

DEPARTMENT OF HUMAN RESOURCES  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET 10<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
TELEPHONE: (808) 768-8500 • FAX: (808) 768-5563 • INTERNET: [www.honolulu.gov/hr](http://www.honolulu.gov/hr)

KIRK CALDWELL  
MAYOR



CAROLEE C. KUBO  
DIRECTOR  
  
NOEL T. ONO  
ASSISTANT DIRECTOR

February 1, 2018

The Honorable Jill N. Tokuda, Chair  
The Honorable J. Kalani English, Vice Chair  
and Members of the Committee on Labor  
The Senate  
State Capitol, Room 229  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Tokuda, Vice Chair English, and Members of the Committee:

**SUBJECT: Senate Bill No. 2288  
Relating to Fair Scheduling**

Senate Bill 2288 requires employers to provide each employee with ten calendar days written notice of the employee's shift schedule. If such notice is not provided, the employer shall pay the employee an amount equal to two times the employee's regular rate of pay for any time the employee worked and was not provided ten calendar days written notice.

The City and County of Honolulu, Department of Human Resources, respectfully opposes Senate Bill 2288 since it involves a matter that is subject to collective bargaining, and therefore, should not be legislated for public sector employees. Under the State of Hawaii collective bargaining agreements, shift employees are already entitled to receive prior notice of their shift schedule. Furthermore, the unions and employer group have negotiated an overtime penalty in the event the employee is not given such notice as required under the collective bargaining agreements.

For public sector employees, this entire subject should remain exclusively a subject of collective bargaining. Therefore, the City respectfully requests that Senate Bill 2288 be amended to exclude public sector employees.

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink that reads "Carolee C. Kubo".

Carolee C. Kubo  
Director



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 Senate  
Committee on Labor

Testimony by  
Hawaii State AFL-CIO


February 1, 2018

S.B. 2288 – RELATING TO FAIR  
SCHEDULING

The Hawaii State AFL-CIO strongly supports S.B. 2288 which requires employers to provide employees with written notice of the employee's shift schedule at least ten calendar days before the employee is schedule to work, under certain conditions.

Many hourly low-wage workers are often notified of their work schedule the night before their shift begins or even the same day their shift begins. This is particularly difficult for single parents or workers required to work two or three jobs to make ends meet. S.B. 2288 simply allows for more stability allowing for workers to properly care for their children or successfully work more than one job to help get by in a high cost of living state. The Hawaii State AFL-CIO strongly urges the passage of S.B. 2288.

Thank you for the opportunity to testify.

Respectfully submitted,  


Randy Perreira  
President



# HAWAII APPLESEED

## CENTER FOR LAW & ECONOMIC JUSTICE

Testimony of Hawai'i Appleseed Center for Law and Economic Justice  
Supporting SB 2288 – Relating to Fair Scheduling  
Senate Committees on Labor

Scheduled for hearing at 2:55 pm on Thursday, February 1, 2018 in Conference Room 229

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Dear Chair Tokuda, Vice Chair English, and members of the Committee:

Thank you for the opportunity to testify in SUPPORT of **SB 2288**, which would require employers to provide employees with written notice of the employee's shift schedule at least ten calendar days before the employee is schedule to work.

SB 2288 is intended to protect hourly workers from unpredictable, unstable work schedules, which lead to many negative consequences, both for workers and their families.

When employers assign shifts only a day or two in advance, or cancels them at the last minute, or wildly varies employees' hours from week to week, they create financial instability for workers and their families. This has a disproportionate effect on low-wage parents.

When a parent doesn't know how many hours she'll work in a given week and has no control over when those hours will be, it becomes extremely difficult for her to budget for expenses, go to school, hold a second job, establish consistent routines at home, or even regularly eat meals with her children.

Volatile schedules make it almost impossible for parents to access high-quality childcare and education programs, since most programs do not accommodate shifting schedules. As a result, children of parents with unstable work schedules often are not able to participate in the types of programs that could help them succeed in school. Studies suggest that erratic scheduling is linked to psychological stress in parents as well as behavioral problems and lower academic performance in children.

Therefore, fairer scheduling practices, such as those contained in SB 2288, can make a real positive difference in working families' lives. They would lead to more productive and committed employees as well as promote the well-being and future success of working parents and their keiki.

We appreciate your consideration of this testimony.

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*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.*

Senate Committee on Labor  
Thursday, February 1<sup>st</sup>, 2018  
2:55PM, Room 229

Attention: Senator Jill N. Tokuda, Chair  
Senator J. Kalani English, Vice Chair

Re: **Support for SB2288 Relating to Fair Scheduling**

The Labor Caucus of the Democratic Party of Hawai'i **supports** SB2288. SB2288 if passed would require employers to provide workers with ten days notice of their shift schedule. Employers would be required to pay overtime pay for any hours worked without ten day notice.

Last minute scheduling is burdensome on working families. It means having to arrange childcare, elder care, medical appointments, and school pickups with little to no notice. This bill would allow workers ten days to plan their life a little better. We see across the board Hawai'i's working families having to work more jobs and longer hours. Nobody should have to choose between their livelihood and their family. This bill would improve the quality of life for Hawai'i's working families.

