



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

830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813
www.hawaii.gov/labor
Phone: (808) 586-8842 / Fax: (808) 586-9099
Email: dlir.director@hawaii.gov

LATE

March 11, 2008

To: The Honorable Suzanne Chun Oakland, Chair
and Members of the Senate Committee on Human Services and Public Housing

The Honorable Brian T. Taniguchi, Chair
and Members of the Senate Committee on Judiciary and Labor

Date: March 13, 2008
Time: 1:30 p.m.
Place: Conference Room 016, State Capitol

From: Darwin L.D. Ching, Director
Department of Labor and Industrial Relations

**In Opposition
to
H.B. 2520, H.D. 3 - Relating to Caregivers**

I. OVERVIEW OF CURRENT PROPOSED LEGISLATION

House Bill 2520, H.D. 3, proposes to amend the Temporary Disability Insurance ("TDI") Law, Chapter 392, Hawaii Revised Statutes, ("HRS"), and the Hawaii Family Leave Law, Chapter 398, HRS, to permit an eligible employee to collect up to four (4) weeks of TDI benefit payments to care for a family member with a serious health condition. Job protection for employees who utilize family care benefits has been added to this proposal.

II. CURRENT LAW

TDI Law

The Disability Compensation Division ("DCD") currently administers Chapter 392, HRS, which requires employers to provide benefits to eligible employees who are unable to work due to non-work related injuries or illnesses. Employers may adopt one of the following methods of providing TDI benefits:

1. By purchasing insurance from an authorized insurance carrier (called an insured plan).

Insured plans provide statutory benefits as required by law. Benefits are paid at 58% of an employee's average weekly wage after a seven (7)-consecutive day waiting period, for a maximum of 26 weeks.

2. By adopting a sick leave policy, which must be approved by the DCD (called a self-insured plan).

The DCD evaluates the disability benefits using the Equivalency Tables established by the Insurance Division, which takes into consideration four (4) components of the plan—waiting period for illness; waiting period for accident; duration of benefits; and percentage of wage loss replaced.

Employers with self-insured plans usually use some form of salary continuation to comply with Hawaii's TDI law. Examples of plans that have been approved are:

- a. No waiting period, benefits paid at 100% of employees' wages for accident or illness for a duration of three (3) weeks. This is the most popular self-insured plan and is a form of salary continuation (State employees have this plan).
 - b. Seven-day waiting period, benefits paid at 75% of average weekly wage for eight (8) weeks, then benefits are reduced to 58%, and continues for another eight (8) weeks, for a total of 16 weeks.
3. By a collective bargaining agreement, which provides benefits at least as favorable as required by the TDI law and approved by the DCD.

Most of the collectively bargained plans combine the employees' sick leave benefits with a statutory TDI policy. For example, the employees are required to exhaust their sick leave first, and thereafter, an authorized TDI carrier pays regular TDI benefits.

Most of the self-insured plans or collectively bargained agreements are better than what is required by law. Regardless, plans other than statutory must meet the equivalency provision of the TDI law and obtain approval from the DCD. As shown by the above examples, benefits can range from 58% to 100% of wages, with no waiting periods, to waiting periods of seven (7)-consecutive days, and for a duration of three weeks to 26 weeks.

TDI benefits are provided only to eligible employees and must meet certain minimum standards for the employer's plan to be approved. To be eligible for benefits, employees must have been in Hawaii employment for at least 14 weeks during each of which the

employees were paid for 20 hours or more, in the 52-week period preceding the onset of the employees' disability. There is no guarantee of job retention for employees who go out on TDI.

Hawaii Family Leave Act ("HFLA")

The Wage Standards Division ("WSD") administers the Family Leave Law, Chapter 398, HRS, which applies to employers with 100 or more employees. Currently, the HFLA provides eligible employees up to four (4) weeks of family leave per year, which may consist of unpaid leave, paid leave, or a combination of paid and unpaid leave.

The HFLA currently provides that family leave may be used for the birth or adoption of a child or the care for the employee's reciprocal beneficiary, child, spouse, or parent with a serious medical condition.

