2018 - Employment Bills After First Crossover

**Employment Practices and Employee Rights**

**HB 1727 HD1**  
**Paid Sick Leave** – Requires employers with 50+ employees to provide paid sick leave to employees who work over 680 hours a year. Provides that employees shall accrue one hour of paid sick leave for every 40 hours of work, up to 40 hours per calendar year unless the employer provides a higher limit. Allows such paid sick leave to be used beginning on the employee’s 750th hour of employment. Requires employees to make good faith effort to provide notice of need for leave.

Permits use of paid sick leave for:
- employee’s mental or physical illness, injury or health condition;
- care of a family member with a mental or physical illness, injury or health condition; and
- closure of the employee’s place of business by order of a public official due to a public health emergency.

Exceptions include: companies who (1) adopt or retain a paid sick leave policy that provides more paid sick leave than required by this chapter; (2) pay employees a certain amount more than the minimum wage; or (3) waive such requirements through collective bargaining.

Mandates notice and posting requirements.

**HB 2137 HD1**  
**Pay Secrecy and Pay Transparency** – Prohibits prospective employers from requesting or considering a job applicant's wage or salary history as part of an employment application process or compensation offer. Prohibits enforced wage secrecy and retaliation or discrimination against employees who disclose, discuss, or inquire about their own or coworkers' wages. HB 2137 HD1 specifies that definition of “inquire” includes verbal communications.

**HB 2173 HD2**  
**Social Media Privacy** - Prohibits employers and educational institutions from requiring or coercing employees, students, and prospective employees and students to provide protected personal online account information, including (1) login information; (2) contents of the account; (3) access to the account; or (4) access to a device for purpose of gaining access to the personal online account. Provides exceptions for (1) information that is publicly available; (2) compliance in connection with a legal proceeding; (3) workplace investigations; and (4) business accounts.

**HB 2200 HD1**  
**Workplace Temporary Restraining Orders** – Allows an employer to seek a temporary restraining order ("TRO") and injunction against further harassment of an employee or invitee who may be harassed at the employer's premises or worksite, provided that the provisions do not apply to the Department of Labor and Industrial Relations (“DLIR”) or any of its employees with investigatory duties and responsibilities.

**HB 2598 HD2**  
**Paid Family Leave** – Establishes a paid family leave fund that shall be administered by the DLIR. Requires the DLIR to adopt rules that establish a paid family leave program for all workers by
January 1, 2020. Allows the DLIR to adopt interim rules that are exempt from the HRS Chapter 91 rule making process.

Provides that such a program shall include:

- A minimum of ___ weeks of paid leave;
- Paid family leave coverage for all employees of employers that have at least one employee;
- A system of progressive wage replacement to allow low-income workers to receive a higher percentage of their weekly earnings than average or high-wage earners; and
- Job protection to ensure that utilization of paid family leave does not adversely impact employment.

Requires DLIR to start collecting payments from employers and employees by July 1, 2021 and process payments by July 1, 2022.

**HB 2602 HD1 Independent Contractors; Unemployment Insurance** – Provides three categories and twelve factors for the DLIR to apply to determine independent contractor status.

**Minimum Wage**

**HB 1627 HD1 Intellectual Disabilities; Minimum Wage** – Limits exemption authorizing compensation of persons with disabilities at a rate less than minimum wage to those with intellectual disabilities.

**SB 3023 SD2 Disabled Individuals; Minimum Wage** – Includes persons with disabilities under the minimum wage requirements. Requires the Department of Business, Economic Development, and Tourism (“DBEDT”) to study the impacts of raising the minimum wage and recommend to the Legislature how the minimum wage should be adjusted in the future.

**Workers’ Compensation (“WC”); Temporary Disability Insurance (“TDI”)**

**HB 1778 HD1 WC; Firefighters** – Improves access for firefighters to comprehensive medical benefits under the Workers' Compensation Law upon diagnosis of cancer that is presumed to arise out of and in the course of employment. Requires private health care plans to pay for or provide medical care, services, and supplies to injured employees for controverted workers' compensation claims that are accepted or determined to be compensable.

