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June 29, 2020

LATE

To: The Honorable Karl Rhoads, Chair,
The Honorable Jarrett Keohokalole, Vice Chair, and
Members of the Senate Committee on Judiciary

Date: Tuesday, June 30, 2020
Time: 9:46 a.m.
Place: Conference Room 016, State Capitol

From: Anne Eustaquio, Deputy Director
Department of Labor and Industrial Relations (DLIR)

Re: H.B. No. 2273 H.D. 1 S.D. 1 RELATING TO WAGES

I. OVERVIEW OF PROPOSED LEGISLATION

HB2273 HD1 proposes to amend sections 387-12 and 388-10(b), Hawaii Revised Statutes (HRS), by increasing the penalty for violation of wage laws to a class C felony.

DLIR supports this measure and suggests amendments.

II. CURRENT LAW

Section 387-12, HRS, provides for a fine of \$50 to \$500, or imprisonment for up to one year or both fine and imprisonment, to any employer, employer's agent, or any officer or agent of a corporation who agrees to or pays an employee less wages than the employee is entitled to under the Wage and Hour Law.

Section 388-10(b), HRS, provides for a fine of \$100 to \$10,000, or imprisonment for up to one year or both fine and imprisonment, to any employer or any officer of a corporation who fails to pay an employee's wages in accordance with the Payment of Wages Law.

III. COMMENTS ON THE HOUSE BILL

The DLIR supports the intent of increasing penalties for violation of wage laws. As drafted, the measure would require the Attorney General's Office to criminally charge

those that violate the Wage and Hour and Payment of Wages and Other Compensation Laws.

Section 706-641(1)(c), HRS provides that those who have been convicted of a Class C Felony may be sentenced to pay a fine not exceeding \$10,000. Although the fine for a Class C Felony does not have a minimum, the DLIR believes that \$500 would be an appropriate floor as it is consistent with the increases in fines that DLIR is pursuing in its Administration measure.

Therefore, the DLIR respectfully requests that monetary fines in the range of \$500 to \$10,000 be included as penalties so as to conform with the increased criminal penalty and to allow the Department to continue to effectively enforce these important laws.