

# LEGISLATIVE Digest



April 14, 2014

## 2014 - Employment Bills After Second Crossover

### Minimum Wage

- SB 2609 HD2 **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 \$10.00 per hour on 1/1/18. Increases the tip credit to 50 cents per hour on 1/1/15 and 75 cents 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 SD2 **Payment of Wages; Direct Deposit and Pay Cards** – Clarifies 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. Makes employers responsible for any fees incurred if an employer has insufficient funds in their bank account for the electronic transfer. Provisions regarding direct deposit effective upon approval, and provisions regarding pay cards effective 9/1/14.
- HB 2400 SD1 **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.”

### Workers’ Compensation (“WC”)

- HB 1974 SD1 **WC Fee Schedule; Annual Review** – Requires Department of Labor and Industrial Relations (“DLIR”) to update the workers' compensation medical fee schedule annually. Authorizes DLIR to establish a workers' compensation medical fee ceiling that exceeds 110% of the fees prescribed in the Medicare Resource Based Relative Value Scale for Hawaii. Sunsets 6/30/19.
- HB 2579 **WC Settlements** – Provides that settlements in workers’ compensation cases involving third-party liability do not require approval by the Director of Labor and Industrial Relations.
- SB 2365 HD2 **WC Repackaged Drugs** – Limits the reimbursement payments of prescription medications, including relabeled, repackaged, or compounded prescription medications, in workers' compensation claims to 140% of average wholesale price as indicated by the Red Book: Pharmacy’s Fundamental Reference as of the date of dispensing. 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.

**Health and Insurance**

- HB 1752 SD2 **Cost-Effective Healthcare** – Appropriates funds to provide primary medical, dental, and behavioral healthcare to uninsured and underinsured patients and restores basic adult dental benefits to Medicaid enrollees. Appropriates moneys to community health centers to provide outreach and eligibility services as well as behavioral services and to establish health homes for Medicaid enrollees.
- HB 1754 SD2 **Medicaid Buy-In Program; Disabled Workers** – Establishes and appropriates funds for the Medicaid Buy-in Program for Workers with Disabilities. Establishes and appropriates funds for a Medicaid Buy-in Pilot Program to be in effect from July 1, 2015, until June 30, 2017.
- HB 2099 SD1 **Advance Practice RNs; Scope of Practice** – Expands scope of practices that can be performed by APRNs, including certification for disability, renewal of driver’s licenses, exemption from seatbelts, child immunization, daily living and cognitive impairment for insured’s need for long-term care, and other duties.
- HB 2115 SD1 **Med-QUEST and Medicaid; Chiropractic Care** – Requires Med-QUEST and Medicaid coverage for chiropractic care, limited to 24 visits per calendar year.
- HB 2269 SD2 **Health Insurance Premium Information** – Authorizes the Insurance Commissioner to collect and publish health premium information.
- SB 2054 HD3 **Health Insurance; Autism Spectrum Disorders** – Requires health insurers, mutual benefit societies, and health maintenance organizations to provide coverage for autism spectrum disorder treatments. Requires an actuarial analysis to estimate the cost impact of providing autism spectrum disorder benefits.
- SB 2194 HD2 **Birthing Facilities; Congenital Heart Disease Testing** – Requires birthing facilities to perform a pulse oximetry test or other medically accepted screening on newborns to screen for critical congenital heart defects. Appropriates funds to DOH for a screening program and to the Hawaii Health Systems Corporation to conduct screenings. Establishes the Hawaii Employer-Union Health Benefits Trust Fund Captive Insurance Company to effectively manage the administration and financing of the current and potential future other post employee benefit obligations of the state and county governments.
- 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. Confirms the definition of "podiatric medicine" to national standards regarding diagnosis and treatment of the foot and ankle.
- SB 2469 HD3 **Telehealth; Insurance and Reimbursement** – Requires equivalent reimbursement for services provided through telehealth as for the same services provided via face-to-face contact. Clarifies definition of health care provider for telehealth purposes. Changes statutory references to "telemedicine" to "telehealth" for consistency.
- 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.

SB 3064 HD1 **Hawaii Health Systems Corporation** – Allows for the transition of the Hawaii Health Systems Corporation, a regional system, to a new healthcare management system organized under the laws of the State as a nonprofit corporation or public benefit corporation registered to do business in the State. Establishes a transition committee to assist the governor in implementing, reviewing, and negotiating the transitioning of the corporation, a regional system, or a combined regional system or two or more regional systems to a new healthcare management system.

**Healthcare Industry; Licensing**

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.

HB 2031 SD1 **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.

SB 2466 HD1

SB 2472 HD3 **Occupational Therapists; Licensing** – Establishes an occupational therapy program and licensing requirements for occupational therapists and occupational therapy assistants.

SB 2490 HD2 **Nurses; Continuing Competency and Licensure** – Requires licensed registered nurses and licensed practical nurses to submit evidence of continuing competency at each renewal period, beginning on July, 2017.

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.”