Moreover, under recent amendments to the HFLA, employers are (1) required to allow eligible employees to use up to ten (10) days per year of their accrued sick leave for any purposes listed in the HFLA; and (2) allow employees the sole discretion of substituting any portion of their accrued vacation, personal, or paid leave for any part of the four (4) weeks of family leave granted under the HFLA.

III. HOUSE BILL

The Department recognizes the importance and struggles faced by family caregivers who are addressing the needs of Hawaii's elderly and disabled population. While the Department lauds the intent of this bill, we must respectfully oppose H.B. 2520, HD3, for the following reasons:

1. Employees would be adversely affected by this legislation.

Currently, TDI is relatively inexpensive for employers as it has low experience (risk) due to the seven (7) day waiting period. Most employees who experience a non-work related injury or illness are usually back to work within seven (7) days.

In expanding eligibility to include a "serious health condition" as defined in the HFLA, the utilization of TDI will increase dramatically, given the size of the caregiver population. This analysis is based upon the findings of the Joint Legislative Committee on Family Caregiving, which identified that over 25% of Hawaii's households have at least one (1) individual providing informal, unpaid care for a family member with a serious health condition. They also note that this

percentage was expected to increase as projections indicate that by 2020, more than one (1) in four (4) individuals will be age 60 or older.

If these findings hold true, then the practical effect will mean that the utilization of TDI will increase dramatically year after year, affecting the experience (risk) factor that helps determine the premiums charged to employers. The negative effect would be that as the employer is unable to charge the employee more than 0.5% of the employee's weekly wages toward the premium, the employer would have to absorb that dramatic cost increase.

Unlike workers' compensation, where an employer can control their utilization and cost by providing a safe and healthful workplace by decreasing the chance of injury, the employer would not be able to control the ever increasing utilization of the TDI insurance. The employer would not be able to control the circumstances in which an employee would now be entitled to utilize TDI under this bill. Specifically, the employer has no ability to control or affect the health of their employees' family members. This bill does not limit the TDI benefits to the elderly, but also to an employee's immediate children and spouse.

Employers would be forced with two (2) options to control expanding costs:

- **Eliminate benefits such as sick leave and paid leaves; or**
- **Reduce employee hours to less than 20 hours a week so that they do not qualify for TDI benefits.**

Option two (2) would be the most problematic for employees as it would not only cut back on the amount of hours they can work, but it would also mean that they would lose their Prepaid Health Care Benefit coverage as well. (The Prepaid Health Care law, similar to the TDI law, requires that employees work 20 hours a week for four (4) consecutive weeks to qualify for coverage.)

2. Amending the TDI Insurance law to include family leave as an additional eligibility could likely lead to an insurance crisis similar to the one with workers' compensation during the mid-1990's. That crisis was caused when some insurance carriers left the state and/or refused to cover small businesses as they deemed the risk was too high because the costs were too high. One factor of that high cost was high utilization. Today, lost costs for workers' compensation have decreased because utilization has decreased.

As noted before, if the committee's projections and findings are correct, TDI

insurance premiums would increase dramatically year one, with continued increases year after year thereafter. This situation could potentially force insurance carriers who offer TDI coverage to stop providing coverage as the utilization would likely be too much for the carriers to handle.

3. The Department questions the need for such a program given that the State of Hawaii already allows employees that qualify to utilize up to ten (10) days per year of their accrued sick leave for any purposes listed in the HFLA.

Additionally, employees are given the sole discretion of substituting any portion of their accrued vacation, personal, or paid leave for any part of the four (4) weeks of family leave granted under the HFLA.

The Department notes that the existing Hawaii Family Leave Act provides generous options for employees seeking to balance work and family.

4. Employers should not be mandated to provide wage replacement benefits for employees unable to work due to family situations.

The application of TDI benefits to able employees who need to **care for family members** with a serious health condition is contrary to the intent of the TDI law, which is to provide partial **wage replacement to employees who become disabled** due to non-work related injuries or illnesses.

