**2020 – Employment Bills Introduced**

**Employment Practices and Employee Rights**

HB 1652  **Paid Leave** – Requires certain employers to provide employees with 12 months of paid caregiving leave during any calendar year to care for the employee's spouse, civil union partner, reciprocal beneficiary, significant other, relative, friend, or neighbor.

HB 1841  **Noncompete Agreements; Low Wage Workers** – Prohibits noncompete agreements for low wage workers whose earnings do not exceed the greater of the minimum wage required by federal or state law or $15 per hour.

HB 1904  **Uniform Employee and Student Online Privacy Protection Act** – Prohibits employers from requiring or coercing an employee to disclose login credentials for a social media account or take an adverse action against an employee for failing to provide such information. Provides exceptions for accessing information that is publicly available, complying with legal requirements, enforcing employer policy on employer-owned devices or employee-owned devices used for business purposes, or conducting an investigation.

HB 1782  **Criminal History Check** – Changes the lookback period for criminal conviction checks from 10 years to felony convictions that occurred in the most recent 5 years and misdemeanor convictions that occurred in the most recent 3 years.

HB 1701  **Equal Pay** – Expands the Equal Pay Act to prohibit compensation discrimination not only because of sex, but also because of gender identity or expression, sexual orientation, age, religion, color, ancestry, disability, marital status, arrest and court record and domestic or sexual violence victim status. Changes the comparison standard from “equal work” to “substantially similar work.” Deletes as permissible reasons for compensation differentials (1) BFOQ and (2) permissible factor other than sex. Clarifies that employees who have access to wage information of other employees as part of such employee’s essential job functions generally cannot disclose the wages of other employees, unless in response to a complaint, investigation, proceeding, or hearing. Requires employers to provide (1) the pay scale for a position to applicant and (2) the wage range of substantially similar jobs to employees annually upon request.

HB 1980  **Earned Income Tax Credits** – Requires all employers to notify their employees in writing of the availability of federal and state earned income tax credits.

HB 2057  **Domestic Violence** – Clarifies the permissible documentation to verify an employee is a victim of domestic or sexual violence:
- Records or files of a court or government agency including police reports, valid restraining orders, injunctions against harassment, and documents from criminal cases;
- Documentation from a victim services organization or domestic or sexual violence program, agency, or facility, including a shelter or safe house for victims of domestic or sexual violence; or
- Documentation from a medical professional, mental health care provider, attorney, advocate, social worker, or member of the clergy from whom the employee or the employee’s minor child has sought assistance in relation to the domestic or sexual violence.

HB 2061  Child Support – Increases the maximum fine for an 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 to pay child support.

SB 2310

HB 2053  Internships and Training Programs – Expands HRS 378-2 to prohibit employment discrimination in an internship or job training program.

SB 2312

HB 2054  Sexual Harassment or Assault; Nondisclosure Agreements – Prohibits an employer from requiring an employee to enter into a nondisclosure agreement pertaining to sexual harassment or sexual assault. Prohibits an employer from retaliating against an employee for disclosing or discussing sexual harassment or sexual assault.

SB 2313

HB 2063  Agreements to Arbitrate; Confidentiality Clauses; Sexual Harassment – Makes unenforceable confidentiality clauses in employment contracts when an act of sexual harassment or sexual assault is claimed. Allows employees to request confidentiality of a settlement. Establishes civil penalties if an employer requests a confidentiality agreement as part of a legal settlement or arbitrator’s award concerning a sexual harassment or sexual assault claim. Establishes a 21-day time period for an employee to review a voluntary confidentiality agreement, and a 7-day time period to revoke consent after executing the agreement.

SB 2314

HB 2091  UH; Criminal History Check – Amends HRS § 846-2.7. Adds the University of Hawaii to the list of agencies that are authorized to conduct criminal history record checks on current or prospective employees, including student employees and contractors and their employees, whose positions or duties are related to public safety.

SB 2933

HB 2123  Sexual Harassment; Legal Settlements – Requires employers with 50 or more employees to file regular electronic reports with the HCRC on legal settlements regarding sexual harassment. Requires HCRC to publish quantitative information about such legal settlements.

