

DAVID Y. IGE
GOVERNOR

JOSH GREEN
LIEUTENANT GOVERNOR



SCOTT T. MURAKAMI
DIRECTOR

ANNE EUSTAQUIO
DEPUTY DIRECTOR

**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 20, 2020

To: The Honorable Sylvia Luke, Chair,
The Honorable Ty J.K. Cullen, Vice Chair, and
Members of the House Committee on Finance

Date: Thursday, February 20, 2020

Time: 12:00 p.m.

Place: Conference Room 308, State Capitol

From: Scott T. Murakami, Director
Department of Labor and Industrial Relations (DLIR)

**Re: H.B. No. 2350 HD2 RELATING TO THE DEPARTMENT
OF LABOR AND INDUSTRIAL RELATIONS**

I. OVERVIEW OF PROPOSED LEGISLATION

This measure seeks to improve the effectiveness of monetary penalties and maintain their deterrent effect in Hawaii's labor laws by revising penalty amounts to account for inflation. Most of the revised amounts of the penalties were derived by using the Bureau of Labor Statistics (BLS) Consumer Price Index Inflation Calculator. Calculations were made by using the month and year of the enactment or amendment of a penalty provision and using the BLS calculator for the equivalent amount in May 2019.

The DLIR strongly supports this Administration measure.

II. CURRENT LAW

Section 371-9, HRS, provides for up to a \$250 fine for willful violations of undefined penalties in laws that the DLIR enforces.

Section 378-29.3 (Lie Detector Tests), HRS, provides for a \$100 to \$1,000 fine for intentional resistance, prevention, impediments, or interferences of DLIR investigations into discriminatory employment practices.

Section 378-65, HRS, provides for a \$500 to \$5,000 fine for each violation of the

Whistleblowers' Protection Act.

Section 383-73, HRS, provides a ten per cent or \$10 fine for delinquent contributions to the State's Unemployment Insurance Fund.

Section 385-11, HRS, provides for a \$20 to \$200 fine or imprisonment of thirty days or both for false statements or representations or failing to disclose a material fact to obtain or increase benefits and payments under the unemployment law.

Section 386-27, HRS, provides for up to a \$1,000 fine for health care providers that fail to comply with the requirements of providing appropriate care to injured workers.

Section 386-94, HRS, provides for a \$10,000 fine for attorneys, physicians, and other health care providers for receiving fees, other consideration, or gratuity on accounts of services provided without the approval of the DLIR Director or the Labor and Industrial Relations Appeals Board.

Section 386-97.5, HRS, provides for up to a \$250 fine for a violation of any provision or rule of the Workers' Compensation Law that does not have a specified penalty.

Section 386-98, HRS, provides for up to a \$10,000 fine for the commission of a fraudulent insurance act or a willful false statement or representation under the Workers' Compensation Law.

Section 387-7, HRS, provides for up to a \$500 fine for the willful hindrance or delay of the DLIR's enforcement of the Wage and Hour Law.

Section 387-12, HRS, provides for a \$50 to \$500 to any employer, employer's agent, employer's officer who pays or agrees to pay an employee less wages than the employee is entitled to.

Section 388-53, HRS, provides for a \$100 to \$1,000 fine for violations of the Payment of Wages and Other Compensation Law.

Section 392-68, HRS, provides for at least a \$10 fine to any employer or insurer that fails to pay contributions to the Trust Fund for Disability Benefits.

Section 392-69, HRS, provides for up to a \$10 fine to any employer that fails to file wage and employment information for an employee claiming temporary disability insurance benefits from the Trust Fund for Disability Benefits.

Section 392-92, HRS, provides for up to a \$250 fine for violations of the Temporary Disability Insurance Law.

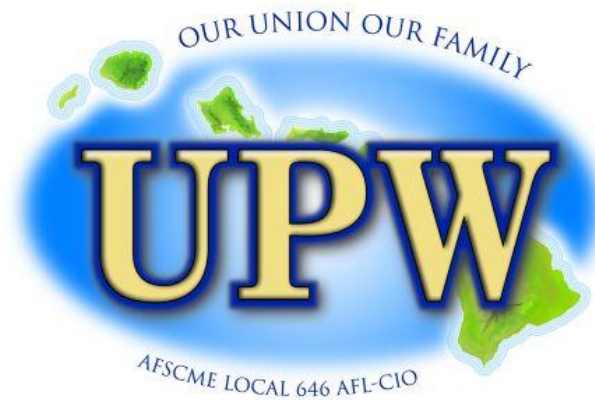
Section 392-101, HRS, provides for a \$50 to \$500 fine for services charged or received by an attorney or agent of a party in a proceeding related to the Temporary

Disability Insurance Law that is not approved by the DLIR or a referee.

III. COMMENTS ON THE HOUSE BILL

The DLIR strongly supports the measure as it will improve DLIR's ability to promote compliance with labor laws by increasing monetary fines. The fines in this measure have not been raised either since the enactment of the statutes or recently, and have lost their deterrent effect. Therefore, adjusting the penalties will improve the department's ability to promote compliance with labor laws as well as its support for responsible employers that comply with the labor laws.

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THE HAWAII STATE HOUSE OF REPRESENTATIVES

The Thirtieth Legislature
Regular Session of 2020

COMMITTEE ON FINANCE

Representative Sylvia Luke, Chair
Representative Ty J.K. Cullen, Vice Chair

Date of Hearing: Thursday, February 20, 2020
Time of Hearing: 12:00 p.m.
Place of Hearing: Conference Room 308
State Capitol
415 South Beretania Street

Testimony on HB2350, HD2, Relating to the DLIR

By DAYTON M. NAKANELUA,
State Director of the United Public Workers,
AFSCME Local 646, AFL-CIO ("UPW")

My name is Dayton M. Nakanelua, State Director of the United Public Workers, AFSCME, Local 646, AFL-CIO. The UPW is the exclusive bargaining representative for approximately 13,000 public employees, which include blue collar, non-supervisory employees in Bargaining Unit 01 and institutional, health and correctional employees in Bargaining Unit 10, in the State of Hawaii and four counties. The UPW also represents about 1,500 members in the private sector.

HB2350, HD2 updates various assessments and penalties under the DLIR's jurisdiction by revising the monetary assessments according to changes in the Consumer Price Index. The UPW supports this measure.

Thank you for the opportunity to submit this testimony.

