



STATE OF HAWAII
STATE COUNCIL
ON DEVELOPMENTAL DISABILITIES
1010 RICHARDS STREET, Room 122
HONOLULU, HAWAII 96813
TELEPHONE: (808) 586-8100 FAX: (808) 586-7543

February 11, 2020

The Honorable Senator Laura H. Thielen, Chair
Senate Committee on Government Operations
and
The Honorable Senator Brian T. Taniguchi, Chair
Senate Committee on Labor, Culture and the Arts
and
The Honorable Senator Russel E. Ruderman, Chair
Senate Committee on Human Services
Thirtieth Legislature
State Capitol
State of Hawai'i
Honolulu, Hawai'i 96813

Dear Senator Thielen, Senator Taniguchi, Senator Ruderman and Members of the Committees:

SUBJECT: SB 2468 – Relating to Qualified Community Rehabilitation Programs (QCRP).

The State Council on Developmental Disabilities **SUPPORTS SB 2468**, which allows community rehabilitation programs for persons with disabilities to be considered qualified under the State's procurement code without requiring federal and state certification that authorizes the payment of subminimum wage to workers in their program.

Following the 2019 legislative session, the Council followed up with the approximate 75 individuals reportedly being paid sub-minimum wage according to the Department of Labor and Industrial Relationships. We found:

- As of September 30, 2019, after speaking with every agency qualified to pay subminimum wage, all agencies had changed their practice and were paying, at or above minimum wage. The agencies reported the only reason they currently held the 14c certificate and state sub-minimum wage certificates were to have access to government contracts that required these agencies to be "Qualified Community Rehabilitation Programs". To be a QCRP current procurement regulation require these agencies to hold the 14c certificate.
- Kauai was the only County that did not participate in hiring individuals with disabilities at sub-minimum wage.
- The passing of this bill with our recommended changes would not affect any other form of legal sub-minimum wage in regards to stipends, apprenticeships, and learners.
- Customized Employment can be used as a tool that individualizes the relationship between job seekers and employers in ways that meet the needs of both. Each job seeker's unique strengths, needs, and interests are fully utilized and the employer can create entry level positions that match the skills of the individual with the needs of their business.

- On line data sources that report the number of workers who are being paid subminimum wages are not meant to track the current number of workers being paid at subminimum wages but the number of workers the QCRP intended to pay subminimum wages at the time of their application.

Now that we know, a for-profit agency or business cannot legally pay sub-minimum wage to an employee. That customized employment can support individuals with disabilities, we respectfully request revising parts of Section 387-9 of the Hawaii Revised Statutes by striking out the archaic language from 1959.

Strike out handicapped workers in Section 387-9,

§387-9 Special minimum wages for learners; apprentices; full-time students; paroled wards of Hawaii youth correctional facility [~~handicapped workers~~]

And strike out the entire Subsection (2) of Section 387-9

~~[(2) Of individuals whose earning capacity is impaired by old age or physical or mental deficiency or injury, under special certificates issued by the director, at such wages lower than the applicable minimum wage and for such period as shall be fixed in the certificates].~~

By making these amendments to SB2468 there will no longer be wage discrimination against individuals with disabilities. As we support Qualified Community Rehabilitation Programs to provide training and customized employment to individuals with disabilities without forcing them to pay subminimum wage.

Thank you for the opportunity to submit testimony **strongly supporting, with amendments, SB 2468.**

Sincerely,



Daintry Bartoldus
Executive Administrator

DAVID Y. IGE
GOVERNOR

JOSH GREEN
LIEUTENANT GOVERNOR



SCOTT T. MURAKAMI
DIRECTOR

ANNE EUSTAQUIO
DEPUTY DIRECTOR

**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813

www.labor.hawaii.gov
Phone: (808) 586-8844 / Fax: (808) 586-9099
Email: dlir.director@hawaii.gov

February 11, 2020

To: The Honorable Laura H. Thielen, Chair
The Honorable Lorraine R. Inouye, Vice Chair, and
Members of the Senate Committee on Government Operations