SB 3092

HB 2148  Family Leave Law – Extends the Family Leave Law to include care for employees’ grandchildren.

HB 2219  Family Leave Insurance – Establishes a family leave insurance fund to provide covered individuals with up to 16 weeks of paid family leave each calendar year. Requires employers and employees to contribute to the fund based on the contribution rate to TDI. Sets the weekly benefit amount based on a sliding scale of wage levels, up to a maximum of $1,000. Expands Hawaii Family leave law to apply to all employers, not just those with 100+ employees. Permits leave to care for a child of a reciprocal beneficiary, grandchild,
child of covered individuals who stands in loco parentis, hanai parent, parent or grandparent of a reciprocal beneficiary, or person who stands in loco parentis for a minor child.

HB 2469  Employment Discrimination – Clarifies that Hawaii’s anti-discrimination law does not prohibit or prevent an employer, employment agency, or labor organization from refusing to hire or refer or from discharging an individual for reasons unrelated to unlawful discriminatory practices.

SB 2785  Employment Discrimination – Clarifies that Hawaii’s anti-discrimination law does not prohibit or prevent an employer, employment agency, or labor organization from refusing to hire or refer or from discharging an individual for reasons unrelated to unlawful discriminatory practices.

HB 2559  DLIR; Order of Wage Payment Violation; Penalties – Authorizes the DLIR to issue an order of wage payment violation to an employer in violation of provisions regarding wage and hour. Establishes penalties, enforcement, and appeal procedures related to orders of wage payment violations. Amends the “wage” definition under Chapter 387, Hawaii Revised Statutes, wage and hour law, to include compensation for labor or services rendered by an employee, whether the amount is determined on a time, task, piece, commission, or other basis of calculation.

HB 2560  Wages; Paid Leave – Amends the definition of “wages” in state law regarding wages and other compensation to include any paid time off or personal time off or holiday, sick, or vacation pay earned and payable in accordance with the terms of an employee’s policy or a written agreement with the employer.

HB 2708  Taxation; Withholding – Requires the Department of Taxation to authorize certain low-income individuals to reduce the amount of tax withheld from their wages by a prorated portion of the state earned income tax credit the taxpayers would otherwise be entitled to claim on an annual basis.

SB 2321  Civil Rights; Fair Employment Rights; Notice; Posting – Requires all employers to post in a conspicuous place a notice prepared by the HCRC.

SB 2554  Seizure First Aid – Requires employers to educate employees regarding seizure first aid with information provided by department of labor and industrial relations. Protects from civil liability employees who administer seizure first aid, except for gross negligence or wanton acts or omissions.

SB 2906  DLIR; Penalties – Increases penalties for various laws enforced by DLIR, including:
- DLIR’s catchall penalty: Increases from $250 to $500
- Lie Detector Test: Civil penalty increases from $250 to $2,500. Criminal penalty increases from $1,000 to $2,500.
- Whistleblowers’ Protection Act: Increases from $750 to $7,500.
- Leave for domestic or sexual violence: Increases from $10 to $100.
- Additional unemployment compensation benefits: Fines would be between $175 to $1,750 (instead of $20 to $200).
- Workers’ compensations inspections: Increases from $250 to $500.
- Workers’ compensation fraud: Increases from $10,000 to $20,000.
- Wage & Hour willful hindering investigations: Increases from $500 to $10,000.
- Wage & Hour criminal fines: Fines would be between $500 and $5,000 (instead of $50 and $500).
• **Job application processing fees:** Fines would be between $250 and $2,500 (instead of $100 to $1,000).
• **TDI failure to pay assessment:** Increases from $10 to $250.
• **TDI failure to file claims:** Increases from $10 to $250.
• **TDI violations:** Increases from $250 to $500.

**Wage and Hour; Payroll; Flexible Spending Accounts; Workers’ Compensation**

HB 1601  **Workers’ Compensation; Average Weekly Wages** – Adjusts the method of calculating average weekly wages for workers’ compensation claims by eliminating “at the time of personal injury.”