**Hawaii Health Connector**

SB 2470 SD1 **Hawaii Health Connector** – Establishes the Hawaii Health Connector as the State of Hawaii Health Insurance Exchange. Establishes advisory groups and an oversight council to assist the Connector Board. Amends the composition and duties of the Connector Board. Establishes a special fund.

**Electronic Cigarettes (“E-Cigarettes”)**

SB 2495 HD1 **E-Cigarettes; Prohibitions** – Prohibits the use of electronic smoking devices in enclosed public areas and other specified locations under Chapter 328J, Hawaii Revised Statutes. Includes the use of electronic smoking devices under the definition of “smoke” and “smoking” for purposes of Chapter 328J.

**Medical Marijuana**

- SB 2574 HD2 **Medical Marijuana Registration** – Makes clarifying housekeeping amendments to the registration requirements regarding the medical use of marijuana. Adds certifying physician requirements for written certification of medical marijuana use, including medical history, physical examination, review of medical records, maintenance of medical records and follow-up assessments of the patient’s condition during medical marijuana therapy.

**Unlicensed Contractors**

- HB 570 **Unlicensed Contractors; Elders** – Increases the fine for unlicensed contractors who commit licensing violations against elders from \$10,000 to \$20,000.
- 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.

**Public Works Contracts**

- HB 1958 SD2 **Public Works; Overtime Compensation** – For government public works construction contracts greater than \$2,000, provides that overtime compensation be not less than 1.5 times the laborers or mechanics basic hourly rate of pay plus fringe benefits and that if the DLIR determines that the prevailing wage is determined by a group represented by collective bargaining, then the overtime and any other premium shall be at the same rates set by the collective bargaining agreement. Specifies that the overtime rate be as specified in the collective bargaining agreement when the basic hourly rate is based on a collective bargaining agreement.
- HB 2413 SD1 **Public Works; Public-Private Partnerships** – Includes public-private partnerships in the definition of “governmental contracting agency” for purposes of Hawaii Little Davis Bacon Act.
- SB 2260 HD2 **Prevailing Wage Violations; Suspensions** – 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. Specifies that a general contractor is secondarily liable for payment of back wages. Increases the suspension period from three to five years for a third violation. 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. Requires reports from the DLIR.
- SB 3039 HD1 **Public Works; Wage and Hour Special Fund** – Establishes the Wage and Hour for Public Works Projects Special Fund to fund enforcement of wage and hour laws for public works projects. Requires state departments, except DOT Airports Division, to transfer a percentage of CIP appropriations to the special fund. Establishes and funds two additional labor law enforcement specialist IV positions in DLIR.

**Public Employees**

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.

**Government Agencies**

HB 2038 SD2 **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.

HB 2217 SD1 **Workforce Development** – Authorizes DLIR to establish working groups to identify high growth industries and workforce needs and to develop training programs.

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.

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.

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

**Tax; General Excise Tax (“GET”)**

HB 1848 SD1 **GET Monthly Returns; Electronic Filing** – Requires all general excise tax monthly returns to be filed electronically, beginning on January 1, 2015. Grants Director of Taxation discretionary authority to assess fines for returns filed manually.

SB 2496 HD1 **Tobacco GET** – Imposes an excise tax equal to an unspecified percentage of the wholesale price of any tobacco product, other than large cigars, effective January 1, 2015. Allocates funds collected to the Hawaii cancer research special fund and Hawaii tobacco prevention and control trust fund.

**Miscellaneous**

HB 1509 SD2 **Mobile Electronic Devices; Highway Safety** – House version specifies that use of  
SB 2729 HD1 mobile electronic device includes holding the device for the purpose of making or

receiving a non-emergency call, texting, receiving a text message, or activating, deactivating or initiating a function of the device. Provides exemption for 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. Excludes the use of hands-free devices. Increases the fine for such an infraction to \$200, or \$400 if in a school zone or construction area. Provides that if a person is under the age of eighteen years old at the time of a second offense, the fine shall be \$300, and \$400 for the third and subsequent offenses committed while under the age of eighteen years old. Senate version increases the penalty to a fine of not less than \$250, or \$400 if operating the motor vehicle in a school zone or construction area.

**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.

HB 1713 SD2 **Aging; Long-term Care Education** – Appropriates general funds to provide ongoing financial support to healthy aging programs and services. Requires the Executive Office on Aging to conduct a public education and awareness campaign on long-term care and appropriates general funds for its support and evaluation.

HB 2243 SD1 **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.

SB 2452 HD2 **Breastfeeding Exemption from Jury Duty** – Exempts breastfeeding mothers from jury duty for two years from the birth of a child and for each child that the mother breastfeeds.

SB 2486 HD1 **Private Guards; Continuing Education** – Makes registration and licensure requirements for private guards and others acting in a guard capacity permanent; starts continuing education requirement prior to the June 30, 2016, renewal cycle; exempts loss prevention agents from private guard registration and licensure requirements.

SB 2682 HD2 **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, Commission on Water Resource Management, Hawaii Labor Relations Board, and the Labor and Industrial Relations Appeals Board.

SB 2687 HD2 **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 with a duty of care, including the State and counties, to four years after April 24, 2012.