The Honorable Brian T. Taniguchi, Chair,
The Honorable Les Ihara, Jr., Vice Chair, and
Members of the Senate Committee on Labor, Culture and the Arts

The Honorable Russell E. Ruderman, Chair,
The Honorable Karl Rhoads, Vice Chair, and
Members of the Senate Committee on Human Services

Date: Tuesday, February 11, 2020
Time: 2:50 p.m.
Place: Conference Room 225, State Capitol

From: Scott T. Murakami, Director
Department of Labor and Industrial Relations (DLIR)

**Re: S.B. No. 2468 RELATING TO QUALIFIED COMMUNITY
REHABILITATION PROGRAMS**

I. OVERVIEW OF PROPOSED LEGISLATION

SB2468 proposes to amend the definition of a "qualified community rehabilitation program" under section 103D-1001, Hawaii Revised Statutes (HRS), by repealing the requirement that the qualified community rehabilitation program hold federal and state certificates that authorizes the payment of subminimum wages to employees.

The DLIR offers comments on this measure.

II. CURRENT LAW

Section 103D-1001, HRS, provides for preference in procurement for a bona fide "qualified community rehabilitation program," which is a nonprofit community

rehabilitation program for persons with disabilities that meets certain requirements. One of the requirements is that the nonprofit organization be certified by the DLIR under section 387-9, HRS, relating to special minimum wages for certain individuals, and the United States Department of Labor pursuant to Title 29 United States Code section 214(c).

III. COMMENTS ON THE SENATE BILL

Section 387-9, HRS, provides for the employment of, “Of individuals whose earning capacity is impaired by old age or physical or mental deficiency or injury, under special certificates issued by the director,” at wages lower than the statutory minimum wage.

Currently there are five sheltered workshops with active special certificates permitting the payment of subminimum wages. Of the five sheltered workshops, four are paying all employees at least the statutory minimum wage required under section 387-2, HRS. A special certificate is not required for these organizations since they pay at least the minimum wage. One sheltered workshop has certificates for two individuals.

SB-2468

Submitted on: 2/6/2020 10:07:05 AM

Testimony for GVO on 2/11/2020 2:50:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kaili Swan	Individual	Support	Yes

Comments:

I am a person with the disability and I'm lucky to have been at department of education above minimum wage it is not fair to pay someone less then minimum wage just beacuse they have disabilities I work hard and deserve what I get others like me should be able get the same please except the ddc council recommendation so pepolenwith disability will not be paid below minimum wage just beacuse they have disabilities

Thank you

SB-2468

Submitted on: 2/6/2020 2:56:18 PM

Testimony for GVO on 2/11/2020 2:50:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Chin Lee	Individual	Support	No

Comments:

I work with Hawaii State Council on Developmental Disabilities and was aware of the sub-minimum wage issue. I SUPPORT SB2468 with the recommend changes from the Hawaii State Council on Developmental Disabilities. Thanks, Chin Lee

SB-2468

Submitted on: 2/6/2020 3:00:00 PM

Testimony for GVO on 2/11/2020 2:50:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kenichi Yabusaki	Individual	Support	No

Comments:

Aloha Chairman Ruderman and Committee Members:

I am a retired biochemist and know what those with disabilities are faced with and thus, I support SB 2468 to allow those with Disabilities to be qualified for procurement in the State of Hawaii without having to go through Federal guidelines. Individuals with disabilities contribute greatly to our society and to discriminate against them is wrong. Thank you for supporting SB 2468/

Respectfully,

Kenichi K. Yabusaki, Ph./D.

SB-2468

Submitted on: 2/6/2020 6:39:19 PM

Testimony for GVO on 2/11/2020 2:50:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Louis Erteschik	Testifying for Hawaii Disability Rights Center	Comments	No

Comments:

We are told that there are no more entities paying sub minimum wages, though we have not independently verified this. We are also told that entities which hold these certificates that allow the payment of subminimum wages currently do so only because the need these certificates to qualify under this statute to receive certain preferences under the procurement code. If all of that is true, then perhaps it might make sense to eliminate that requirement if it is in fact otherwise unnecessary and outmoded.