SB 2641  

HB 1605  **Service Charge; Tips** – Prohibits hotels and restaurants from applying a service charge for the sale of food or beverage services that will be used to pay for costs or expenses other than wages and tips of employees.

SB 2230  

HB 2239  **Dependent Care Flexible Spending Accounts** – Establishes Dependent Care Flexible Spending Accounts for all working taxpayers. Outlines requirements and limitations of accounts. Applies to taxable years beginning after 12/31/20.

HB 2273  **Wages; Penalties** – Increases the penalty for violation of wages and hours laws to a class C felony.

HB 2541  **Minimum Wage** – Increases minimum wage to:

SB 3102  • $11.00/hour beginning January 1, 2021  
• $12.00/hour beginning January 1, 2022  
• $12.50/hour beginning January 1, 2023  
• $13.00/hour beginning January 1, 2024

HB 2641  **Workers’ Compensation; Attorney’s Fees** – Removes the guidelines for determining attorney’s fees for claimants in worker’s compensation claims.

SB 2466  **Minimum Wage** – Increases minimum wage to:

• $11.30/hour beginning January 1, 2021  
• $12.50/hour beginning January 1, 2022  
• $13.75/hour beginning January 1, 2023  
• $15.00/hour beginning January 1, 2024

SB 2656  **Minimum Wage Commission** – Establishes a minimum wage commission to recommend the annual rate of increase for the minimum wage.

SB 2769  **Child Support; Spousal Support; Income Withholding; Tips** – Includes tips or gratuities paid directly to an individual by a customer of the employer and reported or declared to the employer under the definition of income withheld by employers for payments of child or spousal support.
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SB 2921  **Withholding** – Amends the due date for employers to file the wage and tax statement from the last day of February to January 31 following the close of the calendar year. Imposes a $25 penalty per failure, up to a maximum of $50 per employee, on employers that fail to timely furnish and file the wage and tax statement.

**Safety**

HB 2351  **Boiler and Elevator Safety Law; Third-Party** – Adds to section to HRS Chapter 397 authorizing the DLIR to allow third-party inspectors and third-party inspection companies to conduct certain types of elevator inspections. Effective July 1, 2020, repealed June 30, 2025.

SB 2907  **Safety**

**Health and Insurance Bills**

HB 1608  **Prescription Drugs; Wholesale** – Authorizes the Department of Health to implement a program for wholesale drug importation.

HB 1613  **Disabilities; Medicaid; Buy-in Program** – Requires the department of human services to establish a Medicaid buy-in program for workers with disabilities.

HB 1699  **Healthcare; Annual Premium Cost** – Requires employers to include the annual premium cost of health care paid by the employer on behalf of the employee on the employee’s final pay stub for the calendar year.

HB 1796  **Insurance; Insulin** – Places a cap on the total amount that an insured is required to pay for a prescription insulin drug at $100 per thirty-day supply of that drug.

SB 2009  **Healthcare; Annual Premium Cost**

HB 1805  **Prescription Drugs; Price Increases** – Requires drug manufacturers to notify prescription drug benefit plans and pharmacy benefit managers if a proposed increase in the wholesale price of certain drugs would result in a sixteen per cent or more price increase over a two-year period. Requires the drug manufacturer to identify and report to the insurance commissioner information on certain drugs whose wholesale acquisition cost increases by a certain amount during a specified time frame.

HB 2425  **Domestic Abuse; Insurance Policies** – Amends the definition of domestic abuse under Hawaii’s insurance laws and domestic abuse protective order statutes to include coercive control between family or household members. Defines coercive control.

SB 2539  **Reproductive Health Care** – Requires health insurers, mutual benefit societies, and health maintenance organizations to provide coverage for a comprehensive category of reproductive health services, drugs, devices, products, and procedures. Prohibits discrimination in the provision of reproductive health care services.
SB 2284 **Health Care Insurance; Step Therapy** – Prohibits a health care insurer, mutual benefit society, or health maintenance organization from requiring an insured, subscriber, member, or enrollee diagnosed with stage two through stage four cancer to undergo step therapy prior to covering the insured for the drug prescribed by the insured’s health care provider, under certain conditions.