**HB 2202 HD2 WC; Medical Examination; Duly Qualified Physician** – Provides that a duly qualified physician or duly qualified surgeon selected and paid for by an employer to perform a medical examination on an employee relating to a work injury under workers' compensation shall be duly qualified to treat the injury being examined, possess medical malpractice insurance, and owe the same duty of care to the injured employee as to a traditional patient. Defines “duly qualified” as a doctor whose specialty is appropriate for the injury to be examined.

**HB 2375 HD1 TDI; Certification by APRN; Penalties; Notices; Hearings** – Permits advanced practice registered nurses to certify an employee's disability. Increases the penalty an employer is assessed for failing to submit timely wage and employment information. Permits filing of an appeal of a decision related to temporary disability insurance at the various offices of the DLIR throughout the State. HB 2375 HD1 allows the department of send notices of hearing electronically or by first class mail. SB 2375 SD2 requires the department to send notices of hearings electronically or by first class mail but
permits the notice to be posted on the department’s website in certain circumstances. Allows the parties to a hearing to appear in person, via telephone, or by other communication devices.

**HB 2377 HD1**  
**WC; Vocational Rehabilitation** – Establishes training options as part of vocational rehabilitation for injured employees when training for employment in another occupational field is required for the employee and as part of the employee's rehabilitation plan. Provides that all professional and clerical employees of the DLIR’s Rehabilitation Unit are to be administered by the DLIR Director.

**SB 2244 SD1**  
**WC Opioid Therapy; Prescription Limits** – Requires health care providers in the workers' compensation system who are authorized to prescribe opioids to adopt and maintain policies for informed consent to opioid therapy in circumstances that carry elevated risk of dependency. Establishes limits for concurrent opioid and benzodiazepine prescriptions.

**SB 2364 SD2**  
**WC; Presumption of Compensability** – Requires employers to pay for all medical services required for the employee for the compensable injury and the process of recovery, even when claims are disputed. States that an employer shall not dispute a claim for services (1) without reasonable cause or (2) while the claim is pending investigation; provided that a claim shall be presumed compensable when submitted by an employee who is excluded from health care coverage under the Hawaii Prepaid Health Care Act. Establishes negotiation, notice, and review procedures for disputed claims. Imposes fines and penalties on employers who fail to negotiate in good faith. Provides that employees shall be liable for reimbursement of benefits or payments for any disputed claim that is found to be not compensable.

**SB 2660**  
**WC; Firefighters; Cancer** – In the event of a controverted workers' compensation claim, requires an injured employee's private health care plan to pay for or provide medical care, services, and supplies; provided that when the claim is accepted, the employer shall reimburse the private health care plan and injured employee. In the event of an accepted claim for leukemia, multiple myeloma, non-Hodgkin's lymphoma, or certain cancers by a firefighter with five or more years of service, requires an employer to be liable for 137% of medical care, services, and supplies.

**Healthcare and Health Insurance; Prescription Drugs**

**HB 1602 HD2**  
**Opioid; Warning Label** – Permits the inclusion of a label warning of the risks of addiction and death on the packaging of any opioid drug dispensed by a health care professional or pharmacist.

**HB 2128 HD2**  
**Insurance Coverage; Clinical Victim Support Services; Victims of Sexual Violence and Abuse** – Requires that health insurance policies include coverage for clinical victim support services for victims of sexual violence and abuse who suffer from mental disorders. HB 2128 HD2 defines "clinical victim support service" and "victim of sexual violence or abuse" for the purposes of insurance coverage.

**HB 2145 HD1**  
**Mental Health Coverage** – Requires health insurance and hospital and medical service plans that provide prescription drug benefits to apply prorated daily cost-sharing rates for prescriptions dispensed by pharmacies.

**HB 2208 HD1**  
**Association Health Plans** – Requires association health plan policies to comply with the laws of this State regardless of the association's domicile. Enables certain voluntary associations, including employer associations that issue association health plans, to qualify for authorization to transact insurance in the State.
SB 2108 SD1  **Health Care Premium Assistance; DHS** – Requires the Department of Human Services (“DHS”) to provide health care premium assistance for individuals at various income ranges up to three hundred per cent of the federal poverty level.

