



March 22, 2022

To: The Honorable Richard H.K. Onishi, Chair,
The Honorable Jackson D. Sayama, Vice Chair, and
Members of the House Committee on Labor & Tourism

Date: Tuesday, March 22, 2022
Time: 9:00 a.m.
Place: Via Videoconference, State Capitol

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

Re: S.B. 2298 S.D.2 RELATING TO WAGES

I. OVERVIEW OF PROPOSED LEGISLATION

SB2298 SD2 proposes to amend sections 387-12(a) and 388-10(b), Hawaii Revised Statutes (HRS), by increasing the 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 would require the Department of the Attorney General to criminally charge those that violate the Wage and Hour and Payment of Wages and Other Compensation Laws. Currently, the Wage Standards Division conducts investigations and issues notices of violations with civil penalties as an administrative remedy.

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The Thirty-First Legislature, State of Hawai'i
Hawai'i State House of Representatives
Committee on Labor and Tourism

Testimony by
IATSE Local 665
March 20th, 2022

S.B. 2298 SD 2 - RELATING TO WAGES

Aloha Chair Onishi, Vice Chair Sayama 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.**

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**. Thank you for this opportunity to testify.

Respectfully,

A handwritten signature in black ink, appearing to read "Tuia'ana Scanlan". The signature is written in a cursive, flowing style with a large initial 'T' and 'S'.

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



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 Labor & Tourism

Testimony by
Hawai'i State AFL-CIO
March 22, 2022

S.B. 2298 S.D. 2 – 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.

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 passage of S.B. 2298 S.D. 2.

Respectfully submitted,

Randy Perreira
President



SB-2298-SD-2

Submitted on: 3/19/2022 7:32:53 PM

Testimony for LAT on 3/22/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Gerard Silva	Individual	Oppose	Written Testimony Only

Comments:

This Violates the Constitutional Laws of America. By violating there Rights as Stores or Companys under the Consttution, !!

SB-2298-SD-2

Submitted on: 3/21/2022 10:48:00 AM

Testimony for LAT on 3/22/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Emma Bredeman	Individual	Support	In Person

Comments:

3/21/22

From:

Emma Bredeman

To:

LAT Committee; Representative Richard H.K. Onishi and Representative Jackson D. Sayama

Subject: Support for S.B. No. 2298 SD 2, Relating to Wages

Aloha! My name is Emma Bredeman, I am currently a senior at Kalaheo High school in Kailua. I am in full support of the bill S.B. 2298 SD 2, for employers should have an increase in penalty when employers do not pay their employees minimum wage and or for overtime. Having this bill passed will be reassurance that employees are getting paid correctly and if they are not paid at least minimum wage their employer will receive a consequence. This bill will also protect individuals from any type of discrimination on the job site, this bill will ensure equality.

Thank you for your time and consideration, I truly hope you support passing this bill.