2682 Waiwai Loop
Honolulu, HI 96819

P.O. Box 29699
Honolulu, HI 96820-2099

Ph: 808-836-1511
Neighbor Islands: 1-800-392-3589

Fax: 808-833-6731
www.hecouncil.org

LEGISLATIVE Digest

HAWAII EMPLOYERS COUNCIL

JUNE 20, 2014 (updated)

2014 - Employment Bills After Sine Die

Minimum Wage

ACT 082 (05/23/14) SB 2609 CD1

Minimum Wage; Tip Credit – Increases Hawaii state minimum wage rate to $7.75 per hour on 1/1/15, $8.50 per hour on 1/1/16, $9.25 per hour on 1/1/17, and $10.10 per hour on 1/1/18. Increases the tip credit to 50¢ per hour on 1/1/15 and 75¢ per hour on 1/1/16, provided that the employee earns at least $7.00 above the minimum wage in tipped income and wages.

Employment Practices and Employee Benefits

HB 1814 CD1

Payment of Wages; Direct Deposit and Pay Cards – Modernizes Hawaii payment of wages law by clarifying that employers may pay wages by direct deposit under certain conditions. Also allows employers to pay wages by pay cards if certain requirements are met, including providing notice to employee of pay card conditions, accepting responsibility for fees assessed against the employee that are outside the pay card fee schedule, and allowing employee the ability to make at least three free withdrawals on the card, at least one of which permits withdrawal of the full amount of the employee's net wages at a federally insured depository institution or automated teller machine. Provisions regarding direct deposit effective July 1, 2014, and provisions regarding pay cards effective September 1, 2014.

HB 2400 CD1

Temporary Disability Insurance ("TDI"); Organ Donation – Revises the definition of "disability" under Hawaii's TDI law to specifically include a disability caused by "organ donation." Effective July 1, 2014.

SB 1233 CD1

Leave of Absence; Organ, Bone Marrow or Stem Cell Donation – Requires private employers with 50 or more employees to allow employees to take leaves of absence for (1) 7 days for bone marrow or peripheral blood stem cell donation and (2) 30 days for organ donation. Written verification of donation required. Provides that employer may require employee to use 3 days of unused sick leave, vacation, or paid time off, or unpaid time off for bone marrow or peripheral blood stem cell donation or two weeks for organ donation, unless doing so would violate the provisions of any applicable collective bargaining agreement. Requires employers to restore an employee returning from leave to the same or equivalent position. Provides that leave taken under this new law shall not be taken concurrently with the Family and Medical Leave Act or Hawaii Family Leave Law. Establishes a private right of action for employees seeking enforcement of provisions. Effective upon approval.

Workers' Compensation ("WC")

ACT 025 (04/17/14) HB 2579

WC Settlements – Provides that compromises for workers' compensation claims reached as a result of a third-party liability claim or action do not require the approval of the Director of Labor and Industrial Relations. Effective July 1, 2014, with sunset date of June 30, 2016.

SB 2365 CD1 **WC Repackaged Drugs** – Sets the reimbursement rate of prescription medications, including relabeled, repackaged, or compounded prescription medications, in workers' compensation claims at 140% of average wholesale price as indicated by the Red Book: Pharmacy's Fundamental Reference as of the date of dispensing, except where the employer or carrier directly contracts with the provider for a lower amount. Requires motor vehicle insurance benefits to automatically adopt the prescription drug pricing protections associated with the workers' compensation supplemental medical fee schedule, unless otherwise modified by the Insurance Commissioner through rulemaking. Effective July 1, 2014.

Health and Insurance

HB 1752 CD1 **Medicaid; Adult Dental Benefits Appropriation –** Appropriates $1,500,000 for fiscal year 2014-15 for the restoration of basic adult dental benefits to Medicaid enrollees, provided that funds will not be expended unless the Department of Human Services obtains federal matching funds. Effective July 1, 2014.

ACT 066 (04/30/14) HB 2269 SD1 **Health Insurance Premium Information –** Upon the Insurance Commissioner's requests, requires all managed care plans to provide health insurance premium information to the commissioner. Authorizes the Commissioner to collect and publish health premium information, which shall be available to the public upon request. Effective July 1, 2014.

SB 2054 CD1 **Autism Spectrum Disorders; Actuarial Analysis –** Requires the Insurance Commissioner to contract for an actuarial analysis of the projected costs of providing insurance coverage for screening, diagnosis, and treatment of autism spectrum disorders. Makes an appropriation for the performance of the actuarial analysis. Appropriates $50,000. Effective upon approval.

ACT 069 (04/30/14) SB 2467 HD1 **Podiatrists –** Authorizes a podiatric physician who is board qualified or board certified in reconstructive rearfoot ankle surgery and has completed a 36-month podiatric surgical residency to perform ankle fracture surgery. Conforms the definition of "podiatric medicine" to national standards regarding diagnosis and treatment of the foot and ankle. Effective upon approval.