SB2288 and SB2094 are similar to a bill signed into law in Oregon. Additionally, this language is frequently found in collective bargaining agreements. Any union worker would have this provision in their contract. There is plenty of evidence to show that it is completely possible for businesses to do well and treat their workers with respect at the same time. For these reasons the Labor Caucus of the Democratic Party of Hawai'i urges passage of SB2288.



# Chamber of Commerce HAWAII

*The Voice of Business*

**Testimony to the Senate Committee on Labor  
Thursday, February 1, 2018 at 2: 55 P.M.  
Conference Room 229, State Capitol**

**RE: SENATE BILL 2288 RELATING TO FAIR SCHEDULING**

Chair Tokuda, Vice Chair English, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") does not support SB 2288, which requires employers to provide employees with written notice of employee's schedule at least ten days before the employee is scheduled to work and a penalty for not doing so.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 2,000+ 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.

A key component to attract employees to certain industries, such as retail and food service, is the flexibility in scheduling. Flexible scheduling is a benefit to both the employee and the employer. For example, the employee can choose to work around their changing school schedules and demands, while their children are in school or around another job's schedule.

An employer relies on flexible scheduling to meet the needs of a rapidly changing business environment including ramping up hours during peak seasons or special events, where at times changes to the schedule are necessary and unavoidable.

Scheduling is a complex process with many different data points being taken under consideration at the same time such as employee shift preference, sales forecasts, delivery schedules, employee breaks, payroll hours, and promotional events or anticipated swings in customer traffic. Eliminating the flexibility in scheduling will have a negative impact on both the employee and employer. Employees will have to give their availability much further out which may cause challenges for day care, school schedules or other outside commitments. Employers may be less likely to make changes to schedules, such as adding hours or accommodating last minute requests due to the penalty pay provision.

Every company is unique in their business processes and this proposal fails to contemplate those unique differences. One size does not fit all.

We respectfully ask that the bill be held. Thank you for the opportunity to testify.



1050 Bishop St. PMB 235 | Honolulu, HI 96813  
P: 808-533-1292 | e: info@hawaiiifood.com

#### **Executive Officers**

**Beau Oshiro**, C&S Wholesale Grocers, *Chair*  
**John Erickson**, Meadow Gold Dairies, *Immediate Past Chair*  
**Toby Taniguchi**, KTA Superstores, *Vice Chair*  
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**Stan Brown**, Acosta Sales & Marketing, *Advisor*  
**Paul Kosasa**, ABC Stores, *Advisor*  
**John Shilf**, Rainbow Sales & Marketing, *Advisor*  
**Barry Taniguchi**, KTA Superstores, *Advisor*  
**Derek Kurisu**, KTA Superstores, *Advisor*

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TO:  
Committee on Labor  
Senator Jill N. Tokuda, Chair  
Senator J. Kalani English, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION  
Lauren Zirbel, Executive Director

DATE: Thursday, February 1, 2018  
TIME: 2:55pm  
PLACE: Conference Room 229

RE: SB 2288 Relating to Fair Scheduling

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.

In practice it is not feasible for many employers to maintain firm schedules over a week and a half in advance. While most businesses will attempt to maintain advanced and consistent scheduling these schedules often have to be changed in order to accommodate employees themselves or because of other things beyond the control of the employer.

This bill places rigid guidelines on businesses and employees that may not best meet the needs of either party. The people best suited to determine schedules and scheduling practices are the employees and employers themselves. We urge you to vote no on this measure and continue to allow employees and businesses to have the flexibility to create schedules that meet their needs. Thank you for the opportunity to testify.



**Before the Senate Committee on Labor**

DATE: February 1, 2018

TIME: 2:55 p.m.

PLACE: Conference Room 229

**Re: SB2288 Relating to Fair Scheduling**

Testimony of Melissa Pavlicek for NFIB Hawaii

Aloha Chair Tokuda, Vice Chair English and members of the committee:

We are testifying on behalf of the National Federation of Independent Business (NFIB) in opposition to Senate Bill 2288, which requires employers to provide employees with written notice of the employee's shift schedule at least ten calendar days before the employee is schedule to work, under certain conditions.

This bill creates an inflexible and unrealistic mandate, particularly on small businesses struggling to meet the demands of customers and consumers. Please defer this bill.

The National Federation of Independent Business is the largest advocacy organization representing small and independent businesses in Washington, D.C., and all 50 state capitals. In Hawaii, NFIB represents more than 750 members. NFIB's purpose is to impact public policy at the state and federal level and be a key business resource for small and independent business in America. NFIB also provides timely information designed to help small businesses succeed.



Testimony to the  
Senate Committee on Labor  
Thursday, February 1, 2018  
2:55 p.m.  
State Capitol - Conference Room 229

RE: SB 2288 RELATING TO FAIR SCHEDULING

Aloha Chair Tokuda, Vice Chair English and members of the committee:

On behalf of the Society for Human Resource Management – Hawaii Chapter (“SHRM Hawaii”), we are writing in opposition to SB 2288, relating to fair scheduling. This bill requires employers to provide employees with written notice of the employee's shift schedule at least ten calendar days before the employee is schedule to work, under certain conditions. We believe that this bill will have an immediate negative effect on the ability of many businesses to operate and, at a minimum, create a significant logistical burden on human resource management professionals.

Human resource management professionals are responsible for the alignment of employees and employers to achieve organizational goals. HR professionals seek to balance the interests of employers and employees with the understanding that the success of each is mutually dependent. We respectfully ask that you do not advance this bill.