SB-2468

Submitted on: 2/9/2020 6:51:08 PM

Testimony for GVO on 2/11/2020 2:50:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Justin Salisbury	Individual	Support	No

Comments:

Mahalo for the opportunity to testify in support of SB 2468 with a respectful request for an amendment to strengthen and expand the impact of the bill.

Currently, the law requires that CRP's have federal and state certification authorizing the payment of subminimum wages to workers with disabilities in order to be considered qualified under the State's procurement code. This makes it easier for CRP's to qualify and disentangles the contracting processes from a labor practice that is unfair, discriminatory, and immoral.

As many people in our state have been advocating to repeal the language in HRS Section 387-9 that allows the payment of disability-based subminimum wages, one of the points of opposition has been that CRP's have been worried that they would lose their contracts. Most of the bills that would end the payment of subminimum wages to workers with disabilities in Hawaii also included a section that would remove the contracting requirement that CRP's use the state-level disability-based subminimum wage program, but those bills didn't remove the requirement for the federal certificate. I believe this bill, by striking out that whole item, is stronger. It further separates the payment of disability-based subminimum wages from the contracting processes.

The State of Hawaii already dedicates resources to training and rehabilitating workers with disabilities so that they can be productive contributors in our community, so removing this requirement from the State's procurement code will promote lokahi in the state programs to raise up workers with disabilities.

If the Committees are willing to complete the job of eliminating the practice of subminimum wages with an amendment to this bill, I respectfully request an amendment adding another section to this bill, which can be taken directly from SB 336,

SB 349, SB 358, SB 789 HD 1 or HD 2, HB 232, HB 693, and other current bills, to repeal the language in HRS Section 387-9 that authorizes the payment of disability-based subminimum wages.

Now that this bill will fix the contracting requirement issue, it would be wonderful if we could move forward with ending the payment of disability-based subminimum wages, too.

Mahalo for bringing this bill to a hearing. I support the bill as written but would love to see it strengthened by this amendment.



HAWAII APPLESEED

CENTER FOR LAW & ECONOMIC JUSTICE

Testimony of the Hawai'i Appleseed Center for Law & Economic Justice
In Support of SB 2468 – Relating to Qualified Community Rehabilitation Programs
Senate Committees on Government Operations, on Labor, Culture and the Arts, and on Human Services
Tuesday, February 11, 2020, 2:50 PM, conference room 225

Dear Chairs Thielen, Taniguchi and Ruderman, Vice Chairs Inouye, Ihara and Rhoads, and members of the Committees:

Thank you for the opportunity to provide testimony in **SUPPORT** of **SB 2468**, which would allow community rehabilitation programs for persons with disabilities to be considered qualified under the State's procurement code without requiring federal and state certification that authorizes the payment of subminimum wage to workers in their program.

The subminimum wage for workers with disabilities was first written into federal law over 80 years ago, when there were almost no technologies available to help such workers be as productive as others. As a result, many of these workers have been segregated into workshops where their labor is exploited, with some employers paying only pennies per hour.

In this day and age, there are technologies available that can enable people with disabilities to be productive contributors in our community. Several successful models have been developed that help people with disabilities gain the skills needed to perform competitive work.

Six states have passed laws to end the subminimum wage for workers with disabilities, and the Democratic and Republican party platforms in 2016 both called for the end of subminimum wages for workers with disabilities.

Our state commits significant resources to rehabilitating and training workers with disabilities. Removing this obsolete requirement from the procurement code will support the mission of community rehabilitation programs to help workers with disabilities reach their full vocational and socioeconomic potential.

Mahalo for your consideration of this testimony.

