

Honolulu, Hawaii

Feb 17, 2006

RE: H.B. No. 2696  
H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Third State Legislature  
Regular Session of 2006  
State of Hawaii

Sir:

Your Committee on Labor & Public Employment, to which was referred H.B. No. 2696 entitled:

"A BILL FOR AN ACT RELATING TO EMPLOYMENT PRACTICES,"

begs leave to report as follows:

The purpose of this bill is to protect legitimately ill employees by prohibiting an employer or labor organization from discriminating against an employee who uses accrued and available sick leave.

The Hawaii State AFL-CIO, IBEW Local 1357, IBEW Local 1260, and IBEW Local 1186 testified in support of this bill. The Department of Labor and Industrial Relations (DLIR), Department of Human Resources Development, Chamber of Commerce of Hawaii, Hawaii Credit Union League, Society for Human Resource Management-Hawaii Chapter, Hawaiian Electric Company, Inc., Hawaii Electric Light Company, Inc., Maui Electric Company Limited, and GEICO testified in opposition to this measure. Hawaiian Telcom commented on this measure opposing the bill as currently written, but supporting amendments to the bill.

Programs such as the Workers' Compensation Program and Temporary Disability Insurance laws were enacted to afford certain protections for ill or injured workers. However, your Committee notes that no public policy, either via statute, rule, or regulation, exists to protect the use of sick leave for illnesses of a non-chronic and short-term nature.

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While your Committee has been informed that employees have been disciplined, reprimanded, and suspended from employment for the legitimate use of sick leave, your Committee is also cognizant of the fact that abuse of sick leave also occurs. It is not the intent of this bill to protect abusers of an employer's sick leave policy, but rather to protect legitimately ill employees who use accrued and available sick leave.

To prevent misuse or abuse of sick leave benefits by employees while protecting their use of sick leave, your Committee has amended this bill by deleting its contents and inserting language that:

- (1) Makes it unlawful for an employer to discharge or otherwise punish an employee with a serious health condition who requires continuous treatment for a period greater than twelve weeks as certified by a licensed physician in the state for the lawful use of the employee's accrued and available sick leave provided by the terms and conditions of a sick leave policy under a valid collective bargaining agreement or a valid employment policy;
- (2) Establishes procedures for filing a complaint against an employer who retaliates against an employee for lawfully using sick leave;
- (3) Provides a process for hearing a complaint against an employer;
- (4) Provides remedies for unlawfully taking disciplinary action against an employee; and
- (5) Provides for judicial review for any person aggrieved by an order of DLIR.

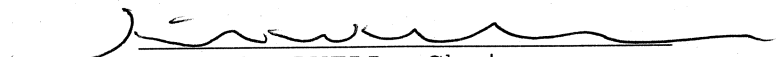
Your Committee has further amended this measure by:

- (1) Clarifying that an employer must file an answer to the complaint within 30 days of the complaint being served by DLIR; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.



As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2696, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2696, H.D. 1, and be referred to the Committee on Finance.

Respectfully submitted on  
behalf of the members of the  
Committee on Labor & Public  
Employment,

  
KIRK CALDWELL, Chair



