

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LIEUTENANT GOVERNOR



JADE T. BUTAY
DIRECTOR

WILLIAM G. KUNSTMAN
DEPUTY DIRECTOR

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

April 13, 2023

To: The Honorable Scot Z. Matayoshi, Chair,
The Honorable Andrew Takuya Garrett, Vice Chair, and
Members of the House Committee on Labor & Government Operations

Date: Thursday, April 13, 2023
Time: 9:30 a.m.
Place: Conference Room 309, State Capitol

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

**Re: S.C.R. 117 REQUESTING THE DEPARTMENT OF LABOR AND INDUSTRIAL
RELATIONS TO CONDUCT A STUDY OF THE EXEMPTIONS TO HAWAII'S
MINIMUM WAGE LAW**

The **DLIR strongly supports** this measure that requests the Department to conduct a study of the exemptions to the Wage and Hour Law, Chapter 387, Hawaii Revised Statutes (HRS), and submit a report to the 2024 Legislature. The DLIR is willing to research the exemptions contained in Chapter 387 and submit a report to the 2024 Legislature.

The exemptions contained in section 387-1, HRS, under the definition of "employee" closely parallel the exemptions in the federal Fair Labor Standards Act (FLSA). Unlike Chapter 387, the FLSA does not contain a guaranteed compensation exemption. The DLIR is aware that the current \$2,000 guaranteed monthly compensation exemption is 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. Governor's Package proposal HB1087 to repeal this exemption is moving through the legislative process, and if enacted will provide more workers with minimum wage, overtime, and recordkeeping protections, thereby promoting the health, efficiency, and well-being of Hawaii's workforce.

The DLIR is willing to examine the other exemptions contained in Chapter 387, HRS, and submit a report, including proposed legislation, to the 2024 Legislature.

TESTIMONY BEFORE THE HOUSE COMMITTEE ON LABOR &
GOVERNMENT OPERATIONS

RE: SCR 117- REQUESTING THE DEPARTMENT OF LABOR AND
INDUSTRIAL RELATIONS TO CONDUCT A STUDY OF THE
EXEMPTION TO HAWAII'S MINIMUM WAGE LAW

THURSDAY, APRIL 13, 2023

JASON BRADSHAW, CHAIR
DEMOCRATIC PARTY OF HAWAII LABOR CAUCUS

Chair Matayoshi and members of the committee:

The Democratic Party of Hawaii Labor Caucus **supports SCR 117**, requesting the Department of Labor and Industrial Relations to conduct a study of the exemption to Hawaii's minimum wage law.

As this resolution states, there are numerous exemptions to Hawaii's minimum wage law that are contained in section 387-1, Hawaii Revised Statutes, which lists occupations that are excluded from the applicable definition of "employee". These exemptions include agricultural employees at farms employing less than twenty people, individuals engaged in coffee harvesting, domestic caretakers, administrative and supervisory employees, persons engaged in catching or harvesting fish, student employees of nonprofit schools, and many others.

Over sixty percent of households in the islands are severely cost-burdened, meaning that they pay more than thirty percent of their income on housing, a number that rises to over eighty percent for extremely low-income households.

The Democratic Party of Hawaii Labor Caucus strongly opposes any exemptions that to the minimum wage law that would allow a worker to be paid subminimum wages, and believes all workers should be paid a living wage.

Thank you for the opportunity to testify in support.



SCR 117/SR 129, REQUESTING THE DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS TO CONDUCT A STUDY OF THE EXEMPTIONS TO HAWAII'S MINIMUM WAGE LAW.

APRIL 13, 2023 · HOUSE LABOR AND GOVERNMENT OPERATIONS COMMITTEE · CHAIR REP. SCOT Z. MATAYOSHI

POSITION: Support.

RATIONALE: Imua Alliance supports SCR 117/SR129, which requests that the Department of Labor and Industrial Relations conduct a study of the exemptions to Hawaii's minimum wage law.

A living wage is a human right. Last year, the State Legislature passed Act 114, which incrementally increased Hawaii's minimum wage from \$12 per hour beginning October 1, 2022, to \$18 per hour beginning January 1, 2028. Yet, numerous exemptions to Hawaii's minimum wage law are contained in section 387-1, Hawaii Revised Statutes. This statute lists occupations that are excluded from the applicable definition of "employee" and all of its related provisions, including our state's minimum wage law.

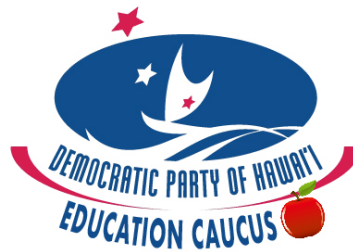
These exemptions include agricultural employees at farms employing less than twenty people, individuals engaged in coffee harvesting, domestic caretakers, administrative and supervisory employees, persons engaged in catching or harvesting fish, student employees of nonprofit schools, and many others. While the federal Fair Labor Standards Act on which these exemptions were modeled has declared certain jobs to be exempt from state and federal minimum wage laws,

many modern scholars have argued that these provisions of the Fair Labor Standards Act promote racism, sexism, and pay discrimination.