The Hawai'i Appleseed Center for Law and Economic Justice is committed to a more socially just Hawai'i, where everyone has genuine opportunities to achieve economic security and fulfill their potential. We change systems that perpetuate inequality and injustice through policy development, advocacy, and coalition building.

SB-2468

Submitted on: 2/10/2020 10:37:30 AM

Testimony for GVO on 2/11/2020 2:50:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
james gashel	Testifying for national federation of the blind of hawaii	Support	Yes

Comments:

Testimony of James Gashel

for National Federation of the Blind of Hawaii

Before the Senate Committees on Government Operations (GOV), Labor, Culture and the Arts (LCA), and Human Services (HMS)

Hawaii State Senate

The Thirtieth Legislature

Regular Session of 2020

February 11, 2020, 2:50 PM hearing on SB2468

Good afternoon distinguished chairs, vice chairs, and committee members. My name is James Gashel. I am a resident of Honolulu and live at 2801 Coconut Avenue. It is an honor for me to present this testimony both in my individual capacity as a citizen of our state and on behalf of the National Federation of the Blind of Hawaii.

Today I want to tell you why the NFB of Hawaii and I personally strongly support S B 2468. Thank you to the sponsors of this bill, including HMS chair, senator Ruderman; LCA chair, senator Taniguchi, and LCA vice chair, senator Ihara. Mahalo for the interest you are showing in this subject on employment of people with disabilities.

This bill proposes to make a simple but substantive change in section 103D-1001 of the Hawaii Revised Statutes. Section 103D is the public procurement law, and subsection 1001 is a list of definitions. The definition of interest in this bill is "qualified community rehabilitation program."

In general, you can think of a qualified community rehabilitation program as a place where people with disabilities may go to work. Organizations such as the ARC of Hawaii and Goodwill Hawaii are perhaps the most prominent examples of qualified community rehabilitation programs. This definition has significance in section 103D-1010 and 103D-1011, which offer qualified community rehabilitation programs special favorable terms in selling to the state.

The present law in section 103D-1001 specifies that a qualified community rehabilitation program must be a nonprofit organization for persons with disabilities. Five requirements must then be met, including: that the organization must be located in Hawaii; the organization is operated in the interest of and employs persons with disabilities; the organization's net income does not inure to shareholders; the organization complies with health and safety standards; and finally, that the organization is certified by federal and state authorities to pay disabled workers below the minimum wage.

Notice the last requirement. A community rehabilitation program must be certified (or approved) to pay disabled workers less than the minimum wage. The program may have a policy of paying all disabled workers the minimum wage or above, but in order to be qualified as a community rehabilitation program under our state procurement law, the program must be approved to pay less than the minimum wage, whether it wants to do so or not.

SB2468 would remove this last requirement. The change would mean that the programs dedicated to employment of persons with disabilities could be qualified community rehabilitation programs under the state procurement law without being required to have approval for paying their disabled workers less than the minimum wage. On its own this bill would not require these employers to pay disabled workers at least the minimum wage, so on that point it remains silent.

If you are thinking of amending SB2468, you may want to consider the text of SB336 as a point of reference. Unlike SB2468, which would make payment below the minimum wage optional, at least not required under the procurement law, SB336 would remove the state's authority to certify payment of disabled workers for any amount below the minimum wage. This would be my preference and the preference of NFB of Hawaii as well. Nonetheless, we strongly support SB2468 in its present form. If you pass this bill, community rehabilitation programs will be able to obtain state contracts without regard to their wage payment policy. Many don't believe in paying below the minimum wage and will be happy the requirement in section 103D-1001 has been removed.

Distinguished chairs, vice chairs, and committee members. In supporting the definition change called for in SB2468, we ask you to share this value: the state should not use the power of its procurement law to require employers to pay (or be approved to pay) disabled workers less than the minimum wage. This value is consistent with the position of the National Council on Disability, appointed by the president and the Congress, recommending phased elimination of the subminimum wage authority under federal law altogether. More to the point, the view that procurement laws should not favor employment at subminimum wages is consistent with the expressed position of the federal AbilityOne Commission appointed to oversee the purchase of products and services from organizations employing the blind and other persons with disabilities. A letter sent from the chair of the AbilityOne Commission, detailing the current effort to end use of subminimum wages in federal contracting, is attached to my written testimony for your review.

