6, 2018

Relating to House Bill 1627
Testifying in Support

Aloha, Chair Johanson, Vice-Chair Holt, and Members of the House Committee on Labor and Public Employment,

The Pono Hawai'i Initiative (PHI) **supports HB1627 Relating to the Minimum Wage**, which repeals the exemption authorizing compensation of impaired individuals at less than minimum wage.

PHI believes all labor performed by workers should be valued with at least a basic minimum wage. This includes those individuals and employees who may have any kind of mental or physical impairment.

It is laudable that there are employers who provide opportunities for impaired individuals who may not otherwise find jobs of any kind and we congratulate those employers. PHI understands the difficulty presented to those employers by this bill, however we also believe workers should be treated with respect, by their employers and by the law. This includes ensuring they are entitled to the same minimum wage as any other employee.

Wage or other kinds of discrimination on the basis of impairment is not OK and we urge passage of this bill.

Mahalo for the opportunity to testify,
Gary Hooser
Executive Director

Pono Hawai'i Initiative, an organization member of the Common Good Coalition

HB-1627

Submitted on: 2/5/2018 8:25:44 AM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	OCC Legislative Priorities	Support	No

Comments:



46-063 Emepela Pl. #U101 Kaneohe, HI 96744 · (808) 679-7454 · Kris Coffield · Co-founder/Executive Director

TESTIMONY FOR HOUSE BILL 1627, RELATING TO THE MINIMUM WAGE

House Committee on Labor
Hon. Aaron Ling Johanson, Chair
Hon. Daniel Holt, Vice Chair

Tuesday, February 6, 2018, 8:30 AM
State Capitol, Conference Room 309

Honorable Chair Johanson and committee members:

I am Kris Coffield, representing IMUAlliance, a nonpartisan political advocacy organization that currently boasts over 400 members. On behalf of our members, we offer this testimony in support of House Bill 1627, relating to minimum wage.

Hawai'i residents face the highest housing costs in the nation, at more than twice the national average. Researchers who authored the National Low Income Housing Coalition's *Out of Reach 2017* report found that a full-time worker would need to earn \$35.20/hour to afford a two-bedroom apartment at fair market value in our state, with Honolulu experiencing a 67 percent increase in fair market rent between 2005 and 2015. Average rent for a two-bedroom unit surpassed \$2,000 in recent years, with **minimum wage workers needing to log 116 hours per week to afford a modest one-bedroom apartment at fair market value and 139 hours per week to afford a two-bedroom**—a number that is equivalent to working 20 hours a day with no days off year-round. In the past three years alone, Honolulu rent has increased by more than 25 percent. While 43 percent of Hawai'i residents are renters (a number that does not include individuals and families renting outside of the regulated rental market), they earn an average wage of \$15.64/hour, over \$8.00 less than the minimum housing wage for the islands and scarcely enough to meet their basic needs, forcing them to take second and third jobs that, quite frequently, pay minimum wage. One out of every four households in Hawai'i report that they are “doubling up” or are three paychecks or less away from being homeless, per the Hawai'i Appleseed Center for Law and Economic Justice. Additionally, 54 percent of households are cost-burdened, meaning that they pay more than 30 percent of their income for housing costs, a number that rises to 83 percent of extremely low-income households. Homelessness is directly tied to our state's exorbitant cost of living and penchant for catering to people who use the islands as their own private Monopoly board. We beseech you to seek innovative ways of making Hawai'i more affordable for our

economically disadvantaged neighbors and hardworking families, who are, far too often, the same slice of our state's population.

Our state's cost of housing has skyrocketed over the last decade, leaving many families searching for affordable alternatives, in shelters, or on the streets. For context, the median price of condominiums on O'ahu increased 6 percent in the summer of 2017 to a record \$425,000, while the median price for single-family homes increased by 3 percent to \$795,000, according to the Honolulu Board of Realtors, a number that they expect to increase by at least another 5 percent in 2018. Average fair market rent for two-bedroom apartments in *outlying* communities in the City and County of Honolulu now exceeds \$2,700, with the cost of a four-bedroom home in urban Honolulu now exceeding \$1.1 million. At least 43 percent of residences in Hawai'i are owner unoccupied, according to the National Low-Income Housing Coalition, meaning that nearly 50 percent—and by some estimates well over half—of Hawai'i's homes are likely investment properties. Many of those properties, in turn, are owned by mainland and foreign buyers, whose real estate market speculation is a prime driver of Hawai'i's highest-in-the-nation cost of housing. According to a study released in May of 2016 by the Hawai'i Department of Business, Economic Development, and Tourism, there are “clear distinctions” between the average price of homes bought by local residents, mainlanders, and foreigners. Analyzing purchases made between 2008 and 2015, DBEDT found: “The average sale price was highest among foreign buyers. The average sale price of the total of 5,775 homes sold to foreign buyers from 2008 to 2015 was \$786,186, 28.3 percent higher than the average sale price to the mainlanders (\$612,770) and 64.7 percent higher than the average sale price to local buyers (\$477,460).”