SB 2199 SD1  **Affordable Care Act; State Innovation Waiver** – Authorizes the State to apply for and implement a waiver from certain provisions of the Patient Protection and Affordable Care Act of 2010, as amended.

SB 2247 SD1  **Opioid Antagonists; Prescriptions** – Authorizes pharmacists to prescribe, dispense, and provide related education on opioid antagonists to individuals at risk of opioid overdose and to family members and caregivers of individuals at risk of opioid overdose without the need for a written, approved collaborative agreement; subject to certain conditions.

SB 2340 SD2  **Health Insurance; Extended Coverage; Preexisting Conditions; Nondiscrimination** – Ensures certain benefits under the federal Affordable Care Act are preserved under Hawaii law, by prohibiting health insurance entities from imposing a preexisting condition exclusion and prohibiting health insurance entities from using an individual’s gender to determine premiums or contributions.

SB 2774 SD1  **Insurance Code; Various Revisions** – Amends various portions of the Hawaii Insurance Code under Title 24 of the Hawaii Revised Statutes (“HRS”) to update and improve existing Insurance Code provisions.

SB 2924 SD2  **Health Insurance; Creditable Coverage; Individual Mandate; Qualified Taxpayers** – Establishes an individual mandate for certain qualified taxpayers to sign up and maintain health insurance throughout the year, or pay a penalty on their individual income tax return.

**Medical Marijuana**

HB 1893 HD1  **Marijuana; Decriminalization** – Allows for the medical use of cannabidiol products upon approval by the Federal Food and Drug Administration.

HB 2729 HD2  **Medical Cannabis; Reciprocity; Background Checks** – Amends the reciprocity program and adds a visiting patient certifying fee. Extends expiration of a written certification to 3 years for chronic conditions. Permits retesting of a failed batch of medical cannabis or products. Permits dispensary licensees to distribute devices that provide safe pulmonary administration. Increases the maximum allowable tetrahydro cannibinol limit for multi-pack cannabis products and single containers of oil.

SB 2407 SD1  **Medical Use; Opioid Dependence** – Includes the medical use of cannabidiol products as allowable medical uses of cannabis for opioid use disorder.

SB 2488 SD2  **Medical Cannabis; Insurance Reimbursement; Working Group** – Establishes the medical cannabis insurance reimbursement working group to address the complexities surrounding the topic of making medical cannabis reimbursable by health insurance.

**Public Employees**

HB 1725 HD2  **Collective Bargaining; Employee Payroll Deductions** – Requires public employees in collective bargaining units to provide written notification to the exclusive representative to discontinue payroll
assignments within a certain time period. Requires the exclusive representative to forward the notification to the employer within ten business days of receipt.

HB 2114 HD2  Collective Bargaining; Scope of Negotiations – Provides that negotiations over the implementation of management decisions affecting the terms and conditions of employment that are subject to collective bargaining are not precluded from collective bargaining negotiations. HB 2114 HD1 also specifies that negotiations over the procedures and criteria of certain subjects of bargaining does not compel either party to agree to a proposal or make a concession.

SB 2373 SD1

HB 1929 HD1  Hawaii Labor Relations Board (“HLRB”); Emergency Rulemaking – Requires the HLRB to adopt emergency rules if the Board finds that Hawaii’s collective bargaining in public employment law, or the application thereof, is inconsistent with any federal or state law and the adoption of an emergency rule is urgently needed.

HB 1932 HD1  Emergency Rules; Public Proceedings and Records – Authorizes agencies to adopt specified emergency rules to lessen disruptions to prior practices caused from changes to federal law, Hawaii legislation, or court decisions.

HB 2113 HD2  Department of Human Resources Development (“DHRD”); Future State Employment; Tuition Grants – Directs DHRD to provide University of Hawaii tuition grants to students who commit to future employment with the State. Appropriates moneys.

HB 2115 HD1  K-12 Agriculture Workforce Development Pipeline – Appropriates funds to the DLIR for the K-12 agriculture workforce development pipeline initiative.

HB 2174 HD1  DBEDT; Business Development – Establishes the high-growth grant program and special fund to provide grants to qualified businesses for certain business development activities. Makes an appropriation.