In passing SB2468, let's be sure that Hawaii is among several other states and the federal government itself now moving to make employment of workers with disabilities at subminimum wages a policy of the past. Mahalo.

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

An Independent Federal Agency
U.S. ABILITYONE COMMISSION
February 19, 2019

PHONE: 703-603-7740 1401 S. Clark Street, Suite 715
FAX : 703-603-0655 Arlington, Virginia 22202-4149

SENT VIA E-MAIL
Mr. Norman Lorentz

Chairman of the Board
SourceAmerica
8401 Old Courthouse Road
Vienna, VA 22182

Dear Mr. Lorentz:

The imperative to end the payment of subminimum wages in the AbilityOne Program is growing in strength and momentum with every passing year. It is time to pay at least the federal minimum wage, or state minimum wage if higher, to all employees who are blind or have significant disabilities working on AbilityOne contracts.

This important topic was addressed by the Commission in its "Declaration in Support of Minimum Wage for All People Who Are Blind or Have Significant Disabilities," issued on March 18, 2016.

Since then, the issue of 14(c) has gained a greater sense of urgency both within and outside the AbilityOne Program. The Commission, Central Nonprofit Agencies, and Nonprofit Agencies should be vigorous role models for employing people who are blind or have other significant disabilities.

To do this, we must act. We call on SourceAmerica to provide the following to the Commission:

- By the end of March 2019, provide SourceAmerica's intent for achieving the goal of all SourceAmerica associated nonprofit agencies paying at least the federal minimum wage, or state minimum wage if higher, on AbilityOne contracts.
- By the end of April 2019, provide a strategic plan on what SourceAmerica is going to do, and when, to achieve this goal – e.g., implementation actions and milestones.
- Specifically, this strategic plan should address the steps to assist and facilitate your associated nonprofit agencies to pay all employees who have significant disabilities working on AbilityOne contracts (1) at least the federal minimum wage, or state minimum wage if higher, within three years, and (2) no less than the full prevailing wage or better within six years

Mr. Norman Lorentz

February 19, 2019

Page 2

-By the end of October 2019, provide a progress report on the implementation of the strategic plan.

-Beginning in January 2020, provide quarterly progress reports.

We recognize that some nonprofits have voluntarily moved away from the 14(c) certificates. It is also important to recognize that pursuant to the wage determination rates set in accordance with the Service Contract Act, more than half of the nonprofit agencies are paying a minimum hourly wage no less than \$10.60 plus fringe benefits. Others in the program exceed that wage, since SourceAmerica's average hourly wage is \$13.98 on service contracts. These facts are evidence that you are positioned and capable of implementing this guidance. Let us know how we can work with you to advance this positive and critical action. We look forward to your response. Sincerely, /s/

Thomas D. Robinson
Chairperson and Presidential Appointee

cc: Senate Homeland Security and Government Affairs Committee
House Committee on Oversight and Reform
Mr. Steve Krotosky, Acting President and CEO
Mr. Robert Kelly, Commission Vice Chair and Presidential Appointee
Mr. James Kesteloot, Immediate Past Commission Chair and Presidential Appointee
Ms. Tina Ballard, Executive Director, Commission

PETER L. FRITZ

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E-MAIL: PLFLEGIS@FRITZHQ.COM

THE SENATE
THE THIRTIETH LEGISLATURE
REGULAR SESSION OF 2020

COMMITTEECOMMITTEE ON GOVERNMENT OPERATIONS
COMMITTEE ON LABOR, CULTURE AND THE ARTS
COMMITTEE ON HUMAN SERVICES

Testimony on S.B. 2464
Hearing: February 11, 2020

RELATING TO QUALIFIED COMMUNITY REHABILITATION PROGRAMS

Chairs Thielen, Taniguchi and Ruderman; Vice Chair Inouye, Ihara and Rhodes and members of the Committees my name is Peter Fritz. I am testifying in my individual capacity. I am opposed to programs that pay subminimum wages to workers with disabilities and am testifying in **opposition to this bill unless language is added to amend the wage and hour law to remove the authorization to pay subminimum wages to workers with disabilities.**

Removing paragraph (5) from Section 103-1001 opens the procurement process to any Qualified Rehabilitation Community Program (“QCRP”), including those that can pay subminimum wages for workers with disabilities.

