



STATE OF HAWAII
KA MOKU'ĀINA O HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
KA 'OIHANA PONO LIMAHANA

March 17, 2023

To: The Honorable Sharon Y. Moriwaki, Chair,
The Honorable Chris Lee, Vice Chair, and
Members of the Senate Committee on Labor and Technology

Date: Friday, March 17, 2023
Time: 3:00 p.m.
Place: Conference Room 224, State Capitol

From: Jade T. Butay, Director
Department of Labor and Industrial Relations (DLIR)

Re: H.B. 1087 H.D. 2 RELATING TO THE WAGE AND HOUR LAW

I. OVERVIEW OF PROPOSED LEGISLATION

The **DLIR strongly supports** this Governor's Package proposal. HB1087 HD2 proposes to amend the Wage and Hour Law, Chapter 387, Hawaii Revised Statutes (HRS), by deleting the exclusion from coverage for individuals guaranteed a monthly compensation of \$2,000 or more a month, from the definition of "employee" in §387-1.

II. CURRENT LAW

The definition of "employee" in §387-1 excludes an individual who is employed at a guaranteed compensation totaling \$2,000 or more a month. These employees are not provided the protection of minimum or overtime wage rates. Their employers do not have to comply with recordkeeping provisions also designed to protect workers.

III. COMMENTS ON THE HOUSE BILL

The DLIR suggests deleting "an" on page 5, line 8 of this measure.

The DLIR strongly supports this measure to provide more workers with protections afforded by the minimum wage rates, overtime rates, and recordkeeping requirements that exist for employers and employees covered under the Wage and Hour Law, and thereby promoting the health, efficiency, and well-being of Hawaii's workforce. Without this amendment an employer could schedule an individual to work unlimited hours and pay the worker a guaranteed monthly compensation of \$2,000 without regard to additional compensation for overtime.

Moreover, the \$2,000 guaranteed monthly compensation for exemption is also less than an employee earning the current minimum wage of \$12.00 per hour and will be even lower when the minimum wage increases through 2028.

HB-1087-HD-2

Submitted on: 3/14/2023 1:41:42 PM

Testimony for LBT on 3/17/2023 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Mike Golojuch, Sr.	Testifying for Rainbow Family 808	Support	Written Testimony Only

Comments:

Rainbow Family 808 supports HB1087. Please pass this bill.

Mike Golojuch, Sr., Secretary/Board Member

TESTIMONY BEFORE THE SENATE COMMITTEE ON LABOR &
TECHNOLOGY

RE: HB 1087 HD2 - RELATING THE WAGE AND HOUR LAW

FRIDAY, MARCH 17, 2023

JASON BRADSHAW, CHAIR
DEMOCRATIC PARTY OF HAWAII LABOR CAUCUS

Chair Moriwaki and Members of the Committee:

The Democratic Party of Hawaii Labor Caucus **supports HB 1087 HD2, relating to the wage and hour law.** This bill amends the definition of "employee" in wage and hour law in Hawai'i by realigning the guaranteed compensation of \$2,000 **or more to a sum that is at least equal to the monthly earnings of an individual who is compensated at the minimum wage rate pursuant to section 387-2, Hawai'i Revised Statutes.**

The Democratic Party of Hawaii Labor Caucus strongly opposes any subminimum wage and believes all workers should be paid a living wage. **The purpose of HB 1087 is to fix a loophole that currently exists that could allow employers to convert hourly workers to salaried positions and pay them below the current minimum wage of \$12 dollars an hour and eventually well below \$18 an hour.**

The current language in section 387-1 of the Hawaii Revised Statutes states "at a guaranteed compensation totaling \$2,000 or more a month, whether paid weekly, biweekly or monthly." **The current law could mean paying workers, if converted to hourly wages, roughly \$11.54 an hour and clearly establishing a subminimum wage for salaried workers.**

We support the change in language in this bill to fix this loophole to protect workers in Hawai'i (1) **At a guaranteed compensation [totaling \$2,000 or more a month,] that is at least equal to the monthly earnings of an individual who is compensated at the minimum wage rate pursuant to section 387-2, whether paid weekly, biweekly, or monthly.**

Thank you for the opportunity to testify in support.