SB 2363 SD2  DHRD; Supervisor Pilot Program – Requires DHRD to establish a working group to establish a pilot program where candidates for promotion to supervisor or professional positions can shadow supervisors and professionals and receive supervisory and leadership training. Appropriates funds

SB 2366 SD2  Collective Bargaining; Labor Relations Board; Delivery of Decisions and Orders; Notice Requirements – Requires the Labor Relations Board to deliver its orders and decisions by hand, USPS mail using a delivery confirmation, or electronically. Extends the time to hold a hearing on a complaint from 40 to 90 days. Repeals the requirement for the State to pay for witness fees and to conduct an audit. Establishes a collective bargaining dispute resolution special fund. Appropriates funds for one full-time equivalent attorney position, one full-time equivalent chief clerk position, and travel and interpreter costs.

SB 2367 SD2  HLRB; Occupational Safety and Health; Delivery of Decisions and Orders – Requires the HLRB to deliver its decisions and orders by hand, USPS mail with delivery confirmation, or electronically.
SB 2397 SD1  **DHRD; Telecommuting Task Force** – Establishes a temporary telecommuting task force to develop incentives and recommendations to encourage and expand telecommuting opportunities in the public and private sectors.

SB 2523 SD1  **DBEDT; Regional Economic Plans** – Requires DBEDT to develop regional economic plans for each county to provide jobs in urban and rural areas of each county based on the development or community boundaries of each respective county. Requires DBEDT to work with the Department of Education and the University of Hawaii to develop K-12 pathways for each school that emphasize skills necessary to meet the State's specific industry needs.

SB 2753  **Small Business Regulatory Review Board** – Clarifies the intent of the Small Business Regulatory Review Board's powers when reviewing state and county administrative rules that impact small business.

SB 2801 SD2  **Labor Law Enforcement Special Fund** – Establishes the Labor Law Enforcement Special Fund to finance the collection of penalties for violations of labor law; establishes two positions, including an attorney and legal assistant, in the Department of the Attorney General to represent the DLIR in collecting penalties for violations of law.

SB 2803 SD2  **Boiler and Elevator Safety Law; Fund** – Makes housekeeping amendments to Boiler and Elevator Safety Law; extends the time from five to ten years for the Director of Labor and Industrial Relations to reimburse the general fund from the Boiler and Elevator Revolving Fund.

SB 2805  **Hawaii Civil Rights Commission; Investigation and Conciliation** – Authorizes the Hawaii Civil Rights Commission Executive Director to either issue a final conciliation demand or dismiss a discrimination complaint and issue a notice of right to sue after a determination of a reasonable cause of discrimination is made. Expressly does not extend the Executive Director's authority and discretion with respect to fair housing, to comply with the federal Fair Housing Act.

**General Excise Tax ("GET"); Tax Credits**

HB 1605 HD1  **GET; Repeal of Certain Provisions** – Removes unnecessary or redundant provisions of the general excise tax laws.

HB 2416 HD1  **GET; Use Tax; Intangible Property** – Clarifies that intangible property: (1) used outside the State is exempt from the general excise tax; and (2) acquired from an unlicensed seller and used in the State is subject to the use tax.

HB 2462 HD1  **GET Exemption; Farm Equipment and Machinery** – Exempts sales of farm equipment and machinery to certain producers of agricultural products from the general excise tax.

HB 2659 HD1  **Kapolei Jobs Initiative Pilot Program; Tax Credits** – Establishes a five-year Kapolei jobs initiative pilot program that offers incentives to increase the number of businesses willing to establish themselves or open a new location in the Kapolei region. Establishes a tax credit incentive.

SB 2165 SD1  **Elderly Employees; Tax Credit** – Provides a taxpayer who hires an elderly individual a nonrefundable tax credit for the 6-month period after the individual is initially hired by the taxpayer. Applies to taxable years beginning after December 31, 2018.

SB 2508 SD1  **GET; Out of State Business; Nexus Standard** – Creates a nexus standard for taxing out-of-state businesses on their business activities in Hawaii.
SB 2905 SD2  **Tax Credit; On-Site Child Facilities** – Establishes an income tax credit for employers who create on-site early childhood facilities. Establishes and appropriates funds for one on-site early childhood facility coordinator position.