I am opposed to programs that pay subminimum wages to individuals with disabilities. The federal government closed the subminimum wage exception for federal contractors and Hawaii should do the same. This requires amending the minimum wage law and would be consistent with statements made by Governor Ige and leaders from both chambers of the Legislature to increase in the minimum wage. The language for such an amendment is:

Section 387-9, Hawaii Revised Statutes, is amended to read as follows:

"§387-9 Special minimum wages for learners; apprentices; full-time students; paroled wards of Hawaii youth correctional facility[; ~~handicapped workers~~]. (a) Notwithstanding the provisions of section 387-2, the director may by rule provide for the employment[;:

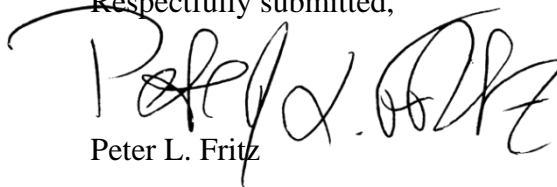
(1) ~~Of~~ of learners, of apprentices, of part-time employees who are full-time students attending public or private schools other than colleges, universities, business schools, or technical schools, and of wards paroled from the Hawaii youth correctional facility, under special certificates issued by the director, at such wages lower than the applicable minimum wage and subject to such limitations as to time, number, proportion, and length of service as the director shall prescribe[; ~~and~~

~~(2) Of individuals whose earning capacity is impaired by old age or physical or mental deficiency or injury, under special certificates issued by the director, at such wages lower than the applicable minimum wage and for such period as shall be fixed in the certificates].~~

Payment of subminimum wages to individuals with disabilities is archaic and based on preconceived notions about people with disabilities and their fitness for paid labor. Employment programs that hire people at subminimum wages have a poor record of preparing these employees for the workforce. According to the National Council on Disability, 95 percent of workers with disabilities who are hired at subminimum wages never obtain competitive employment in their communities.

It is time for Hawaii to end the archaic practice of paying a subminimum wage to workers with disabilities and amend Hawaii's wage and hour law to prohibit the payment of subminimum wages to workers with disabilities. Advance this bill only if an amendment to the wage and hour law is added to this bill.

Respectfully submitted,



Peter L. Fritz

February 9, 2020

Senator Laura H. Thielen

Senator Brian T. Taniguchi

Senator Russell E. Ruderman, & Committee Members

Thank you for the opportunity to testify in Support of SB 2468.

TESTIMONY IN SUPPORT OF SB2468

The State Partners in Employment Program (PeP) is authorized by HRS103-1009-1010. The intent of this legislation to utilize the State's buying power to provide employment and training opportunities for persons with disabilities thus reducing their dependency on public assistance programs. Only Non-profit organizations (NPO) whose mission in part is to provide employment and training opportunities for person with disabilities can participate in the PeP Program. In addition, non-profit (NPO) PeP program participants must be prequalified with supporting documentation at the State Procurement Office (SPO) DAGS.

One of the qualifying requirements for the PeP list participants requires the NPO to have a current 14-C Certification issued by both the Federal and State Labor Departments. These 14-C Certificates allow for exemption of minimum and prevailing wage rates thus allowing the payment of sub-minimum wages for persons with disabilities. Currently Hawaii's NPO's are not paying their disabled employees a sub-minimum wage. However, the requirement for the NPO to have a current 14-C Certification is still listed the in the Procurement documents. At the same time DOL will discontinue the 14-C Certificate if sub-minimum wages are not being paid. This would result in the PeP Program being rendered useless, and many persons with disabilities would lose their jobs. There has been opposition to 14-C's nationwide and as a result both Congress and the Hawaii State Legislature have submitted legislation that would repeal, reform, or replace 14-C with something fairer and more equitable. The issue however is complex and will take tome to work as a way the through the legislative process.