Randy Perreira, President

HAWAII STATE AFL-CIO
Hawaii's Labor Unions

888 Mililani Street Suite 501, Honolulu, Hawaii 96813

The Thirty-Second Legislature, State of Hawai'i
Hawai'i State Senate
Committee on Labor and Technology

Testimony by
Hawai'i State AFL-CIO
March 17, 2023

H.B. 1087 H.D. 2 – RELATING TO THE
WAGE AND HOUR LAW

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 H.B. 1087 H.D. 2.

With minimum wage on the rise, the Wage and Hour law must protect workers who receive guaranteed compensation of \$2,000 or more a month from falling below the minimum and overtime wage rates. Mere exclusion from the list of exempt employees will protect workers with guaranteed pay on the lower end from falling below the current minimum and overtime wage rates.

We appreciate your consideration of our testimony in **support** of H.B. 1087 H.D. 2.

Respectfully,

Randy Perreira
President

RP/dd



HAWAII APPLESEED
CENTER FOR LAW & ECONOMIC JUSTICE

Testimony of the Hawai‘i Appleseed Center for Law & Economic Justice
In Support of HB 1087 HD2 – Relating to the Wage and Hour Law
Senate Committee on Labor & Technology
Friday, March 17, 2023, 3:00 PM, Conference Room 224 & Via Videoconference

Dear Chair Moriwaki, Vice Chair Lee, and members of the Committee:

Thank you for the opportunity to provide testimony in support of HB 1087 HD2, which would expand the coverage of employees and employers covered under the minimum wage, overtime, and recordkeeping requirements of chapter 387, Hawai‘i Revised Statutes, by deleting from the definition of “employee” employees guaranteed a monthly compensation of \$2,000 or more.

Closing this loophole in the state minimum wage law is an important action to ensure that all workers are protected by our state’s minimum wage law. However, we recommend amending the measure to change the language in HRS 387-1 to instead state that:

“Employee” includes any individual employed by an employer, but shall not include any individual employed: (1) At a guaranteed compensation [~~totaling \$4,000 or more a month~~] **equal to the monthly earnings of an employee who is compensated at the minimum wage rate pursuant to section 387-2**, whether paid weekly, biweekly, or monthly...

This amendment would strengthen the bill’s ability to protect workers from being exploited.

Mahalo for the opportunity to testify. We appreciate your consideration of the proposed amendment above.

IATSE LOCAL 665

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

Thirty-Second Legislature, State of Hawai'i
Senate Committee on Labor and Technology

Testimony by IATSE 665

March 17th, 2023

H.B. 1087 HD2 - RELATING TO THE WAGE AND HOUR LAW

Aloha Chair Moriwaki and Members of the Senate Committee,

My name is Tuia'ana Scanlan, president of IATSE Local 665, the union representing technicians in the entertainment industry in Hawai'i. **Local 665 supports HB 1087 HD2** relating to the wage and hour law.

This bill amends the definition of "employee" in wage and hour law in Hawai'i by realigning the guaranteed compensation of \$2,000 or more to a sum that is at least equal to the monthly earnings of an individual who is compensated at the minimum wage rate pursuant to section 387-2, Hawai'i Revised Statutes.

IATSE Local 665 strongly opposes any subminimum wage and believes all workers should be paid a living wage. The purpose of HB 1087 is to fix a loophole that currently exists that could allow employers to convert hourly workers to salaried positions and pay them below the current minimum wage of \$12 dollars an hour and eventually well below \$18 an hour.

The current language in section 387-1 of the Hawaii Revised Statutes states "at a guaranteed compensation totaling \$2,000 or more a month, whether paid weekly, biweekly or monthly." The current law could mean paying workers, if converted to hourly wages, roughly \$11.54 an hour and clearly establishing a subminimum wage for salaried workers.

We support the change in language in this bill to fix this loophole to protect workers in Hawai'i (1) At a guaranteed compensation [~~totaling \$2,000 or more a month,~~] that is at least equal to the monthly earnings of an individual who is compensated at the minimum wage rate pursuant to section 387-2, whether paid weekly, biweekly, or monthly.

Thank you for the opportunity to testify in support.

In Solidarity,



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



HB 1087, HD2, RELATING TO THE WAGE AND HOUR LAW

MARCH 17, 2023 · SENATE LABOR AND
TECHNOLOGY COMMITTEE · CHAIR SEN. SHARON
MORIWAKI

POSITION: Support.