It is unconscionable that state and federal law includes a loophole that allows disabled individuals to be paid less than the minimum wage. Current labor laws unjustly prohibit workers with disabilities from reaching their full vocational and socioeconomic potential. Written in 1938, Section 14(c) of the Fair Labor Standards Act (FLSA) discriminates against people with disabilities. The provision allows the Secretary of Labor to grant Special Wage Certificates to employers, permitting them to pay workers with disabilities less than the federal minimum wage. This provision, mirrored in HRS §387-9, is based on the false assumption that disabled workers are less productive than nondisabled workers. Successful employment models have emerged in the last seventy-five years to assist people with significant disabilities in acquiring the job skills needed for competitive work.

The subminimum wage model fails to respect the contributions of disabled workers. Data shows that less than 5 percent of the 400,000 workers with disabilities in segregated subminimum wage workshops will transition into competitive integrated work. Moreover, research shows that the subminimum wage model costs more but actually produces less. In fact, workers must unlearn the useless skills they acquire in order to obtain meaningful employment. It is poor policy to reward such failed programs with wage exemptions. After more than seventy-five years of demonstrated failure, it is time to invest in proven, effective models for employment, such as “supported” or

“customized” employment that are successful at producing competitive integrated employment outcomes for individuals with significant disabilities that were previously thought to be unemployable. Disabled workers deserve to be paid what they’ve earned, not discriminated against and cast into financial hardship.

Mahalo for the opportunity to testify in support of this bill.

Sincerely,
Kris Coffield
Executive Director
IMUAlliance

HB-1627

Submitted on: 2/4/2018 9:24:44 AM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
marianne jones		Support	No

Comments:

Please support this bill. These citizens need to be treated fairly.

HB-1627

Submitted on: 2/4/2018 7:42:01 AM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Shannon Rudolph		Support	No

Comments:

Strongly Support

HB-1627

Submitted on: 2/2/2018 7:47:11 PM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Randy Ching		Support	No

Comments:

Chair Johanson, Vice Chair Holt and members of the committee,

Please pass HB1627. Workers with disabilities deserve to be paid just like the rest of us. They deserve the minimum wage.

Thank you for the opportunity to testify.

Randy Ching / Honolulu / makikirandy@yahoo.com

HB-1627

Submitted on: 2/4/2018 4:30:35 AM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kelly B Spangler		Support	No

Comments:

The idea that this bill even had to be created is nauseating. All people from all walks of life and abilities are due the same pay. It is beyond the scope of my comprehension that we should deliberate for even a fraction of a second. Pass this bill.

HB-1627

Submitted on: 2/2/2018 5:47:24 PM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Scott Foster		Support	No

Comments:

Submitted by Scott Foster, Chair, for The Kupuna Caucus of the Democratic Party of Hawaii

HB-1627

Submitted on: 2/5/2018 3:58:41 AM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kat Culina		Support	No

Comments:

HB-1627

Submitted on: 2/4/2018 10:04:46 PM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Marion McHenry		Support	No

Comments:

HB-1627

Submitted on: 2/5/2018 10:31:11 AM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lucia You		Support	No

Comments:

HB-1627

Submitted on: 2/5/2018 10:54:45 AM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Self Advocates		Comments	Yes

Comments:

My name is Renee Manfredi and I am the President of the Self Advocacy Advisory Council. We have nearly 200 members statewide. Our members represent individuals with disabilities and we are in support of abolishing; less than minimum wage exceptions for individuals who are elderly and individuals with disabilities. We strongly feel there is never a time to pay an adult less than minimum wage. Too many people try to protect us and feel something is better than nothing, but that type of thinking has kept us under employed. Please help us protect our rights and forbid employers from ever paying us below minimum wage. Thank you for this opportunity to provide comments.