The purpose of this Bill would be to remove the 14-C requirements from the PeP Program, which would allow the NPO's to continue to provide paid employment at minimum wage or higher for persons with disabilities on government contracts while the 14-C issue is being reformed.

For clarification, this Bill would NOT in any way repeal or change 14-C Certificates. That is a separate issue.

Mahalo for your consideration,

Rene Berthiaume, Chair Legislative Committee, State Rehabilitation Council

501c3 Partners
335 Merchants Street, No. 2537
Honolulu, HI 96804

February 9, 2020

To: The Senate Committee's on Government Operations;
Labor, Culture and The Arts; and Human Services

Re: Hearing on Bill 2468 – February 11, 2020, at 2:50 PM, Room 225

TESTIMONY IN SUPPORT

Chairs Thielen, Taniguchi, and Ruderman and the members of the committees. I am here today to offer testimony on Bill 2468, which allows community rehabilitation programs (CRP) for persons with disabilities to be considered qualified under the State's procurement code without requiring federal and state certification that authorizes the payment of subminimum wage to workers in their program.

Currently the Fair Labor Standards Act, Title 29 USC § 214(c) requires CRP to possess a § 214(c) (commonly referred to as 14(c) certificate) in order to obtain a bidding preference or contract set-aside from various federal, state, and county departments and agencies. Obtaining these contracts allows the CRP to provide training and employment opportunities to disabled workers. In the past possession of a 14(c) certificate also allowed CRP's to pay a sub-minimum training wage to employees working in a contracted employment setting (i.e. stocking commissary shelves at one of our military bases; providing building maintenance in the Prince Kuhio Federal Building; or operating the Hale Ania Dining Facility at Joint Base Pearl Harbor-Hickam).

At the State and County level our CRP's provide a variety services to a number of state and county entities including; DAGS, DCCA, DLNR, DOH, DPS plus many more. (*Attached to this testimony is the State Procurement Office List of services provided by our Qualified Rehabilitation Programs.*)

Currently none of Hawaii's CRP's are paying their trainees and employees a sub-minimum wage.

Presently pending in Congress are two bills S.260 and HR-873 which, if passed, strengthen and enhance the disability employment service delivery systems throughout the states. The goal of the bills is to increase disability employment by expanding the infrastructure for providing services for competitive integrated employment and integrated services, while simultaneously phasing out Special Wage Certificates (SWCs) under Section 214(c) of the Fair Labor Standards Act.

The removal of the 14(c)-qualifying provision from the State Procurement Code bring Hawaii into alignment with the changes outlined in S.260 and HR-873. will also address the unjustified concerns of many disability rights advocates regarding the payment of subminimum wages to disabled workers employed by CRP's.

In closing, I would like the committees to note, that the removal of the 14(c) requirements will ensure that no one, disable or not, will receive a wage lower than our state's minimum wage. In addition, there may be a positive indirect consequence of allowing other nonprofit organizations that provide supported employment services via Hawaii's 1915c Medicaid Waiver Program to individuals with special needs such as autism, learning disabilities, or cerebral palsy to become procurement vendors for our state and county agencies.

I am happy to answer any question the committee members may have.

Most respectfully,

A handwritten signature in black ink, appearing to read "G. Massengale", written in a cursive style.