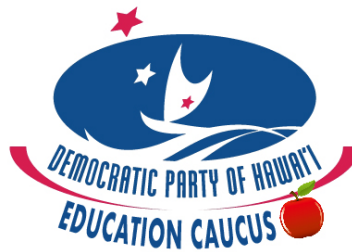
RATIONALE: Imua Alliance supports HB 1087, HD2, relating to the wage and hour law, which amends the definition of "employee" in Hawai'i's wage and hour law by eliminating the exclusion of employees who receive guaranteed compensation totaling \$2,000 or more a month.

A living wage is a human right. Currently, the MIT Living Wage Calculator estimates a living wage in Honolulu to be \$22.76/hour for a single individual with no children. Similarly, according to the Department of Business, Economic Development, and Tourism, a single adult required an income of \$37,646 to achieve self-sufficiency in Hawai'i in 2020, while a single parent with one child required \$64,926. Adjusted for inflation, DBEDT's reporting shows that in 2022, a single minimum wage worker must earn at least \$19.36/hour to survive on our shores, a number that rises to \$19.94/hour for Honolulu.

Lawmakers responded to this economic strain by passing Act 114 last year, which gradually raises the state's minimum wage to \$18/hour by 2028. A technical correction is needed to fully effectuate this measure, however, and ensure that businesses are not able to subvert the minimum wage law that legislators passed last session—which established the highest state-level minimum wage rate in the nation—by surreptitiously moving hourly workers into salaried positions that pay monthly earnings of less than the minimum wage rate.

Currently, the definition of employee that is contained in HRS §387-1 includes an exemption for employees who earn \$2,000 each month. That equates to an \$11.54/hour wage, which is already less than the state's \$12/hour minimum wage. If left unchecked, this gap will only widen in the future. Thus, action is needed to close this loophole in Hawai'i's wage and hour law and protect the financial security of low-income workers.

Kris Coffield · Executive Director, Imua Alliance · (808) 679-7454 · kris@imuaalliance.org



HOUSE BILL 1087, HD2, RELATING TO THE WAGE AND HOUR LAW

MARCH 17, 2023 · SENATE LABOR AND
TECHNOLOGY COMMITTEE · CHAIR SEN. SHARON
MORIWAKI

POSITION: Support.

RATIONALE: The Democratic Party of Hawai'i Education Caucus supports HB 1087, HD2, relating to the wage and hour law, which amends the definition of "employee" in Hawai'i's wage and hour law by eliminating the exclusion of employees who receive guaranteed compensation totaling \$2,000 or more a month.

A living wage is a human right. Currently, the MIT Living Wage Calculator estimates a living wage in Honolulu to be \$22.76/hour for a single individual with no children. Similarly, according to the Department of Business, Economic Development, and Tourism, a single adult required an income of \$37,646 to achieve self-sufficiency in Hawai'i in 2020, while a single parent with one child required \$64,926. Adjusted for inflation, DBEDT's reporting shows that in 2022, a single minimum wage worker must earn at least \$19.36/hour to survive on our shores, a number that rises to \$19.94/hour for Honolulu.

Lawmakers responded to this economic strain by passing Act 114 last year, which gradually raises the state's minimum wage to \$18/hour by 2028. A technical correction is needed to fully effectuate this measure, however, and ensure that businesses are not able to subvert the minimum wage law that legislators passed last session—which established the highest state-level minimum wage

rate in the nation—by surreptitiously moving hourly workers into salaried positions that pay monthly earnings of less than the minimum wage rate.

Currently, the definition of employee that is contained in HRS §387-1 includes an exemption for employees who earn \$2,000 each month. That equates to an \$11.54/hour wage, which is already less than the state’s \$12/hour minimum wage. If left unchecked, this gap will only widen in the future. Thus, action is needed to close this loophole in Hawai’i’s wage and hour law and protect the financial security of low-income workers.

Kris Coffield · Chairperson, DPH Education Caucus · (808) 679-7454 · kriscoffield@gmail.com

HB-1087-HD-2

Submitted on: 3/15/2023 8:31:45 AM

Testimony for LBT on 3/17/2023 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Will Caron	Individual	Support	Written Testimony Only

Comments:

Closing this loophole in the state minimum wage law is an important action to ensure that all workers are protected by our state's minimum wage law. Please strengthen the protections for Hawai'i's workers so that they are all covered by minimum wage law protections.

That should also include tipped workers, who currently receive a penalty of \$1 against the minimum wage in order to subsidize the profit margins of business owners. We should also eliminate the tip credit in order to be fully in compliance with the minimum wage law. Please pass HB1087 HD2, and consider adding in a provision to phase-out the harmful tip credit.