SHRM Hawaii represents more than 800 human resource professionals in the State of Hawaii. We look forward to contributing positively to the development of sound public policy and continuing to serve as a resource to the legislature on matters related to labor and employment laws.

Cara Heilmann  
SHRM Hawaii Legislative Affairs Committee Chair



SHRM Hawaii, P. O. Box 3175, Honolulu, Hawaii (808) 447-1840



# Boss Frog's

## Dive & Surf

(808) 667-0990 office  
(808) 667-6707 Fax

January 31, 2018

<a href="#">COMMITTEE ON LABOR</a>
<a href="#">Senator Jill N. Tokuda, Chair</a>
<a href="#">Senator J. Kalani English, Vice Chair</a>

Date/Time of Hearing: February 1, 2018, 2:55 PM  
Measure No. and Title: SB2288

### **STRONG OPPOSITION TESTIMONY**

Chair Tokuda, Vice Chair Kalani and Senators of the LBR Committee:

Boss Frog's Dive & Surf and its affiliates (the "Company") employ close to 100 people in Hawaii's tourism industry. We have 13 locations, and a *very* complex work schedule. During a single work week, we have almost 200 shifts we MUST fill.

Our managers endeavor to provide work schedules 14 days in advance. However, people get sick, people "no-show" and people have emergencies. Also, Hawaii has one of the lowest unemployment rates in the country, and people changes jobs frequently in Hawaii. These issues occasionally result in "gaps" in the schedule that must be filled. Many employees actually elect to be "on call" in order to obtain additional shifts. Finally, our organization, along with many others, is seasonal, and less shifts are available during slow seasons.

Keep in mind, all reasons for "gaps" are *completely outside of the control of the employer*. However, this bill is asking employers, no matter what their size, to bear the burden of these uncertainties. This bill does not take into consideration the unique dynamics of each organization. Also, the amount we pay our employees should be guided by the market and employee performance, not the will of employee special interest groups.

At the very least, this bill should be limited to extremely large organizations: As such, we propose the following language for the definition of "Employer":

Definition of Employer:

"Employer" means an employer, as defined in section 387-1, including a chain or an integrated enterprise, who employs five hundred or more employees worldwide and is also:

- (1) A retail establishment;
- (2) A hospitality establishment; or
- (3) A food services establishment.

Mahalo,  
Zachary LaPrade  
(808)352-5421



Testimony to the Senate Committee on Labor  
Thursday, February 1, 2018, 2:55 pm  
State Capitol, Room 229

Testimony on Opposition to SB 2288 – Relating to Fair Scheduling

To: The Honorable Jill Tokuda, Chair  
The Honorable J. Kalani English, Vice-Chair  
Members of the Committee

My name is Stefanie Sakamoto, and I am testifying on behalf of the Hawaii Credit Union League, the local trade association for 57 Hawaii credit unions, representing over 800,000 credit union members across the state.

We are in opposition to SB 2288, Relating to Fair Scheduling. This bill would require employers to give an employee ten-day written notice of their shift schedules. While we understand the intent of this bill may be to give workers ample notice of their work schedules at any given time, requiring the length of time and requiring double-pay anytime the ten-day notice is violated is excessive and could present a significant hardship for employers.

Thank you for the opportunity to provide comments.



(808) 667-0990 office  
(808) 667-6707 Fax

January 31, 2018

<b><u>COMMITTEE ON LABOR</u></b>
<b><u>Senator Jill N. Tokuda, Chair</u></b>
<b><u>Senator J. Kalani English, Vice Chair</u></b>

Date/Time of Hearing: February 1, 2018, 2:55 PM  
Measure No. and Title: SB2288

**STRONG OPPOSITION TESTIMONY**

Chair Tokuda, Vice Chair Kalani and Senators of the LBR Committee:

Quicksilver Charters and its affiliates (the “Company”) employ close to 100 people in Hawaii’s tourism industry. We have a *very* complex work schedule. During a single work week, we have over 100 shifts we MUST fill.

Our managers endeavor to provide work schedules 14 days in advance. However, people get sick, people “no-show” and people have emergencies or injuries. Also, Hawaii has one of the lowest unemployment rates in the country, and people changes jobs frequently in Hawaii. These issues occasionally result in “gaps” in the schedule that must be filled. Many employees actually elect to be “on call” in order to obtain additional shifts. Finally, our organization, along with many others, is seasonal, and less shifts are available during slow seasons.

Also, many people trade shifts and want the flexibility to come in to work. However, an employer would deny the employee that flexibility if it would result in an increase wages.

Keep in mind, all reasons for “gaps” are *completely outside of the control of the employer*. However, this bill is asking employers, no matter what their size, to bear the burden of these uncertainties. This bill does not take into consideration the unique dynamics of each organization. Also, the amount we pay our employees should be guided by the market and employee performance, not the will of employee special interest groups.

At the very least, this bill should be limited to extremely large organizations: As such, we propose the following language for the definition of “Employer”:

Definition of Employer:

"Employer" means an employer, as defined in section 387-1, including a chain or an integrated enterprise, who employs five hundred or more employees worldwide and is also:

- (1) A retail establishment;
- (2) A hospitality establishment; or
- (3) A food services establishment.