PUBLIC HEARING TESTIMONY
SUPPORTING HOUSE BILL 1627 - RELATING TO THE MINIMUM WAGE

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
Representative Aaron Ling Johanson, Chair
Representative Daniel Holt, Vice Chair

Tuesday, February 6, 2018
8:30 AM
Conference Room 309
State Capitol
415 South Beretania Street

To the House Committee on Labor & Public Employment:

Mahalo for taking the time to hear this bill, which addresses one of the most pressing civil rights issues of today in Hawaii. In our state, people with disabilities do not currently receive the protection of minimum wage laws, and I respectfully request that exemptions allowing employers to pay them/us subminimum wages be eliminated.

Employers who exploit people with disabilities by paying them subminimum wages will argue that their employees are simply not productive enough to be worthy of the minimum wage. They assume that workers with disabilities are inherently less productive, and then everything that happens thereafter is contaminated by low expectations.

In a sheltered workshop, people with disabilities are essentially guaranteed employment, but they are not guaranteed minimum wage. It is supposed to be training, but people almost never transition out of subminimum-wage work environments. These sweatshops claim that they pay people according to productivity, but they do not. Sheltered workshop wages are forecasted by a speed test every six months. The productivity assessment is forward-looking rather than backward-looking. In a job where people are truly paid according to productivity, their pay for a given day is based on how productive they were that day, not on an arbitrary speed test that was performed six months beforehand.

The sheltered workshop system takes people and systematically tells them that they're not as good as the rest of the workforce. The workshops claim that they are focused on the individual, but civil rights must apply to all individuals. Some of the sweatshops argue that the jobs are not primarily for pay, that they are primarily for fulfillment and feelings of importance in the world. It is not difficult in one of these sweatshops to keep a person believing that he or she is not good enough to reach for a competitive job.

These tax-exempt non-profits collect charitable donations, and they present themselves as doing good work, but they are not required to do right by their employees. They can eat up government contracts and grants while disability benefits pay the employees' real costs of living. This allows the employees to stay on disability benefits for the rest of their lives while the sweatshops do not have to pay real wages. There is no incentive to innovate and compete. They say they're market-driven and that they must increase their bottom line in order to be around for the next day, but they are not innovating. The sweatshops for the disabled have no incentive to pay their workers a minimum wage, and they have

no incentive to make their workers more productive. They profit immensely from keeping workers unproductive, and they have financial incentives to keep them in the sweatshops.

Nobody is going to be thrown out on the street because this bill passes unless it is a political stunt by the sweatshops to attempt to protect their exploitation interests on the mainland. If people with disabilities want a day program where they can go enjoy themselves, those already exist. If a person wants to go to a sheltered workshop and volunteer, they have every ability to do that. If a person is going to work for pay, that person should be paid without regard to his or her disability.

It is the obligation of management to figure out how to optimize productivity given their employee's talents, not the obligation of the worker to fit into some box that the manager dreams up and says, "regardless of your disability, this is your job, and if you're not any good at it, that's your fault, not mine."

This is a matter of people with disabilities being treated like first-class citizens in Hawaii and having the same rights as other people to work to earn the things they/we need and to reach their/our full potential. People with disabilities are human beings and deserve to be paid like it.

Please help us eliminate the payment of subminimum wages and take all steps necessary to pass this bill, strengthening it however possible. House Bill 1721 is a more robust version of this bill; amending it to look more like that one would help us even more.

Mahalo nui loa,

Rita Porter
45-577 Waikalua Place
Kaneohe, HI 96744

PUBLIC HEARING TESTIMONY
SUPPORTING HOUSE BILL 1627 - RELATING TO THE
MINIMUM WAGE

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
Representative Aaron Ling Johanson, Chair
Representative Daniel Holt, Vice Chair

Tuesday, February 6, 2018
8:30 AM
Conference Room 309
State Capitol
415 South Beretania Street

To the House Committee on Labor & Public Employment:
Mahalo for taking the time to hear this bill, which addresses one of the most pressing civil rights issues of today in Hawaii. In our state, people with disabilities do not currently receive the protection of minimum wage laws, and I respectfully request that exemptions allowing employers to pay them/us subminimum wages be eliminated.