SB 2439 **Auto-Injectable Epinephrine; Minors** – Requires insurers, mutual benefit societies, and health maintenance organizations to provide coverage for the cost of auto-injectable epinephrine for insured persons eighteen years of age or younger, beginning 1/1/2021.

SB 2443 **Prescription Insulin Drugs** – Requires insurers, mutual benefit societies, and health maintenance organizations that provide coverage for prescription insulin drugs to cap the total amount the policyholder, member, or subscriber is required to pay at an amount not to exceed $100 per thirty-day supply of insulin, beginning 1/1/2021. Requires the insurance commissioner with the assistance of the attorney general to investigate prescription insulin drug pricing and submit a report to the legislature, governor, and general public.

SB 2444 **Canadian Prescription Drug Importation Program** – Establishes the Canadian Prescription Drug Importation Program to be implemented and administered by the department of health. Requires the department of health to obtain federal approval, make reports, and adopt rules.

SB 2583 **Hearing Aids** – Requires health insurance policies and contracts issued after 12/31/2021 to provide coverage for the cost of hearing aids at a minimum of $1,500 per hearing aid for each hearing-impaired ear every thirty-six months in their base plans. Exempts mandatory health care coverage from impact assessment report.

SB 2773 **Opioids; Initial Prescription; Acute Pain; Providers; Verbal Discussion; Risks** – Requires providers authorized to prescribe opioids to discuss with patients certain risks associated with controlled substances that are opioids prior to issuing initial opioid prescriptions for the treatment of acute pain. Requires providers to include a note acknowledging the discussion of the risks associated with opioids in the patient’s medical record.

**Marijuana**

HB 2082 **Marijuana; Criminalization** – Repeals the decriminalization of the possession of three grams or less of marijuana and re-establishes the classification of a petty misdemeanor.

HB 2689 **Industrial Hemp** – Excludes hemp from the definition of marijuana. Appropriates funds.

SB 2360 **Marijuana Legalization** – Legalizes the personal use, possession, and sale of marijuana in a specified quantity. Does NOT require employers to accommodate use, consumption, possession, transfer, display, transport, sale, or growing of marijuana in the workplace. Also permits employer to restrict use of marijuana by employees.

SB 2361 **Marijuana; Decriminalization** – Repeals criminal prohibitions and penalties pertaining to marijuana.
SB 2543  **Medical Cannabis Discrimination** – Prohibits employment discrimination based on the person's status as a medical cannabis cardholder, or registered cardholder’s positive drug test, unless the patient was impaired during work. Permits employers to use a fit for duty test as a tool for medical cannabis users in potentially dangerous occupations.

SB 2586  **Reimbursement by Insurer** - Permits qualifying patients to be reimbursed by health insurers, mutual benefit societies, and health maintenance organizations for amounts spent on medical cannabis and manufactured cannabis products. Limits the monthly amount of reimbursement.

**Public Contracts**

HB 2482 **Qualified Community Rehabilitation Programs; Persons with Disabilities; Procurement Code** – 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.

HB 2497 **Public Contracts; Living Wage** – Requires employers doing business with state agencies pursuant to a contract, subcontract, lease, sublease, permit, or license to pay each of its employees a wage of not less than $15 per hour worked, adjusted annual for any increase in the cost of living. Requires concessionaires to retain employees of prior concessionaires.

**Construction**

HB 1799 **Structural Steel Contractor License** – Requires a specialty contractor to obtain a C-48 specialty license (structural steel contractor) or sublicense if the performance of work on a contract requires a C-48 specialty license or sublicense and the specialty contractor does not have that specialty license or sublicense.

SB 2482 **Incidental and Supplemental Work; Structural Steel Contractors** – Specifies that the performance of any new work in the craft or trade of structural steel contractors shall not be considered incidental and supplemental.

SB 2483 **Specialty Contractors; Incidental and Supplemental Work; Limitation of Operations** – Clarifies that a specialty contractor may perform work in crafts or trades other than in which the specialty contractor is licensed provided that, when measured by the time and expense in executing the contract, the work is substantially less than and only incidental and supplemental to the performance of work in the craft for which the specialty contractor is licensed.