Mahalo,  
Chris Kasper  
(808)264-7758

**SB-2288**

Submitted on: 1/30/2018 2:21:24 PM

Testimony for LBR on 2/1/2018 2:55:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jackie Moore-Andresen, PHR	Fair Wind Cruises	Oppose	No

Comments:

Senator Jill N. Tokuda, Chair

Senator J. Kalani English, Vice Chair

NOTICE OF HEARING

DATE: Thursday, February 1, 2018

TIME: 2:55 p.m.

PLACE: Conference Room 229

**TESTIMONY OF Fair Wind Cruises TO SB2288 Relating to Fair Scheduling**

**Aloha Senator Tokuda, Chair; Senator English, Vice Chair Committee on Labor:**

My name is Jackie Moore-Andresen, PHR, Human Resources and Payroll Manager for Fair Wind Cruises **speaking in Strong Opposition to SB2288** defining and legislating fair scheduling.

Fair Wind Cruises is a family operated Ocean Tourism business operating on the Island of Hawaii for over 47 years. Like Fair Wind, many in the Ocean Tourism sector are family businesses which are locally owned and operated. Many have been in business for several decades and are an important and valued part of our respective communities. Many employ many individuals that are not related to the proprietors.

Ocean Tourism Businesses depend on the ebb and flow of both the tourist demand and the variance of weather conditions to determine their specific crew needs. Because of this it is very difficult if not impossible to determine whether one will have enough

tourists to operate a specific activity ten days before that activity is scheduled, or if the weather will be suitable for that particular day. Because of this uncertainty many companies will publish a tentative schedule for their crews that give both an optimistic guess at what their crew needs will be as well as a lesser projection if that is warranted. They take into account specific days that the individual crew member would like to have free and try to not schedule them those days. The crew also have the ability to trade shifts with each other to accommodate their particular schedule needs. It would be almost impossible to guarantee that a specific trip would be operating on a specific day 10 days to two weeks out and that a certain number of persons would be employed that particular day. Additionally, the prospect of potentially having to pay time and a half pay to employees for no advance notice of schedule changes would seem over reaching and cause a hardship for small business owners that on a regular basis have changes due to employee illness, change in customer counts, and other scenarios that are out of their control often with little or no advance notice.

Fair Wind Cruises and other Ocean Tourism business are very capital and labor intensive with slim profit margins in good years and little or none in bad years. Yet they provide meaningful employment, good wages and benefits with solid career paths. For vessel staffing, this entails much training and mentoring from the employer and senior staff on the path to becoming a Dive Instructor, First Mate, Captain, Chief Engineer, Director of Operations, etc. In the current labor market there is already much upward wage pressure on all levels of staffing. Yet there are many entry level crew that are willing to apprentice and learn the skills of the seafaring trade if they can get the opportunity. If the Ocean Tourism companies which run these smaller charter boats, are saddled with this regulation it would have a massive downward shift in the per hour wage that they could afford to guarantee their staff as well as the entry level opportunities.

This “fair scheduling” policy will have a huge negative effect on the industry.



Senator Jill N. Tokuda, Chair  
Senator J. Kalani English, Vice Chair

NOTICE OF HEARING

DATE: Thursday, February 1, 2018  
TIME: 2:55 p.m.  
PLACE: Conference Room 229

**TESTIMONY OF THE OCEAN TOURISM COALITION SPEAKING IN STRONG  
OPPOSITION TO SB2288 Relating to Fair Scheduling**

**Aloha Senator Tokuda, Chair; Senator English, Vice Chair Committee on Labor:**

My name is James E. Coon, President of the Ocean Tourism Coalition (OTC),  
**speaking in Strong Opposition to SB2288** defining and legislating fair scheduling.

The OTC represents over 300 small ocean tourism businesses state wide. Most of these are family businesses which are locally owned and operated. Many of them have been in business for several decades and are an important and valued part of their respective communities. In addition to the family members working in the business, most also employ many individuals that are not related to the proprietors.

Ocean Tourism Businesses depend on the ebb and flow of both the tourist demand and the vagrancies of weather conditions as well as a plethora of other factors to determine their specific crew needs for any particular day. Because of this it is very difficult if not impossible to determine whether a specific trip will operate ten days before that activity is scheduled, or if the weather will be suitable on that particular day. Because of this uncertainty, many companies will publish a tentative schedule for their crews a couple of weeks out that give both an optimistic guess at what their crew needs will be as well as a lesser projection if that is warranted. They take into account specific days that the individual crew member would like to have free and try to not schedule them those days. The



crew also have the ability to trade shifts with each other to accommodate their particular schedule needs. **It would be almost impossible to guarantee that a specific trip would be operating on a specific day 10 days to two weeks out and that a certain number of persons would be employed that particular day.**

Ocean Tourism business are very capital and labor intensive with slim profit margins in good years and little or none in bad years. Yet they provide meaningful employment, good wages and benefits with solid career paths. For vessel staffing, this entails much training and mentoring from the employer and senior staff on the path to becoming a Dive Instructor, First Mate, Captain, Chief Engineer, Director of Operations, etc.

In the current labor market there is already much upward wage pressure on all levels of staffing. Yet there are many entry level crew that want the opportunity to apprentice and learn the skills of the seafaring trade. Some former crew are now licensed Captains running the largest ships on the planet. If the Ocean Tourism companies which operate these smaller charter boats, are saddled with this regulation it would have a massive downward shift in the per hour wage that they could afford to guarantee their staff as well as the entry level opportunities.