George S. Massengale, JD

Attachment:

SB-2468

Submitted on: 2/10/2020 7:14:23 PM

Testimony for GVO on 2/11/2020 2:50:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Katie	Testifying for National Federation of the Blind of Hawaii	Support	No

Comments:

TESTIMONY BEFORE THE SENATE COMMITTEE ON
GOVERNMENT OPERATIONS, THE COMMITTEE ON LABOR, CULTURE &
THE ARTS and THE COMMITTEE ON HUMAN SERVICES

RE: SB 2468 - RELATING TO QUALIFIED COMMUNITY REHABILITATION
PROGRAMS

TUESDAY, FEBRUARY 11, 2020

MITZIE HIGA, LEGISLATIVE CHAIR
DEMOCRATIC PARTY OF HAWAII LABOR CAUCUS

Chair Thielen, Chair Taniguchi, Chair Baker, and Members of the Committees:

This bill removes the requirement that community rehabilitation programs (CRP's) for persons with disabilities have federal and state certification that authorizes the payment of subminimum wages, such as seven cents per hour, to workers in their program in order to be considered qualified under the State's procurement code.

Currently, the law requires that CRP's have federal and state certification authorizing the payment of subminimum wages to workers with disabilities in order to be considered qualified under the State's procurement code.

We firmly believe that the payment of subminimum wages, such as seven cents per hour, to workers with disabilities is unfair, discriminatory, and immoral. This is a discriminatory practice for those with disabilities. Not only has our state been allowing it to happen—we have been requiring it for CRP's to be qualified under the State's procurement code! Our state already dedicates resources to training and rehabilitating workers with disabilities so that they can be productive contributors in our community, so removing this requirement from the State's procurement code will promote a better Hawaii where no worker is paid below minimum wage in the state programs to raise up workers with disabilities, when even our existing minimum wage of \$10.10 is already not enough to begin with in the first place.

If the Committees are willing to complete the job of eliminating the practice of subminimum wages with an amendment to this bill, we respectfully request an amendment adding another section to this bill, which can be taken directly from SB 336, SB 349, SB 358, SB 789 HD 2, HB 232, HB 693, and other current bills:

SECTION 2. Section 387-9, Hawaii Revised Statutes, is amended by amending its title and subsection (a) to read as follows:

"§387-9 Special minimum wages for learners; apprentices; full-time students; paroled wards of Hawaii youth correctional facility[;]

~~handicapped workers~~]. (a) Notwithstanding the provisions of section 387-2, the director may by rule provide for the employment[:

(1) ~~Of~~ of learners, of apprentices, of part-time employees who are full-time students attending public or private schools other than colleges, universities, business schools, or technical schools, and of wards paroled from the Hawaii youth correctional facility, under special certificates issued by the director, at [~~such~~] wages lower than the applicable minimum wage and subject to [~~such~~] limitations as to time, number, proportion, and length of service as the director shall prescribe[; ~~and~~

(2) ~~Of individuals whose earning capacity is impaired by old age or physical or mental deficiency or injury, under special certificates issued by the director, at such wages lower than the applicable minimum wage and for such period as shall be fixed in the certificates]."~~

Mahalo for bringing this bill to a hearing. We support the bill as written but would love to see it strengthened by this amendment.

To provide a fair wage to all workers in Hawaii, including those who are disabled, the Labor Caucus asks your committee to **support** this bill with suggested amendments.

Brandon Young

Monday, January 10, 2020

SB 2468

My name is Brandon Young and I submitting testimony for Senate Bill 2468 dealing with people with disabilities. I want to first thank Sen. Thielen for having a hearing on this bill and moving this vehicle forward. Our organization supports the intent of this bill. However, we would be more in favor of simply ending the process of entities using the Section 14 C certificates when hiring people with disabilities. We would be more in favor with the language with either of the bills that are sitting in Sen. Tanaguchi's committee that he has decided not to hear. Perhaps this bill could either be amended to show this priority or to be gutted and replaced with the language with either of the two other bills about subminimum wages for people with disabilities. We would be happy with forming a task group to meet with the other entities in this community to create a common language so that the priority of the ending the payment of sub minimum wages here in Hawaii is ended. I want to thank you again for your support.

Mahalo and Aloha,

Brandon Young