Employers who exploit people with disabilities by paying them subminimum wages will argue that their employees are simply not productive enough to be worthy of the minimum wage. They assume that workers with disabilities are inherently less productive, and then everything that happens thereafter is contaminated by low expectations.

In a sheltered workshop, people with disabilities are essentially guaranteed employment, but they are not guaranteed minimum wage. It is supposed to be training, but people almost never transition out of subminimum-wage work environments.

These sweatshops claim that they pay people according to productivity, but they do not. Sheltered workshop wages are forecasted by a speed test every six months. The productivity assessment is forward-looking rather than backward-looking. In a job where people are truly paid according to productivity, their pay for a given day is based on how productive they were that day, not on an arbitrary speed test that was performed six months beforehand.

The sheltered workshop system takes people and systematically tells them that they're not as good as the rest of the workforce. The workshops claim that they are focused on the individual, but civil rights must apply to all individuals. Some of the sweatshops argue that the jobs are not primarily for pay, that they are primarily for fulfillment and feelings of importance in the world. It is not difficult in one of these sweatshops to keep a person believing that he or she is not good enough to reach for a competitive job.

These tax-exempt non-profits collect charitable donations, and they present themselves as doing good work, but they are not required to do right by their employees. They can eat up government contracts and grants while disability benefits pay the employees' real costs of living. This allows the employees to stay on disability benefits for the rest of their lives while the sweatshops do not have to pay real wages. There is no incentive to innovate and compete. They say they're market-driven and that they must increase their bottom line in order to be around for the next day, but they are not innovating. The sweatshops for the disabled have no incentive to pay their workers a minimum wage, and they have no incentive to make their workers more productive. They profit immensely from keeping workers

unproductive, and they have financial incentives to keep them in the sweatshops.

Nobody is going to be thrown out on the street because this bill passes unless it is a political stunt by the sweatshops to attempt to protect their exploitation interests on the mainland. If people with disabilities want a day program where they can go enjoy themselves, those already exist. If a person wants to go to a sheltered workshop and volunteer, they have every ability to do that. If a person is going to work for pay, that person should be paid without regard to his or her disability.

It is the obligation of management to figure out how to optimize productivity given their employee's talents, not the obligation of the worker to fit into some box that the manager dreams up and says, "regardless of your disability, this is your job, and if you're not any good at it, that's your fault, not mine."

This is a matter of people with disabilities being treated like first-class citizens in Hawaii and having the same rights as other people to work to earn the things they/we need and to reach their/our full potential. People with disabilities are human beings and deserve to be paid like it.

Please help us eliminate the payment of subminimum wages and take all steps necessary to pass this bill, strengthening it however possible. House Bill 1721 is a more robust version of this bill; amending it to look more like that one would help us even more.

Mahalo nui loa,
Mrs. Kyle Laconsay
44-149 Hako Street #4
Kaneohe, HI 96744

HB 1627

**LATE
TESTIMONY**

February 6, 2018

LATE

Representative Aaron Johanson, Chair
House Committee on Labor

Re: HB1627: Relating to the Minimum Wage

Goodwill Hawaii wants to provide comments on HB1627 and SB 3023 Relating to the Minimum Wage. This bill targets the elimination of current state law allowing payment for less than the minimum wage to significantly disabled employees whose work performance and productivity does not meet the productivity expected for the job.

Hawaii's law HRS 387-9 allows certain employers to pay wages below the minimum wage to employees who have disabilities that directly affect their job performance. Employers are able to do this through a special minimum wage certificate obtained from the Hawaii State DLIR, Wage and Hour Division. Certificate holders must also have a companion certificate issued by the U.S. Department of Labor's Wage and Hour Division which is known as the 14c Certificate.

This State certificate to pay less than the minimum wage applies only in limited circumstances and requires renewal on an annual basis. The federal certificate is issued every 3-years, and is also limited to certain circumstances. While Goodwill Hawaii is both a federal and state certificate holder, currently we do not employ any individuals at less than the minimum wage. We continue to hold the certificate, in case the need arises to provide an individual with the opportunity to work, when they are not yet able to meet the requirements for a minimum wage position.

There are extensive protections built into the law which we believe are adequate to prevent issues related to compliance. The special minimum wage rate must be commensurate with those rates paid to workers without disabilities essentially the same type, quantity and quality of work. Employers must provide written assurances that they will review wage rates for individuals paid on an hourly basis at least once every six months. Employers must review the wages of all employees at least annually to reflect changes in the prevailing wages paid to experienced workers without disabilities for essentially the same type of work and the special minimum wage certificate applies to only to employees who have disabilities that affect the work they perform.