5. This measure will increase the cost of doing business in Hawaii.

The use of TDI benefits other than for the disabled employees is inconsistent with the purpose of the existing TDI insurance policies underwritten by the authorized TDI carriers. The current TDI coverage rate structure is actuarially designed to align TDI premiums with actual plan utilization. If the TDI carriers are required to cover able employees' time loss to care for family members with serious medical conditions other than only those eligible and insured employees who become disabled, the TDI policy and premium rate structure must be adjusted to accommodate payment of benefits to family caregivers. The increase in premium rates would increase the burden on businesses since under TDI, the employees' share of insurance premiums is limited to .5% of their wage.

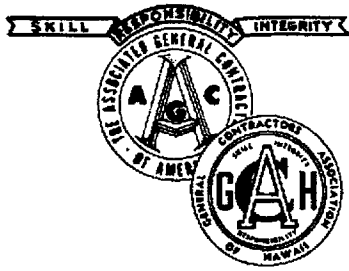
6. The use of TDI benefits for family members may result in reduced or no benefits at all for eligible employees who may subsequently suffer time loss for their own disability. Not all short-term disability plans offered by employers provide only

statutory benefits. The TDI benefits can range from 100% of the disabled employees' average weekly wages (AWW) from the first day of disability for three (3) weeks to the statutory benefits of 58% of the AWW after a seven (7)-consecutive day waiting period for a maximum of 26 weeks within any benefit year.

7. The "conformity with other laws" provision for the Family Leave Law, Chapter 398, defers conflicts between chapters to provisions under Chapter 392, the TDI Law, which may lead to inconsistencies in the administration of each law.
 - a. All employers, regardless of size, with eligible employees, are subject to the Chapter 392, the TDI Law, but only employers with 100 or more employees are subject to the State Family Leave law. Thus, all employees eligible for TDI benefits would be entitled to family caregiver benefits. Inserting a family caregiver provision into the TDI law indirectly broadens the scope of Chapter 398, which currently applies to employers with 100 or more employees and to employees who have been in the employers' employ for at least six (6) months.
 - b. A family member's "serious health condition" is not defined in the TDI law and is defined in Section 398-1. Therefore the Chapter 398 definition would apply.
 - c. Family Leave, under Chapter 398, can be paid or unpaid, whereas TDI, under Chapter 392, is all paid leave after a waiting period, if applicable. Therefore, all employees eligible for TDI would be paid family caregiver benefits under the TDI law. Again, this indirectly broadens the scope of Chapter 398 via Chapter 392.
8. Implementation of this program under the TDI law as proposed will require additional staffing to adjudicate disputes which may arise relating to issues such as:
 - a. Employee eligibility for family care benefits.
 - b. Determining whether the family member's "serious health condition" qualifies under Chapter 398-1.
 - c. Determining the appropriate benefit entitlement based upon the type of TDI plan, statutory, equivalent or collectively bargained.

The Department believes that at least one (1) hearings officer and one (1) clerk typist will be required to support these requirements, costing an estimated \$82,000 annually.

9. Given the concerns and potential issues this legislation would engender, the Department respectfully requests that the current language be deleted and the language of S.B. 2044, SD1, be inserted.



GENERAL CONTRACTORS ASSOCIATION OF HAWAII

1085 AHUA STREET • HONOLULU, HAWAII 96819-4493 • PHONE 808-833-1681 • FAX 808-839-4167

E-MAIL ADDRESS: gca@gcahawaii.org • WEBSITE: www.gcahawaii.org

LATE

March 12, 2008

TO: THE HONORABLE SENATOR SUZANNE CHUN OAKLAND AND BRIAN T. TANIGUCHI, CHAIRS AND MEMBERS OF THE COMMITTEE ON HUMAN SERVICES AND PUBLIC HOUSING & JUDICIARY AND LABOR

SUBJECT: H.B. 2520 HD3, RELATING TO CAREGIVERS

NOTICE OF HEARING

DATE: Thursday, March 13, 2008
TIME: 1:30 p.m.
PLACE: Conference Room 016

Dear Chairs Chun Oakland & Taniguchi and Members of the Committee:

The General Contractors Association of Hawaii (GCA), an organization comprised of over five hundred and forty (540) general contractors, subcontractors, and construction related firms, **strongly opposed** to HB 2520, HD3 "Relating to Caregivers".