SB 2469 CD1 **Telehealth; Insurance and Reimbursement –** Requires equivalent reimbursement for services, including behavioral health services, provided through telehealth as for the same services provided via face-to-face contact between a health care provider and a patient. Clarifies that health care providers for purposes of telehealth include primary care providers, mental health providers, oral health providers, physicians and osteopathic physicians, advanced practice registered nurses, psychologists, and dentists. Changes statutory references to "telemedicine" to "telehealth" for consistency. Effective upon approval.

SB 2869 HD1 **Privacy of Health Information –** Provides confidentiality protections for developmental disability and mental health information. Allows for reasonable use and disclosure as provided by the Health Insurance Portability and Accountability Act. Effective upon approval.

Healthcare Industry; Licensing

ACT 063 (04/30/14) HB 1882 SD1 — **Podiatrists; Licensing Requirements –** Adopts the national standard of a minimum of twenty-four months in an accredited podiatric residency prior to licensure as a podiatrist, beginning on 01/01/2015. Specifies separate requirements for out-of-state podiatrists who graduated from an approved college before 01/01/2004, who are seeking initial licensure in Hawaii. Effective January 1, 2015.

ACT 028 (04/23/14) SB 2466 HD1 — **Marriage and Family Therapists; Continuing Education** – Requires licensed marriage and family therapists to complete a minimum of forty-five hours of continuing education courses, including six hours in ethics courses, during each licensing renewal period, for the period beginning 1/1/2017, and thereafter. Effective July 1, 2014.

SB 2472 CD1 — **Occupational Therapists; Licensing –** Establishes an occupational therapy program and licensing requirements for occupational therapists and occupational therapy assistants. Appropriates $70,000. Effective upon approval.

ACT 046 (04/23/14) SB 2491 — **Advance Practice RNs; Licensure –** Technical amendments to Hawaii APRN licensing statute to align with federal law. Deletes reference to "recognized" as an APRN; maintains language requiring "licensure." Effective upon approval.

Hawaii Health Connector

SB 2470 CD1 — **Hawaii Health Connector –** Establishes the connector legislative oversight committee and requires the committee to annually review a report and annual sustainability plan prepared and submitted by the board of directors of the Hawaii health connector. Permits connector-certified insurance agents and brokers to enroll individuals and employers in qualified plans through the connector. Clarifies that the connector must submit the results of the connector's annual audit to the legislature and requires the annual audit to comply with standard accounting practices for reviewing nonprofit corporations. Provides the connector with the means to generate non-insurer based revenue. Amends the composition and procedures of the board of directors of the connector beginning on 10/1/2014. Repeals requirement for the Department of Human Services to determine medicaid eligibility for purposes of purchasing plans from the connector. Appropriates $1,500,000 for the operations of the connector. Effective July 1, 2014, except that changes to the board of directors shall take effect on October 1, 2014.

Unlicensed Contractors

ACT 032 (04/23/14) HB 570 — **Unlicensed Contractors; Elders –** Increases the fine for unlicensed contractors who commit licensing violations against elders from $10,000 to $20,000. Defines "elderly person" as being 65 or older. Effective upon approval.

ACT 029 (04/23/14) SB 2475 — **Unlicensed Contractors; Aiding and Abetting –** Adds language to unlicensed contractor law stating that any contractor licensee who aids and abets an unlicensed contractor to evade or violate Hawaii unlicensed contractor laws shall be subject to additional discipline to be determined by the contractor licensing board. Effective July 1, 2014.

Public Works Contracts

HB 2413 CD1 **Public Works; Public-Private Partnerships –** Includes public-private partnerships in the definition of "governmental contracting agency" for purposes of Hawaii Little Davis Bacon Act. Effective upon approval.

SB 2260 CD1 **Prevailing Wage Violations; Penalties –** Specifies that no provision of chapter 104, Hawaii Revised Statutes, may be contravened or set aside by private contract. Updates definitions. Increases the penalties imposed on a contractor who interferes with or delays an investigation to determine compliance with wage and hour laws of employees on public works from $1,000 to $10,000 per project and from $100 to $1,000 for each day the employer fails to cooperate thereafter. Clarifies the effective date of suspension. Specifies that suspension for falsification of records or delay or interference with an investigation is immediate. Specifies who the director of labor and industrial relations must notify of any suspension order. Effective July 1, 2014, and shall apply to all contracts entered into on or after the effect date.

Public Employees

ACT 075 (04/30/14) * HB 1977 SD1 **Collective Bargaining Arbitration –** Requires any further provisions each party is proposing for inclusion in the final position in a collective bargaining arbitration to be limited to those specific proposals that were submitted in writing to the other party and were the subject of collective bargaining up to the time of impasse. Provides the arbitration panel with authority to determine if final positions submitted are compliant with statutory requirements. Effective July 1, 2014.