Prior to issuing a special wage certificate, employers must provide evidence to the state for review to assure they meet the following criteria:

1. The nature and extent of the disabilities of the individuals employed are directly related to the

DONATE STUFF. CREATE JOBS.



WWW.HIGOODWILL.ORG

individuals' productivity for the type of work performed.

2. The prevailing wages paid to experienced employees without disabilities for comparable work in the same region and industry.

3. The productivity of the workers with disabilities compared to the norm established through the use of a verifiable work measurement method, and related to the productivity of experienced workers without disabilities employed in comparable work.

4. The wage rates to be paid to the workers with disabilities for work comparable to that performed by experienced workers without disabilities.

Work is a valued activity that promotes independence and enables individuals to participate in the mainstream of life. Simply eliminating or phasing out the use of the certificate could result in many people with the most significant disabilities losing their jobs. In a 2001 Government Accountability Office (GAO) report, approximately one-third of all workers paid special minimum wages had intellectual disabilities or other developmental disabilities as their primary impairment, and 46 percent had multiple disabilities.

We urge the legislature to carefully consider any action to eliminate the use of the special minimum wage certificate without understanding its current use and how it may affect people who are current certificate users.

Thank you for this opportunity to testify.

DONATE STUFF. CREATE JOBS.



WWW.HIGOODWILL.ORG

LATE

HB-1627

Submitted on: 2/5/2018 11:55:33 PM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Joseph Kohn MD	We Are One, Inc. - www.WeAreOne.cc - WAO	Support	No

Comments:

www.WeAreOne.cc

PUBLIC HEARING TESTIMONY
SUPPORTING HOUSE BILL 1627 - RELATING TO THE MINIMUM WAGE

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
Representative Aaron Ling Johanson, Chair
Representative Daniel Holt, Vice Chair

Tuesday, February 6, 2018
8:30 AM
Conference Room 309
Hawaii State Capitol



To the House Committee on Labor & Public Employment:

Mahalo for hearing this important bill. People with disabilities deserve to be treated equally.

Employers who exploit people with disabilities by paying them subminimum wages will argue that their employees are simply not productive enough to be worthy of the minimum wage. They assume that workers with disabilities are inherently less productive, and then everything that happens thereafter is contaminated by low expectations.

In a sheltered workshop, people with disabilities are essentially guaranteed employment, but they are not guaranteed minimum wage. It is supposed to be training, but people almost never transition out of subminimum-wage work environments. These sweatshops claim that they pay people according to productivity, but they do not. Sheltered workshop wages are forecasted by a speed test performed every six months. In a job where people are truly paid according to productivity, their pay for a given day is based on how productive they were that day, not on an arbitrary prior speed test.

The sheltered workshop system takes people and systematically tells them that they're not as good as the rest of the workforce. The workshops claim that they are focused on the individual, but civil rights must apply to all individuals. Some of the sweatshops argue that the jobs are not primarily for pay, that they are primarily for fulfillment and feelings of importance in the world. These sweatshops do not have a culture where employees are preparing and reaching for a competitive job.

It is the obligation of management to figure out how to optimize productivity given their employee's talents, not the obligation of the worker to fit into some box that the manager dreams up and says, "regardless of your disability, this is your job, and if you're not any good at it, that's your fault, not mine." They take unskilled jobs and assume that those jobs are good for all people with disabilities.

I want people with disabilities to be treated like first-class citizens in Hawaii and have the same rights as other people to work to earn the things they need and to reach their full potential. People with disabilities are human beings and deserve to be paid like it. Please support this bill.

Mahalo nui loa,

Khamtoun Jounramany

Joel Cho

Brandon Young

Justin Salisbury

Kyle Laconsay

Rachel Awa

Steven Awa

Bill Hinshaw

Frances T. Lafitaga

Gloria I. Tuuao

Laeli L. Tuuao

Lese J. Tuuao Jr.

Lese M. Tuuao

Jason T. Tuuao

Mick Laconsay

Ani Lazarus

Lou

Mosi Leota

Priscilla R. Tuuao

Selma Wana

Loke Chong Gum

Diane Larson

Katie Keim

Rev. Carole Gerhardy Keim

Virgil Stinnett