The GCA strongly opposes HB 2520, HD3 because it will increase the cost of doing business in Hawaii and is a misuse of the TDI law. The use of TDI benefits other than for the disabled employee is inconsistent with the purpose of the existing TDI insurance policies underwritten by the authorized TDI carriers. The current TDI rate structure is based on benefits for eligible and insured employees who become disabled and do not reflect the extra costs of taking leave to care for a family member. This is certain to increase the costs of TDI premiums.

The application of TDI benefits to able employees who need to care for family members with serious health conditions is contrary to the TDI Law, which is to provide partial wage replacement to **employees** who become disabled due to non-work related injuries or illnesses.

There are other laws, such as the Hawaii Family Leave Act, that provide eligible employees up to four weeks of family leave per year, which may consist of unpaid leave, paid leave, or a combination of paid and unpaid leave. Please do not confuse TDI and Family Leave.

The GCA believes further dialogue is needed to address this very serious issue. Please **do not pass** this measure as the vehicle to encourage further collaboration and discussion.

Thank you for the opportunity to share our views.

**LATE**

March 12, 2008

TO: THE HONORABLE SENATOR SUZANNE CHUN OAKLAND AND BRIAN T. TANIGUCHI, CHAIRS AND MEMBERS OF THE COMMITTEE ON HUMAN SERVICES AND PUBLIC HOUSING AND JUDICIARY AND LABOR

SUBJECT: H.B. 2520 HD3, RELATING TO CAREGIVERS

NOTICE OF HEARING

DATE: Thursday, March 13, 2008
TIME: 1:30 p.m.
PLACE: Conference Room 016
FAX TO: 586-6659
EMAIL TO: testimony@capitol.hawaii.gov

Dear Chairs Chun Oakland and Taniguchi and Members of the Committee:

Alaka'i Mechanical Corporation strongly opposes HB 2520, HD3 because it will increase the cost of doing business in Hawaii and is a misuse of the TDI law. The use of TDI benefits other than for the disabled employee is inconsistent with the purpose of the existing TDI insurance policies underwritten by the authorized TDI carriers. The current TDI rate structure is based on benefits for eligible and insured employees who become disabled and do not reflect the extra costs of taking leave to care for a family member. This is certain to increase the costs of TDI premiums.

The application of TDI benefits to able employees who need to care for family members with serious health conditions is contrary to the TDI Law, which is to provide partial wage replacement to employees who become disabled due to non-work related injuries or illnesses.

There are other laws, such as the Hawaii Family Leave Act, that provide eligible employees up to four weeks of family leave per year, which may consist of unpaid leave, paid leave, or a combination of paid and unpaid leave. Please do not confuse TDI and Family Leave.

Alaka'i Mechanical Corporation believes further dialogue is needed to address this very serious issue. Please do not pass this measure as the vehicle to encourage further collaboration and discussion.

Thank you for the opportunity to share our views.

Ralph T. Inouye
Senior Vice President

**LATE**

Date: March 12, 2008

TO: THE HONORABLE SENATOR SUZANNE CHUN OAKLAND AND BRIAN T. TANIGUCHI,
CHAIRS AND MEMBERS OF THE COMMITTEE ON HUMAN SERVICES AND PUBLIC
HOUSING AND JUDICIARY AND LABOR

FAX: 586-6659

SUBJECT: H.B. 2520 HD3, RELATING TO CAREGIVERS

NOTICE OF HEARING

DATE: Thursday, March 13, 2008
TIME: 1:30 p.m.
PLACE: Conference Room 016
FAX TO: 586-6659
EMAIL TO: testimony@capitol.hawaii.gov

Dear Chairs Chun Oakland and Taniguchi and Members of the Committee:

Office Pavilion is strongly opposed to HB 2520, HD3 "Relating to Caregivers".

Office Pavilion strongly opposes HB 2520, HD3 because it will increase the cost of doing business in Hawaii and is a misuse of the TDI law. The use of TDI benefits other than for the disabled employee is inconsistent with the purpose of the existing TDI insurance policies underwritten by the authorized TDI carriers. The current TDI rate structure is based on benefits for eligible and insured employees who become disabled and do not reflect the extra costs of taking leave to care for a family member. This is certain to increase the costs of TDI premiums.

