



April 4, 2022

To: The Honorable Sylvia Luke, Chair,  
The Honorable Kyle T. Yamashita, Vice Chair, and  
Members of the House Committee Finance

Date: Monday, April 4, 2022  
Time: 1:30 p.m.  
Place: Conference Room 308 & Via Videoconference, State Capitol

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

**Re: S.B. 2298 S.D.2 H.D.1 RELATING TO WAGES**

**I. OVERVIEW OF PROPOSED LEGISLATION**

SB2298 SD2 HD1 proposes to amend sections 387-12(a) and 388-10(b), Hawaii Revised Statutes (HRS), by increasing the criminal penalty for violation of wage laws to a class C felony from a misdemeanor when an employer does not pay the wages of any employee or pays less wages than the employee is entitled.

The DLIR supports this measure.

**II. CURRENT LAW**

Section 387-12(a), HRS, provides for a misdemeanor with criminal fine of no less than \$500 nor more than \$5,000, 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 387-12(b), HRS, provides for a non-criminal penalty to any employer who violates any provision of Sections 387-2 and 387-3 whereby the employer shall be liable to the employee in the amount of their unpaid minimum wages or unpaid overtime compensation, and in case of wilful violation in an additional equal amount as liquidated damages.

Section 388-10(a), HRS, provides for a non-criminal, administrative penalty be imposed on any employer who fails to pay wages in accordance with Chapter 388, HRS, or violates this chapter or the administrative rules. The employer shall be liable: 1) to the employee, in addition to the wages legally proven to be due, for a sum equal to the amount of unpaid wages and interest at a rate of six per cent per

year from the date that the wages were due; and 2) for a penalty of not less than \$500 or \$100 for each violation, whichever is greater.

Section 388-10(b), HRS, provides for a criminal fine of not less than \$100 nor more than \$10,000, or imprisonment for not more than one year or both fine and imprisonment, to any employer, employer's agent, or any officer or agent of a corporation who fails to pay an employee's wages in accordance with the Payment of Wages and Other Compensation Law.

### **III. COMMENTS ON THE SENATE BILL**

This measure increases the criminal penalty for violations of the Wage and Hour and Payment of Wages and Other Compensation Laws. The higher penalty classification of class C felony from a misdemeanor allows for cases to become a priority for the Department of the Attorney General to criminally charge those that violate the law.

Currently, the Wage Standards Division conducts investigations and issues orders of wage payment violation with civil penalties as an administrative remedy.



Randy Perreira  
President

# HAWAII STATE AFL-CIO

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The Thirty-First Legislature, State of Hawai'i  
Hawai'i State House of Representatives  
Committee on Finance

Testimony by  
Hawai'i State AFL-CIO  
April 4, 2022

S.B. 2298 S.D. 2, H.D. 1 – RELATING TO  
WAGES

The Hawai'i State AFL-CIO is a state federation of 74 affiliate local unions and councils with over 68,000 members across both public and private sectors. We appreciate the opportunity to testify in **support** of S.B. 2298 S.D. 2, H.D. 1.

Hawai'i's most economically vulnerable workers are job insecure and deterring wage theft protects low-wage earners. While raising the minimum wage is one way to lift low-wage earners up, ensuring their lawfully earned wages make it into their pockets is another key strategy of support.

By holding employers who violate wage and hour laws accountable, we protect and elevate our most economically vulnerable workers.

We appreciate your favorable consideration of our testimony and strongly urge you to pass S.B. 2298 S.D. 2, H.D. 1.

Respectfully submitted,

Randy Perreira  
President

# IATSE LOCAL 665

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OF THE UNITED STATES, ITS TERRITORIES AND CANADA, AFL-CIO, CLC

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The Thirty-First Legislature, State of Hawai'i  
Hawai'i State House of Representatives  
Committee on Finance

Testimony by  
IATSE Local 665  
April 2nd, 2022

## **S.B. 2298 SD 2 HD 1- RELATING TO WAGES**

Aloha Chair Luke, Vice Chair Yamashita, and members of the committee,

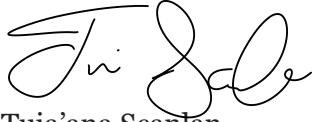
My name is Tuia'ana Scanlan, President of IATSE Local 665. Local 665 represents Entertainment Technicians in Stagecraft, Tradeshow & Conventions, and Film/TV industries across the State of Hawaii. **We submit this testimony in strong support of S.B. 2298 SD 2 HD 1.**

There is a simple social contract between workers and employers. Employers require services rendered by workers. In exchange, workers are to be paid in a fair and timely manner. This is not a difficult concept. Employers profit on the backs of working families. Workers show up on time, and complete their tasks on time, or their employment status is in peril. For those that live paycheck to paycheck, any break in employment could be disastrous. And yet, wage theft accounts for more than \$15 billion annually - more than all physical burglaries combined.

Employers have no excuse for untimely payment. There is not a single reason for late payment that an employer could make that a worker's utility company will accept. It is unacceptable that parents and/or guardians are unable to pay their car registration or put food on the table after working full time. No worker should have to suffer the burden of an employer's unwillingness to fulfill their end of the bargain - fair and timely wages for a fair day's work. Without that, these unscrupulous employers rob working families of not only their hard earned paycheck, but their dignity as well. Those unnecessarily withheld dollars equate to birthday gifts, cleats, dance lessons, car notes, and this week's meals. Based on results, employers have been unwilling to address this problem when left to their own devices. The price of late wages is already being shouldered by the working families of Hawaii. The state of Hawaii can and should increase penalties for unlawful employers who are responsible for late payment.

It is for these reasons that **we strongly support S.B. 2298 SD 2 HD 1**. Thank you for this opportunity to testify.

Respectfully,

A handwritten signature in black ink, appearing to read "Tuia'ana Scanlan". The signature is fluid and cursive, with the first name "Tuia" and last name "Scanlan" clearly distinguishable.

Tuia'ana Scanlan  
President, IATSE Local 665  
he/him/his

**SB-2298-HD-1**

Submitted on: 4/1/2022 1:27:53 PM

Testimony for FIN on 4/4/2022 1:30:00 PM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>            |
|---------------------|---------------------|---------------------------|---------------------------|
| Gerard Silva        | Individual          | Oppose                    | Written Testimony<br>Only |

Comments:

This wages are geting to High for the Local Companys to stay in operation. If you are going to egnore the people then will have no chocie but to Take Action!!