According to the National Low-Income Housing Coalition's Out of Reach 2022 report, a minimum wage employee must work 123 hours per week to afford a modest one-bedroom rental home at fair market rent in Hawai'i and 161 hours per week to afford a two-bedroom rental home at fair market rent in the islands. Put simply, we are pricing working families out of paradise. Over 60 percent of households in our state are severely cost burdened, meaning that they pay more than 30 percent of their income on housing, a number that rises to over 80 percent for extremely low-income households.

Therefore, the exemptions to Hawai'i's minimum wage law should be evaluated to determine if modifications are appropriate to ensure that working families are able to meet their basic needs as Hawai'i's high cost of living continues to soar. We have a responsibility to ensure that our most economically vulnerable neighbors are able to not just survive, but to thrive on our shores.

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



SCR 117/SR 129, REQUESTING THE DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS TO CONDUCT A STUDY OF THE EXEMPTIONS TO HAWAII'S MINIMUM WAGE LAW.

APRIL 13, 2023 · HOUSE LABOR AND GOVERNMENT OPERATIONS COMMITTEE · CHAIR REP. SCOT Z. MATAYOSHI

POSITION: Support.

RATIONALE: The Democratic Party of Hawai'i Education Caucus **supports** SCR 117/SR129, which requests that the Department of Labor and Industrial Relations conduct a study of the exemptions to Hawai'i's minimum wage law.

A living wage is a human right. Last year, the State Legislature passed Act 114, which incrementally increased Hawai'i's minimum wage from \$12 per hour beginning October 1, 2022, to \$18 per hour beginning January 1, 2028. Yet, numerous exemptions to Hawai'i's minimum wage law are contained in section 387-1, Hawai'i Revised Statutes. This statute lists occupations that are excluded from the applicable definition of "employee" and all of its related provisions, including our state's minimum wage law.

These exemptions include agricultural employees at farms employing less than twenty people, individuals engaged in coffee harvesting, domestic caretakers, administrative and supervisory employees, persons engaged in catching or harvesting fish, student employees of nonprofit schools, and many others. While the federal Fair Labor Standards Act on which these exemptions

were modeled has declared certain jobs to be exempt from state and federal minimum wage laws, many modern scholars have argued that these provisions of the Fair Labor Standards Act promote racism, sexism, and pay discrimination.

According to the National Low-Income Housing Coalition's Out of Reach 2022 report, a minimum wage employee must work 123 hours per week to afford a modest one-bedroom rental home at fair market rent in Hawai'i and 161 hours per week to afford a two-bedroom rental home at fair market rent in the islands. Put simply, we are pricing working families out of paradise. Over 60 percent of households in our state are severely cost burdened, meaning that they pay more than 30 percent of their income on housing, a number that rises to over 80 percent for extremely low-income households.

Therefore, the exemptions to Hawai'i's minimum wage law should be evaluated to determine if modifications are appropriate to ensure that working families are able to meet their basic needs as Hawai'i's high cost of living continues to soar. We have a responsibility to ensure that our most economically vulnerable neighbors are able to not just survive, but to thrive on our shores.

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

Chair Scot Matayoshi
Vice Chair Andrew Garrett

House Committee on Labor & Government Operations

Thursday, April 13, 2023
9:30 AM

**TESTIMONY IN SUPPORT OF SCR117 REQUESTING THE DEPARTMENT OF
LABOR AND INDUSTRIAL RELATIONS TO CONDUCT A STUDY OF THE
EXEMPTIONS TO HAWAII'S MINIMUM WAGE LAW**

Aloha Chair Matayoshi, Vice Chair Garrett, Members of the House Committee on Labor & Government Operations,

My name is Jun Shin. I am a recent graduate of the University of Hawai'i at Mānoa, a soon to be worker, and a labor activist, testifying as an individual in **Support** of **SCR117**, Requesting the Department of Labor and Industrial Relations to Conduct a Study of the Exemptions to Hawaii's Minimum Wage Law.

In 2022 after years of struggle, the state incrementally increased Hawai'i's minimum wage from \$12 per hour beginning October 1, 2022, to \$18 per hour beginning January 1, 2022. But in 2023, there are still many, many workers in Hawai'i who are not covered by basic labor rights and protections. As listed in Hawai'i Revised Statutes 387-1, agricultural workers at farms employing less than twenty people, individuals engaged in coffee harvesting, domestic caretakers, administrative and supervisory employees, persons engaged in catching or harvesting fish, student employees of nonprofit schools, etc can legally be paid LESS than the minimum wage.

This is just so wrong, who knows how many working class, immigrant/migrant families here in Hawai'i who are stuck in a situation where they need to be in jobs where they are being worked to the bone for slave wages in order to feed their families and to just survive. If a worker is getting paid less than the minimum wage, that worker by extension is facing many other serious issues in that workplace. To be very frank, \$12/hr or even \$18/hr is far from a livable wage, the legislature must do much, much more to make life livable and easier for working class families. But in the meantime, workers deserve to have as much money as they possibly can in their pockets. Please **PASS Senate Concurrent Resolution 117** out of your committee.

Mahalo for the opportunity to testify,

Jun Shin,
State House District 23 | State Senate District 12
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