The application of TDI benefits to able employees who need to care for family members with serious health conditions is contrary to the TDI Law, which is to provide partial wage replacement to employees who become disabled due to non-work related injuries or illnesses.

There are other laws, such as the Hawaii Family Leave Act, that provide eligible employees up to four weeks of family leave per year, which may consist of unpaid leave, paid leave, or a combination of paid and unpaid leave. Please do not confuse TDI and Family Leave.

Office Pavilion believes further dialogue is needed to address this very serious issue. Please do not pass this measure as the vehicle to encourage further collaboration and discussion.

Thank you for the opportunity to share our views.

A handwritten signature in cursive script that reads "Eileen Paris".
Eileen Paris
H.R. Coordinator.

Contract Furnishers of Hawaii, Inc., "A Herman Miller Dealer."
Pan Am Building 1600 Kapiolani Blvd., 17th Floor, Honolulu, Hawaii 96814

Phone (808) 599-2411
Fax (808) 599-2617
E-mail: eileen@op-hawaii.com
www.op-hawaii.com

The Hawaii Teamsters and Allied Workers,
Local 996

1817 Hart Street
Honolulu, Hi. 96819

LATE

Senator Suzanne Chun-Oakland, Chair
Senator Les Ihara, Vice-Chair
Committee on Human Services and Public Housing

Senator Brian Taniguchi, Chair
Senator Clayton Hee, Vice-Chair

Date: March 13, 2008, at 1:30pm, Room 016

Re: HB2520, HD3, Relating to Caregivers.

HB2520, HD3, would allow the opportunity to care for loved ones while receiving some financial assistance to pay for gas, parking at the doctor's office, or medications they might need and ordinary daily expenses.

Some of the companies offer options that include paid leave with FMLA depending on the size and operation of the company. At OTS, Inc., TheBus, allows me to get paid FMLA buy using accrued sick leave or vacation days. I was fortunate to have this option to care for my Mom after bypass surgery two years ago. I continue to use FLMA with pay currently to provide transportation and to be there at follow up Doctor visits. I believe that providing her personal care has made her more comfortable and happier which has helped in her recovery.

The Hawaii Teamsters Local 996, Supports HB2520, HD3.

Thank you for allowing the opportunity to testify.

Glenn Ida
Local 996 PAC Co-Chair
295-1280

Klopfenstein's Lighting Inc.

1128 Nuuanu Ave Suite 101
Honolulu, HI 96817-5119

Sales Ph: (808) 533-0558 Fx: (808) 526-4085
Quotations Ph: (808) 531-4177 Fx: (808) 521-2891

LATE

March 12, 2008

TO: THE HONORABLE SENATOR SUZANNE CHUN OAKLAND AND BRIAN T. TANIGUCHI, CHAIRS AND MEMBERS OF THE COMMITTEE ON HUMAN SERVICES AND PUBLIC HOUSING AND JUDICIARY AND LABOR

SUBJECT: H.B. 2520 HD3, RELATING TO CAREGIVERS

NOTICE OF HEARING

DATE: Thursday, March 13, 2008
TIME: 1:30 p.m.
PLACE: Conference Room 016
FAX TO: 586-6659
EMAIL TO: testimony@capitol.hawaii.gov

Dear Chairs Chun Oakland and Taniguchi and Members of the Committee:

Klopfenstein's Lighting, Inc is strongly opposed to HB 2520, HD3 "Relating to Caregivers".

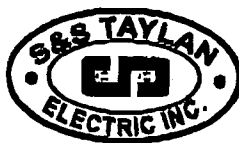
Klopfenstein's Lighting strongly opposes HB 2520, HD3 because it will increase the cost of doing business in Hawaii and is a misuse of the TDI law. The use of TDI benefits other than for the disabled employee is inconsistent with the purpose of the existing TDI insurance policies underwritten by the authorized TDI carriers. The current TDI rate structure is based on benefits for eligible and insured employees who become disabled and do not reflect the extra costs of taking leave to care for a family member. This is certain to increase the costs of TDI premiums.