SB 2961 **Wages; Timely Payment; General Contractors; Subcontractors; Liability** – Makes general contractors entering into or under contracts in the State for work on buildings, structures, or other private works liable for debt incurred by subcontractors for wages due to claimants for performance of labor in the contract between the general contractor and owner.
SB 3138  **Rental Housing Projects; Prevailing Wages** – Prevailing wage for 201H-36(a)(5) projects requires either a CBA with a prevailing wage for the laborers and mechanics employed for the construction project has been approved by the director, or a project labor agreement with the group whose wages are reflected in the Hawaii prevailing wage schedule for the laborers and mechanics employed for the construction project have been approved by the director.

**Gender Equity**

HB 1687  **Restrooms; Gender Equity** – Requires that restrooms and toilet facilities of public amusement facilities constructed, renovated, or installed after 1/1/21 have two female-use toilets for each male-use toilet or urinal.

SB 2636  **Gender Equity on Publicly Held Boards** – Requires publicly held domestic and foreign corporations to includes certain numbers of females among their boards of directors. If its number of directors is six or more, the corporation shall have at least three female directors. If its number of directors is five, the corporation shall have at least two female directors. If its number of directors is four or fewer, the corporation shall have at least one female director.

**Holidays**

HB 1677  **State Holidays; Election Day** – Repeals the designation of Election Day as a state holiday.

HB 2402  **State Holidays; Paid Leave; Election Days; Date of Birth** – Repeals the provision making election days state holidays and provides 8 hours of paid leave during normal business hours on the anniversary of an employee's date of birth on even-numbered years.

HB 2403  **State Holidays; Election Days; Paid Leave** – Repeals the provision making election days state holidays and provides public employees with 8 hours of paid leave every even-numbered year during normal business hours on a day previously agreed upon with their employer.

SB 3056  **State Holiday; Juneteenth** – Establishes June 19 of each year as a state holiday to be known as Juneteenth Day to commemorate the emancipation of enslaved African Americans throughout the former Confederate states.

SB 3096  **State Holiday; La Kuʻokoʻa; Hawaiian Recognition Day** – Establishes the Tuesday after the first Monday in November as La Kuʻokoʻa, Hawaiian Recognition Day, as an official state holiday.

**Human Trafficking**

HB 2271  **Human Trafficking; Information** – Requires large retailers and manufacturers to provide consumers with information regarding efforts to eradicate slavery and human trafficking from their supply chains. Requires the Department of Taxation to annually submit to the
Department of the Attorney General a list of retail sellers and manufacturers that are required to make disclosures.

HB 2429 Human Trafficking; Training – Establishes training requirements for employees of transient accommodations in human trafficking awareness and response. Requires operators of transient accommodations to display National Human Trafficking Resource Center hotline information to employees, establish written human trafficking prevention policies, and implement procedures for reporting known or suspected human trafficking. Requires the Hawaii Tourism Authority to monitor compliance with this Act.

SB 2041 Human Trafficking Poster – Requires covered employers to post the National Human Trafficking Hotline poster in a prominent location accessible to employees and the public. Expands covered employers to include the “transient accommodations operator,” as defined in HRS 237D-1 (i.e. provides accommodations to a transient for less than 180 consecutive days). Increases penalties for violations of posting requirement from $100 to $500 for the first offense and $1,000 for each separate offense. Permits interest to accrue on penalties. Allows DLIR to contract with state or county departments or agencies for enforcement.

SB 2551 Human Trafficking; Notice – Requires transient accommodations operators to provide training, signage, and reporting policies to employees regarding human trafficking awareness.

Miscellaneous

HB 1801 Nonprofit; UBTI – Clarifies that the GET exemption applicable to nonprofit organizations is inapplicable to UBTI under IRC section 512.

SB 2112 Withholding Tax – Amends the due date for employers to file the wage and tax statement from the last day of February to January 31 following the close of the calendar year. Imposes a penalty on employers that fail to timely furnish and file the wage and tax statement.