It is our opinion that this bill should not get passed. The free market should dictate the wages and scheduling of employees. However, if this committee is committed to taking the State down this path, then it is vital that the committee understand that the Ocean Tourism Industry is unique and that it would be virtually impossible to comply with rules designed for the retail and restaurant industry. We humbly suggest that the following language be included in SB2288:

**“Excluded from this section are employers which utilize transportation equipment to provide scenic recreational entertainment, including dinner cruises, as classified in Subsector 487 of the North American Industry Classification System (NAICS).”**

Sincerely,



James E. Coon, President OTC

[captcoon@gmail.com](mailto:captcoon@gmail.com) 808-870-9115 c

**SB-2288**

Submitted on: 1/30/2018 9:26:57 AM

Testimony for LBR on 2/1/2018 2:55:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Aria Juliet Castillo	Vote Hawaii	Support	No

Comments:

**SB-2288**

Submitted on: 1/30/2018 12:28:03 PM

Testimony for LBR on 2/1/2018 2:55:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Nathan Yuen		Support	No

Comments:

I support SB2288 which requires employers to pay waged workers double time if employers do not schedule workers at least 10 calendar days in advance.

Working families have many demands on their time. When employers do not provide workers with their work schedule at least 10 calendar days in advance they create a burden. Workers must scramble to make child care and other arrangements on the fly often with a day or two advance notice and pay premium rates for child care and other services.

This bill will benefit many hourly workers in the restaurant, retail, hotel, industries to plan their lives and time more effectively. I strongly support SB2288 bill to help working families.

**SB-2288**

Submitted on: 1/30/2018 12:40:20 PM

Testimony for LBR on 2/1/2018 2:55:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Timothy Zhu		Support	No

Comments:

To the honorable Chair:

I submit testimony in support of SB2288. This is a solid bill that offers sensible and reasonable worker protections to create a more secure, generous, and happier Hawaii. I know many workers, particularly in the service/hotel/tourism industries, that have no idea until a day or two beforehand (sometimes the night before) whether or not they will work. This creates undue pressures for making any plans, whether it be for childcare, errands, second jobs, or for leisure. It also creates increased detrimental psychological pressure in having one's time be solely at the fickle whims of a manager or boss. The sort of policy proposed by SB2288 has been successfully implemented in other states. Hawaii would do well to lead on worker protections, not fall behind other states. Businesses are doing quite well these days, and I don't believe a fair scheduling policy will be any undue burden to management or shareholders. Particularly in an era when income and capital gains increasingly goes to the top 1%, sensible protections like fair scheduling laws for working class people are necessary.

Thank you for the opportunity to testify,

Tim Zhu

**SB-2288**

Submitted on: 1/30/2018 12:50:44 PM

Testimony for LBR on 2/1/2018 2:55:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lisa Engebretsen		Support	No

Comments:

Aloha Chair Tokuda, Vice Chair English, and members of the Committee on Labor,

I write in support of SB2288. Having about ten years experience working in the restaurant industry, I can personally attest to the hardships caused by not having a schedule provided two weeks in advance. Many times I didn't get my schedule for Monday until the night before, and then even after receiving my schedule, I would find my schedule changed during the week. The difficulty in scheduling made it nearly impossible to find a second job and to schedule doctor's appointments or other personal matters. I believe that providing Fair Scheduling would not create any significant hardships for business management and this bill carves out a reasonable compensation (double-pay) in the event that the business needs to change the schedule due to an exigent circumstances within two weeks.

Mahalo,

Lisa Engebretsen

J.D. Candidate 2018, William S. Richardson School of Law

To: The Honorable Jill Tokuda, Chair  
The Honorable J. Kalani English, Vice-Chair  
Members of the Senate Committee on Labor

Date: Thursday, 1 February 2018

**Testimony in Strong Support of SB2288: “Relating to Fair Scheduling”**

Dear Chair Tokuda, Vice-Chair English, and Members of the Senate Committee on Labor,

My name is Chad Wolke and I am a member of the Liliha/Puunui/Alewa/Kamehameha Heights Neighborhood Board #14. Thank you for the opportunity to submit written testimony in my private capacity as a constituent of Senator Karl Rhoads – who worked tirelessly to have this bill introduced on my behalf – in strong support of SB2288, *Relating to Fair Scheduling*.

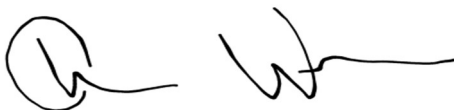
SB2288 calls for “fair scheduling” for shift workers in which employers are required to notify employees of a shift 10 days in advance. I spent most of my adult life working shift jobs – from a salmon plant worker in Kenai, Alaska to a server at Zippy’s. Being a college student, the short term notice wasn’t that big of a deal. The effect it had on my co-workers, however, was profound and is something that I will never forget.

During my time in the service industry, it became a weekly routine for co-workers to struggle on Saturdays (and sometimes Sunday, if the manager procrastinated) to find a babysitter for their shift on Monday morning or to find a volunteer to pick-up their shift so that they don’t miss their child’s birthday. With the current allowances for employers, it is next to impossible for shift employees to plan their lives more than their employers allow – often being less than a week at a time. In the meantime, employers often require employees to ensure availability sometimes months in advance by utilizing so-called “blackout dates”.