The application of TDI benefits to able employees who need to care for family members with serious health conditions is contrary to the TDI Law, which is to provide partial wage replacement to employees who become disabled due to non-work related injuries or illnesses.

There are other laws, such as the Hawaii Family Leave Act, that provide eligible employees up to four weeks of family leave per year, which may consist of unpaid leave, paid leave, or a combination of paid and unpaid leave. Please do not confuse TDI and Family Leave.

Klopfenstein's Lighting believes further dialogue is needed to address this very serious issue. Please do not pass this measure as the vehicle to encourage further collaboration and discussion.

Thank you for the opportunity to share our views.

**LATE**

S & S Taylan Electric, Inc.

ELECTRICAL CONTRACTOR, C13 (19833)
94-547 UKE'E ST. #304 WAIPAHU, HI 96797
(808) 676-8611 FAX (808) 676-7972

March 12, 2008

TO: THE HONORABLE SENATOR SUZANNE CHUN OAKLAND AND BRIAN
T. TANIGUCHI, CHAIRS AND MEMBERS OF THE COMMITTEE ON
HUMAN SERVICES AND PUBLIC HOUSING AND JUDICIARY AND
LABOR

SUBJECT: HLB 2520, HD3, RELATING TO CAREGIVERS

NOTICE OF HEARING

DATE: Thursday, March 13, 2008
TIME: 1:30 p.m.
PLACE: Conference Room 016
FAX TO: 586-6659
EMAIL TO: testimony@capitol.hawaii.gov

Dear Chairs Chun Oakland and Taniguchi and Members of the Committee:

S & S Taylan Electric Inc., strongly opposed to HB 2520, HD3 "Relating to Caregivers".

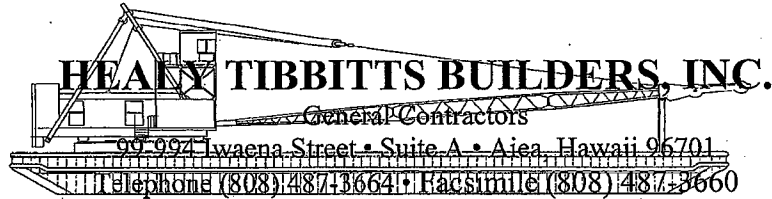
S&S Taylan Electric Inc., strongly opposes HB 2520, HD3 because it will increase the cost of doing business in Hawaii and is a misuse of the TDI law. The use of TDI benefits other than for the disabled employee is inconsistent with the purpose of the existing TDI insurance policies underwritten by the authorized TDI carriers. The current TDI rate structure is based on benefits for eligible and insured employees who become disabled and do not reflect the extra costs of taking leave to care for a family member. This is certain to increase the costs of TDI premiums.

The application of TDI benefits to able employees who need to care for family members with serious health conditions is contrary to the TDI Law, which is to provide partial wage replacement to **employees** who become disabled due to non-work related injuries or illnesses.

There are other laws, such as the Hawaii Family Leave Act, that provide eligible employees up to four weeks of family leave per year, which may consist of unpaid leave, paid leave, or a combination of paid and unpaid leave. Please do not confuse TDI and Family Leave.

S & S Taylan Electric Inc., believes further dialogue is needed to address this very serious issue. Please **do not pass** this measure as the vehicle to encourage further collaboration and discussion.

Thank you for the opportunity to share our views.



LATE

March 12, 2008

TO: THE HONORABLE SENATOR SUZANNE CHUN OAKLAND AND BRIAN T. TANIGUCHI, CHAIRS AND MEMBERS OF THE COMMITTEE ON HUMAN SERVICES AND PUBLIC HOUSING AND JUDICIARY AND LABOR

SUBJECT: H.B. 2520 HD3, RELATING TO CAREGIVERS

NOTICE OF HEARING

DATE: Thursday, March 13, 2008
TIME: 1:30 p.m.
PLACE: Conference Room 016
FAX TO: 586-6659
EMAIL TO: testimony@capitol.hawaii.gov

Dear Chairs Chun Oakland and Taniguchi and Members of the Committee:

Healy Tibbitts Builders, Inc. is strongly opposed to HB 2520, HD3 "Relating to Caregivers".