Government Agencies

HB 2038 CD1 **DLIR; Human Trafficking Fund –** Establishes the Human Trafficking Victim Services Fund to be administered by the DLIR to provide support and services to human trafficking victims. Also establishes human trafficking victim fees to be imposed upon persons convicted of labor trafficking and prostitution offenses. Effective upon approval.

ACT 074 (04/30/14)* HB 2496 SD1 **Hawaii Labor Relations Board ("HLRB") –** Amends the procedures by which regular and acting members of the HLRB are appointed by requiring the Governor, subject to certain limitations, to appoint: (1) the representative of the public; (2) the representative of management after first considering a list of nominees submitted by the counties; and (3) the representative of labor from a list submitted by mutual agreement of the exclusive representatives. Effective upon approval.

ACT 038 (04/23/14) SB 2822 HD1 **Criminal Background Checks; Real Estate Appraisers –** Allows the Department of Commerce and Consumer Affairs to conduct a criminal background check on applicants for a real estate appraiser license. Effective July 1, 2014.

*Became law without the Governor's signature.

ACT 008 (04/04/14) SB 3038 — **HLRB; Replacement of Absent Member; Electronic Service –** Authorizes notice of hearings to be served by electronic service through a company designated by the HLRB. Clarifies the process to replace a recused HLRB member representing labor. Effective upon approval.

Miscellaneous

ACT 005 (04/01/14) HB 1634 — **Uniform Mediation Act** – Technical amendment for exceptions for mediation conducted by judges to include only mediations conducted by judges, and not judges who might make a ruling on a case. Effective upon approval.

HB 2243 CD1 — **Criminal Background Checks; Care or Care Placement Services –** Allows qualified entities to conduct state and national fingerprint-based criminal history record checks on their applicants, employees, and volunteers who provide care for children, vulnerable adults, or individuals with disabilities, and to receive the results directly. Effective July 2, 2014.

HB 2034 CD1 — **Sexual Assault; Statute of Limitations** – Removes the statute of limitations for criminal actions arising from sexual assault in the first and second degrees and continuous sexual assault of a minor under the age of fourteen years. Effective upon approval.

ACT 091 (06/16/14) SB 651 CD1 — **Public Housing; Smoking Ban –** Prohibits smoking in and around public housing projects and state low-income housing projects under the jurisdiction of the Hawaii public housing authority and in and around elder or elderly households. Ban applies within each individual housing unit, all common areas, community facilities and within 20 feet from each individual building and any entrance, exit, window and ventilation intake. Effective upon approval.

SB 2346 CD1 — **Aging; Long-term Care Education –** Appropriates $500,000 to the Department of Health for community-based services and programs for older persons. Requires the Department of Health Exec utive Office on Aging to conduct a public education and awareness campaign on long-term care and appropriates funds for this purpose. Effective July 1, 2014.

ACT 094 (06/16/14) SB 2486 CD1 — **Private Guards; Continuing Education –** Makes registration and licensure requirements for private guards and others acting in a guard capacity permanent; reduces continuing education requirement to four hours every two years; and delays continuing education requirement prior to the June 30, 2016, renewal cycle. Effective June 29, 2014.

SB 2682 CD1 — **Financial Disclosures; Boards and Commissions –** Requires the financial disclosure statements of members of certain boards and commissions to be made available for public inspection and duplication, including the Agribusiness Development Corporation, Board of Agriculture, State Ethics Commission, HCDA, Hawaiian Homes Commission, Hawaii Housing Finance and Development Corporation, Board of Land and Natural Resources, Land Use Commission, Legacy Land Conservation Commission, Natural Area Reserves System Commission, Natural Energy Laboratory of Hawaii, Hawaii Public Housing Authority, Public Utilities Commission, and Commission on Water Resource Management. Effective upon approval.

SB 2687 CD1 **Sex Assault on a Minor; Statute of Limitations –** Extends the period during which a victim of child sexual abuse may bring an otherwise time-barred civil action against the victim's abuser or an entity when the person who committed the act was employed by an entity that owed a duty of care to the victim or the abuser and the victim were engaged in an activity over which the legal entity had a degree of responsibility or control, to four years after April 24, 2012. Effective upon approval.

SB 2729 CD1 **Mobile Electronic Devices; Highway Safety –** Adds exemption drivers of vehicles that are at a complete stop, while the engine is turned off, in a safe location by the side of the road out of the way of traffic. Increases fine amount to $250, or $300 if in a school zone or construction area. Defines "operate" as driving or assuming actual physical control of a vehicle, including while temporarily stationary because of traffic, a traffic light or stop sign. Effective July 1, 2014.