It is my firm belief that it is not only well within the employers’ capabilities to plan for personnel needs ahead of time, but it is also to the employers’ benefit to do so. By giving employees advanced notice of schedules workers no longer have to decide between working their assigned shifts and making doctor appointments, family events, or other priorities that require planning beyond one week, thereby lowering instances of non-emergency call-outs and creating a more reliable workforce.

Thank you for the opportunity to testify on SB2288.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chad Wolke', with a stylized initial 'C' and 'W'.

Chad Toshiro Wolke

**SB-2288**

Submitted on: 1/31/2018 9:21:24 AM

Testimony for LBR on 2/1/2018 2:55:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Charessa Fryc		Support	Yes

Comments:

**SB-2288**

Submitted on: 1/31/2018 3:49:24 PM

Testimony for LBR on 2/1/2018 2:55:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Debra Koonohiokala Norenberg		Support	No

Comments:



Aloha Chair Tokuda, Vice Chair English, and members of the Senate Committee on Labor,

My name is Asami Kobayashi and I am in support of Senate Bill 2288.

For full disclosure, I am a member of the Mānoa Neighborhood board and an employee of the Hawaii State Senate; but I am testifying as a private individual. My testimony does not reflect the positions of the board or the senator whom I work for.

Since I was a high school freshman, I have worked in the fast food, retail, and restaurant industry to help support my family and earn my allowances. I have always been and still am a waged worker. I support this bill because not only did I experience the inconveniences of erratic scheduling, but I can only imagine how stressful it can be for many parents, especially for single mothers and fathers to have to deal with these schedules on a weekly basis.

I have generally worked for good employers who would try to accommodate for my co workers who are parents. But not all employers are always understanding; and so, I wonder, what happens to those people who are put in the position by their employers to put work before their families? It can be hard to tell your boss “No” when your family depends on you keeping your job.

According to a [study](#) done by the National Women’s Law Center, 22.9% of working mothers of very young children work in low-wage occupations in the State of Hawaii; and 17.6% of our total workforce works in low-wage occupations. I believe that this bill will help a significant portion of people in our workforce to better plan out their busy lives. Please consider passing this bill through your committee.

Thank you for allowing me to testify on this important matter.

Sincerely,

Asami Kobayashi



**Tyler Roukema, Chairman** – Outback Steakhouse      **Kelii Gouveia, Incoming Chair** – Hula Grill  
**Hide Sakurai, Vice Chair** – Diamond Dining      **Dirk Koeppenkastrop, Secretary** – Il Gelato  
**Ben Dowling, Treasurer** – Ocean House      **Michael Miller, Past Chair** – Tiki's Grill & Bar

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**Gregg Fraser**, Executive Director      **Sunny Obrey**, Executive Assistant      **Holly Kessler**, Director of Membership Relations

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To: Senator Jill N. Tokuda, Chair  
Senator J Kalani English, Vice Chair  
Members of the Committee on Labor

From: Victor Lim, Legislative Chair  
Hawaii Restaurant Association

Subj: SB2288 Relating to Fair Scheduling

Date: January 31, 2018

The Hawaii Restaurant Association representing about 3,500 restaurants here in Hawaii opposes SB2288 as it is currently written.

We support providing advance notice of work schedules for our employees and can even live with providing an employee 7 or 10 calendar days before an employee is scheduled to work.

Our big problem is with page 2 section (B) that states that if we were to call an employee in to cover a shift for a sick or absent employee, the employer will have to pay the employee two times the employee's regular rate of pay.

In our dialogue with our counter parts in Seattle, Oregon, or New York City, this two time the rate of pay is so cost prohibitive that most business just stop calling in employees to cover the shorted shifts. What this caused is that those that are working ended up working short-handed meaning harder, while others that might be able to work additional hours are deprived to be able to earn more.

The net effect of such a bill seems to cause both the employer and the employees to loose in all those places.

Thank you for giving us the opportunity to share our views.

Aloha.



**LATE**

**SB-2288**

Submitted on: 1/31/2018 7:17:19 PM

Testimony for LBR on 2/1/2018 2:55:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
marjorie erway	none	Support	No

Comments:

Treating employees with respect encourages respect back to the employer. I hope you will carefully review this bill and pass it onward. Mahalo for your consideration!

**LATE**

**SB-2288**

Submitted on: 1/31/2018 8:00:44 PM

Testimony for LBR on 2/1/2018 2:55:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Justin Homma		Support	No

Comments:

Dear Chair Tokuda, Vice-Chair English, and members of the Senate Committee on Labor,

Thank you for providing the opportunity to testify on this bill. My name is Justin Homma, and I strongly support SB2288 and its objective on providing service industry workers with a consistent, workable schedule.

As a former undergraduate student at the University of Hawaii at Manoa I was one of the many students who had to balance studies and work to sustain myself. I have worked in the retail/service industry for the majority of my undergraduate years and I can personally attest to the negative consequences erratic scheduling can have on one's work-life balance, studies and other responsibilities. I have lost count of the many times my schedule was modified on a whim without being notified, leading my studies and other obligations to suffer as a result. At best, I was frantically doing homework on my lunch breaks, and at worst I was barred from contributing to class group projects which adversely affected not just myself but my fellow classmates as well.