**Miscellaneous**

HB 1621 HD1  **Merchandise Returns and Refunds; Defective Goods; Damaged Goods; Shipping Charges; Handling Charges; Unfair and Deceptive Trade Practices** – Requires merchants to refund shipping and handling charges paid by the consumer when the consumer returns a damaged or defective good and requests a refund.

HB 1651 HD1  **UH Graduate Students; Collective Bargaining** – Establishes a collective bargaining unit for graduate student assistants employed by the University of Hawaii.

HB 1774 HD1  **Income Withholding; Restitution; Crime Victims** – Creates standards and procedures for income withholding for purposes of enforcing restitution orders. Provides appropriations to the Department of the Attorney General.

HB 1847 HD1  **Sexual Abuse of 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 to eight years (instead of four) after April 24, 2012 if the victim is barred from filing a claim due to the expiration of the applicable civil statute of limitations that was in effect prior to April 24, 2012.

HB 1906 HD2  **Health Care Work; Assault** – Makes intentionally or knowingly causing bodily injury to a health care worker a Class C felony.

HB 2003 HD1  **DUI; Employer Vehicles** – Allows requests for permits that authorize the respondent or defendant to operate an employer's vehicle during the period of license revocation to be supported by the employer's sworn statement attesting to the period of the specified assigned hours of work that the defendant will drive the vehicle for purposes of employment.

HB 2019 HD1  **Homeless Employee Grant Program** – Establishes a 3-year homeless employment grant program that provides homeless individuals with work opportunities and connects them with service providers. Requires the Governor's Coordinator on Homelessness to submit a report to the Legislature prior to the 2019 Regular Session on implementing the program. Appropriates funds.

HB 2671 HD1  **Displaced Workers; Molokai** – Appropriates funds to the Office of the Governor; the DLIR; the DBEDT; DHRD; and the Department of Agriculture to collaboratively develop and implement solutions to assist dislocated workers and address the overall continued availability of gainful employment on the island of Molokai.

SB 2242 SD2  **Workforce Development; Students** – Appropriates funds for the establishment of a workforce development microgrant program to award grants to public high school students for costs associated with technical or workforce training related to certain industries.

SB 2461 SD1  **Service Animals; Misrepresentation; Definition** – Establishes the offense of “misrepresentation of a service animal”. Changes the term "service dog" to "service animal" and amends the definition of that term to conform with the Americans with Disabilities Act of 1990.
SB 2719 SD1  **Sexual Abuse of a Child; Statute of Limitations** – Extends the amount of time from the date an act of child sexual abuse occurred for a victim to bring a civil cause of action.

SB 2742 SD1  **Criminal History Record Information** – Resolves inconsistencies in the processing of expungements and public dissemination of criminal history record information relating to cases in which the defendant is acquitted or charges are dismissed by reason of physical or mental disease, disorder, or defect under HRS Chapter 704, or is involuntarily hospitalized under HRS Section 706-607.

SB 2746 SD1  **Child Support; Income Withholding** – Amends the income withholding requirements to impose a fine against any employer who discharges from employment, refuses to employ, or takes disciplinary action against any noncustodial parent subject to income withholding, or who fails to comply with an order of assignment of future income.

SB 2747 SD22  **Nonprofit Corporations** – Amends HRS Chapter 414D to clarify that public benefit corporations may not purchase its memberships, to clarify that a person who does not have authority to vote as a member of the board is not a director, to clarify that a corporation with members may designate its directors, to add previous wording that was inadvertently removed through Act 87, Session Laws of Hawaii 2017, and to increase the length of time that the Attorney General has to review proposed sale of substantially all of the assets of public benefit corporations other than in the regular course of its activities.

SB 2748 SD2  **Charitable Organizations** – Amends HRS Chapter 467B to substitute the term "total revenue" in place of "gross revenue", clarify when professional solicitors must file financial reports, clarify when commercial co-venturers must provide a charitable organization with an accounting and the benefit, eliminate the requirement for certain charitable organizations to submit an audit report, and make other housekeeping amendments.

SB 3044 SD2  **Employment of Minors; Theatrical Employment** – Requires an on-set teacher be present with and accompany a minor under 14 years of age whenever the minor is on set and employed for theatrical purposes.