HB 2365 Employment of Persons with Disabilities – Establishes “Employment First” as a state policy for persons with disabilities. Requires state and county agencies to implement Employment First in hiring and in all programs and services administered or funded by the State or counties. Applies Employment First principles to Medicaid home- and community-based waiver programs. “Employment First” means the full inclusion of persons with disabilities in the workplace and community through integrated employment.

SB 2044 House Savings Account – Establishes the housing savings account system established within the department of budget and finance. Requires all employers to offer employees the opportunity to contribute to a house savings account through payroll deduction and permits employers to match the employee contribution. However, there is no tax benefits for contributions. Although enrollment is an option, the default employee contribution is 5% though the employee may elect a different amount. Requires employers to develop a form for enrollment and contribution.
SB 2213  **Parking Cash-Out Program** – Requires employers of 50 persons or more who provide a parking subsidy to employees to offer a parking cash-out program (i.e. cash in lieu of parking subsidy). “Parking subsidy” means the difference between the out-of-pocket amount paid by an employer on a regular basis in order to secure the availability of an employee parking space not owned by the employer and the price, if any, charged to an employee for use of that space.

HB 1915  **Adult Education; Workforce Development Diploma** – Establishes a workforce readiness diploma program within the department of education adult community schools program. Appropriates funds.

SB 2259  **Refundable Tax Credit; Business-Supported Child Care**- Establishes a refundable tax credit equal to an unspecified percentage of a taxpayer's eligible child care expenses. Defines eligible child care expenses to mean the sum of the taxpayer paid to a child care facility in the State to: (1) support the child care needs of the taxpayer's employees in the taxable year; and (2) purchase child care slots at the child care facility that are actually provided or reserved for children of the taxpayer's employees. Applies to taxable years beginning after December 31, 2019.

SB 2291  **Electric Vehicle Charging Stations; Solar Energy Device Installation; Parking Spaces** – Requires new parking lots and structures to install solar energy devices over as many parking spaces as practicable. Requires places of public accommodation to have at least ten per cent of parking spaces by July 1, 2020, fifty per cent of parking spaces by July 1, 2025, and seventy-five per cent of parking spaces by July 1, 2030, exclusively for electric vehicles and equipped with an electric vehicle charging system.

SB 2447  **Hawaii Retirement Savings Program; Private Sector Employees** – Establishes a Hawaii Retirement Savings Program for private sector employees. Establishes the Hawaii Retirement Savings Program Administrative Fund. Requires the Department of Budget and Finance to prepare an annual report detailing the Department's activities for the previous fiscal year to the Governor and Legislature. Appropriates funds. Exempts employers if they offered a qualified retirement plan to some or all employees within the last five years.

HB 2251  **Hawaii Retirement Savings Program; Task Force** – Establishes the Hawaii Retirement Savings Program task force, tasked with evaluating a retirement savings plan for non-government employees and reports findings and recommendations to the legislature. Appropriates funds. Task force in HB 2251 dissolves on 6/30/21; task force in SB 2490 dissolves on 3/15/2021.

SB 2731  **Emergencies; Disasters; Public Establishments; Shelter** – Prohibits public establishments from denying shelter to any person when an emergency alert advises the public to immediately seek shelter during the establishments’ normal business hours, under certain conditions. Clarifies that remuneration or expectation of remuneration paid to owners of private property for goods or services other than emergency access to land, shelter, or subsistence, including services or incidental commodities to the emergency access, does not void the exemption from civil liability afforded to these owners except where owners increase the sale price of the service or incidental commodities. “Public establishment” includes travel/transportation facilities, hotels, shopping centers,
restaurants, entertainment venues, beauty shops, massage salons and mortuaries, but excludes hospitals and health care facilities.

HB 2360  **Uniform Controlled Substances Act** – Updates HRS chapter 329 to make it consistent with amendments in the federal controlled substances law as required under section 329-11 by adding certain chemical designations of opiates.

SB 2916

HB 2712  **Commercial Driver's License Qualification Standards; Medical Waivers; Diabetes** –

SB 2993  Aligns the commercial driver's license qualification standards with federal regulations by repealing language related to medical waivers due to diabetes. Makes conforming amendments to Code of Federal Regulation citations.