Based on my experiences in the service industry, I am confident that managers and supervisors are more than capable of formulating employee schedules weeks in advance; if they can reserve "blackout dates" (time periods where employees are prohibited from taking vacation) for important dates like Black Friday then surely they would be able to provide a stable schedule for their employees a few weeks in advance.

By providing employees with a work schedule ahead of time, a company would be able to improve morale and employee productivity since employees would be well-prepared to tackle their shifts as opposed to having to worry about their families, studies, and other obligations being at the mercy of an unsure work schedule. This would also reduce emergency call-outs, as employees would have more time to plan their lives around their work.

Thank you for your consideration.

Sincerely,

Justin Homma

DAVID Y. IGE  
GOVERNOR

**LATE**



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
919 Ala Moana Boulevard, 4th Floor  
Honolulu, Hawaii 96814

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No. \_\_\_\_\_

**TESTIMONY ON SENATE BILL 2288  
RELATING TO FAIR SCHEDULING**

by

Nolan P. Espinda, Director  
Department of Public Safety

Senate Committee on Labor  
Senator Jill N. Tokuda, Chair  
Senator J. Kalani English, Vice Chair

Thursday, February 1, 2018; 2:55 p.m.  
State Capitol, Conference Room 229

Chair Tokuda, Vice Chair English, and Members of the Committee:

The Department of Public Safety (PSD) offers comments to Senate Bill (SB) 2288. PSD believes that the language in this measure would conflict with negotiated Collective Bargaining Agreements with State employees and suggests that it be amended to limit impacts on the State.

The Department respectfully requests that language to this measure be added to ensure that the State of Hawaii is exempted from the definition of "employer", as in Hawaii Revised Statutes Section 378-31.

"Employer is defined as any individual, partnership, association, joint stock company, trust, corporation, the personal representative of the estate of a deceased individual, or the receiver, trustee, or successor of any of the same, employing any persons, but shall not include the State or any political subdivision thereof of the United States."

PSD also suggests that additional language be added to exclude any employer, whose employees are covered by a Collective Bargaining Agreement.

Thank you for the opportunity to present this testimony.



**LATE**

To: Senator Jill N. Tokuda, Chair  
Senator J. Kalani English, Vice Chair  
Members of the Committee on Labor

From: Michael Miller, Director of Operations at Tiki's Grill & Bar  
Subj: SB2288 Relating to Fair Scheduling  
Date: February 1, 2018

We do oppose the bill in its current form and specifically SB2288, Page 2, Section.

We support providing advance notice of work schedules for our employees and currently provide notice to an employee 7 calendar days before he or she is scheduled to work.

SB2288, Page 2, Section (B) states that if an employer calls an employee in to cover a shift for a sick or absent employee, the employer will have to pay the employee two times the employee's regular rate of pay. This is a challenge for all Hawaii businesses, especially with the tight competition, increasing regulations and low margins.

We have continued to invest in technology such as Hot Schedules to give our employees flexibility and options, such as letting us know what availability they have and to allow them to trade schedules with co-workers online.

We provide our employees the chance to have VERY flexible schedules for two reasons: 1) We want our employees to be happy and productive. If they need to switch a shift because they have a family event to attend or a college speaker they want to hear, they are able to; and 2) We may need to adjust their schedules as needed in business. For example, other staff calling out sick, family emergencies, an increase in bookings, or a group cancellation.

With such low unemployment we need to be good, flexible employers, or we will not have good employees. Employees have a choice, they can choose to work for other competitors or in other industries, who are all looking for good employees.

This legislation started outside of Hawaii. Just because it became law in a few select U.S. cities does not mean it is best for Hawaii nor best for Hawaii's businesses and workers. Our economy relies on our visitors and to ask them to please book in advance and let us know 7 to 10 days out when you plan to come to eat breakfast, lunch, or dinner is not realistic. This applies to our local people as well, who support the Hawaii restaurant industry. They also, will not always know if they will eat out a week or more in advance.

Mahalo for the opportunity to provide testimony.  
Michael Miller / Director of Operations  
michaelm@tikisgrill.com

The Twenty-Ninth Legislature  
Regular Session of 2018

**LATE**

THE SENATE  
Committee on Labor  
Sen. Jill N. Tokuda, Chair  
Sen. J. Kalani English, Vice Chair  
State Capitol, Conference Room 2288  
Thursday, February 1, 2018, 2:55 p.m.

**STATEMENT OF ILWU LOCAL 142 ON S.B. 2288  
RELATING TO FAIR SCHEDULING**

The ILWU Local 142 supports the intent of S.B. 2288, which requires employers to provide employees with written notice of the employee's shift schedule at least ten calendar days before the employee is scheduled to work, under certain conditions.

S.B. 2288 codifies a practice known as “fair scheduling” by requiring employers to issue employees a written notice of their shifts ten days before they are scheduled to work. The bill further provides that an employer must pay an employee at two times the employee’s regular rate for any time worked where the employee was not provided with ten calendar days written notice.

Furthermore, it ensures that the bill doesn’t apply to an employee that is 1) the employer's brother, sister, brother-in-law, sister-in-law, son, daughter, spouse, parent, or parent-in-law or 2) an employee required, no more than once in a three-month period, to work a shift due to another employee's illness or personal emergency.

The ILWU shares the legislature’s belief that “fair scheduling” can provide stability and enhance the quality of an employee’s life. We believe it is only fair that a worker knows their schedule with sufficient time before the work week begins. We request, however, that S.B. 2288 be amended to add collective bargaining agreements that provide for posting or notification of a schedule or a schedule change before the workweek be added to subsection (b).

The ILWU urges passage of S.B. 2288 with our requested amendment. Thank you for the opportunity to share our views on this matter.



**LATE**

**SB-2288**

Submitted on: 2/1/2018 12:25:14 PM

Testimony for LBR on 2/1/2018 2:55:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Melodie Aduja	OCC Legislative Priorities	Support	No

Comments:

**PRESENTATION OF THE  
OAHU COUNTY COMMITTEE ON LEGISLATIVE PRIORITIES**

**DEMOCRATIC PARTY OF HAWAII**

TO THE COMMITTEE ON LABOR

THE SENATE

TWENTY-NINTH LEGISLATURE

REGULAR SESSION OF 2018

Thursday, February 1, 2018

2:55 p.m.

Hawaii State Capitol, Conference Room 229

**RE: Testimony in Support** of SB 2288, RELATING TO FAIR SCHEDULING

To the Honorable Jill N. Tokuda, Chair; the Honorable J. Kalani English, Vice Chair, and Members of the Committee on Labor:

Good afternoon, my name is Melodie Aduja. I serve as Chair of the Oahu County Committee ("OCC") Legislative Priorities Committee of the Democratic Party of Hawaii. Thank you for the opportunity to provide written testimony on Senate Bill No. 2288, relating to fair scheduling by giving ten days prior notice of an employee's work schedule. The OCC Legislative Priorities Committee is in favor of Senate Bill No. 2288 and support its passage.

Senate Bill No. 2288, is in accord with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it requires employers to provide employees with written notice

of the employee's shift schedule at least ten calendar days before the employee is scheduled to work, under certain conditions, of which sounds in fair labor practices.

Specifically, the DPH Platform states, “We believe in efforts to build and retain a qualified workforce in Hawai’i . . . As the party of working men and women in Hawai’i, we work to protect labor rights and social security; to ensure fair labor right and social security; to ensure fair labor practices, a living wage for all workers, equal pay for equal work and fair taxation; we encourage legislation to raise the minimum wage and paid family and sick leave; to protect employees’ rights to organize and bargain collectively with their employers; to oppose the outsourcing of Hawaii’s jobs; to promote employment opportunities and sustainable growth; to assist the economically disadvantaged and advocate for sound trade and economic policies; and build our workforce for jobs in emerging technologies, in green industries, in renovation and in green construction, so that their jobs are not dependent on ever-expanding real estate development. .” (Platform of the DPH, P. 3, Lines 119, 122-129 (2016)).

Given that Senate Bill No. 2288 requires to fair scheduling by giving ten days prior notice of an employee’s work schedule, it is the position of the OCC Legislative Priorities Committee to support this measure.

Thank you very much for your kind consideration.

Sincerely yours,

**/s/Melodie Aduja**

Melodie Aduja, Chair, OCC Legislative Priorities Committee

Email: [legislativepriorities@gmail.com](mailto:legislativepriorities@gmail.com), Tel.: (808) 258-8889



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P 808.847.4666

**Testimony to the Senate Committee on Labor**  
**Thursday, February 1, 2018**  
**2:55 pm**  
**State Capitol, Room 229**

**LATE**

**RE: SB 2288 – Relating to Fair Scheduling**

Chair Tokuda, Vice-Chair English, & members of the Committee:

My name is Gladys Quinto-Marrone, CEO of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-Hawaii is in opposition to SB 2288, which would require employers to provide employees with written notice of the employee's shift schedule at least ten calendar days before the employee is scheduled to work. Further, this bill would require double-pay if the provision is violated more than once in a three-month period.

While it is not unreasonable to require employers to notify their employees of their shift schedules in advance, placing this kind of requirement on employers could pose significant hardship. In the construction industry, it is not unusual for emergency projects or jobs to come up. In any industry, it is not unusual for an employee to call in sick, and for the employer to have to call someone else in to work that shift. This requirement would mean that an employer would never be able to deviate from work schedules, which is unrealistic and excessive.

Thank you for the opportunity to share our views on this matter.

**LATE**

## **LBR Testimony**

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**From:** Amanda Taber <taber@hawaii.edu>  
**Sent:** Wednesday, January 31, 2018 2:57 PM  
**To:** LBR Testimony  
**Subject:** Testimony for SB2288

**Categories:** Late

To whom it may concern,

I am writing in support of SB 2288. As a 14 year veteran of the restaurant industry, I have personally experienced these scheduling issues many times. I have been informed of my weekly schedule up to 24-48 hours notice before the schedule starts. I have had shifts added to my schedule less than 12 hours before the shift, and told it was mandatory or I would be fired. Restaurant workers are often treated like slaves. If you complain or refuse, you will pay financially with loss of shifts as a punishment, or losing your job. This bill would ensure much more fairness for workers in this industry. I urge you to support this bill.

Sincerely,  
Amanda Taber  
[taber@hawaii.edu](mailto:taber@hawaii.edu)