Healy Tibbitts strongly opposes HB 2520, HD3 because it will increase the cost of doing business in Hawaii and is a misuse of the TDI law. The use of TDI benefits other than for the disabled employee is inconsistent with the purpose of the existing TDI insurance policies underwritten by the authorized TDI carriers. The current TDI rate structure is based on benefits for eligible and insured employees who become disabled and do not reflect the extra costs of taking leave to care for a family member. This is certain to increase the costs of TDI premiums.

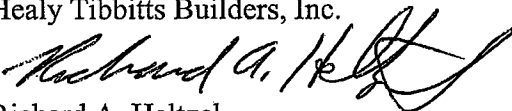
The application of TDI benefits to able employees who need to care for family members with serious health conditions is contrary to the TDI Law, which is to provide partial wage replacement to employees who become disabled due to non-work related injuries or illnesses.

There are other laws, such as the Hawaii Family Leave Act, that provide eligible employees up to four weeks of family leave per year, which may consist of unpaid leave, paid leave, or a combination of paid and unpaid leave. Please do not confuse TDI and Family Leave.

Healy Tibbitts believes further dialogue is needed to address this very serious issue. Please do not pass this measure as the vehicle to encourage further collaboration and discussion.

Thank you for the opportunity to share our views.

Very truly yours,
Healy Tibbitts Builders, Inc.


Richard A. Heltzel
President

BIA-HAWAII
BUILDING INDUSTRY ASSOCIATION

LATE

Committees on Human Services and Public Housing and
Judiciary and Labor
March 13, 2008
1:30 P.M.
Room 016

Chairs Chun Oakland and Taniguchi and Members of the Committees on Human Services and Public Housing and Judiciary and Labor:

RE: HB 2520, HD3 “Relating to Caregivers”

I am Karen Nakamura, Chief Executive Officer of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-Hawaii is strongly opposed to HB 2520, HD3 “Relating to Caregivers”.

BIA-Hawaii strongly opposes HB 2520, HD3 because it will increase the cost of doing business in Hawaii and is a misuse of the TDI law. The use of TDI benefits other than for the disabled employee is inconsistent with the purpose of the existing TDI insurance policies underwritten by the authorized TDI carriers. The current TDI rate structure is based on benefits for eligible and insured employees who become disabled and do not reflect the extra costs of taking leave to care for a family member. This is certain to increase the costs of TDI premiums.

The application of TDI benefits to able employees who need to care for family members with serious health conditions is contrary to the TDI Law, which is to provide partial wage replacement to **employees** who become disabled due to non-work related injuries or illnesses.

There are other laws, such as the Hawaii Family Leave Act, that provide eligible employees up to four weeks of family leave per year, which may consist of unpaid leave, paid leave, or a combination of paid and unpaid leave. Please do not confuse TDI and Family Leave.

BIA-Hawaii believes further dialogue is needed to address this very serious issue. Please **do not pass** this measure as the vehicle to encourage further collaboration and discussion. Thank you for the opportunity to share our views.

Karen I. Nakamura

JAYAR CONSTRUCTION, INC.

1176 Sand Island Parkway
Honolulu, Hawaii 96819
Tel (808) 843-0500, Fax (808) 843-0067
Contractor's License ABC-14156

LATE

March 12, 2008

By Fax to: 586-6659

To: The Honorable Senator Suzanne Chun Oakland and Brian T. Taniguchi, Chairs and Members of the Committee on Human Services and Public Housing and Judiciary and Labor

Subject: H.B. 2520 HD3, Relating to caregivers

Dear Chairs Chun Oakland and Taniguchi and Members of the Committee:

Jayar Construction, Inc. **STRONGLY OPPOSES** HB 2520, HD3 "Relating to caregivers".

Jayar Construction, Inc. strongly opposes HB 2520, HD3 because it will increase the cost of doing business in Hawaii and is inconsistent with the purpose and intent of the TDI Law. The current TDI insurance policies and rate structures are based on benefits for eligible and insured employees who become disabled and do not reflect the cost of paying an employee to care for a family member. To allow employees to collect TDI benefits while they care for a family member will definitely increase the cost of TDI premiums.

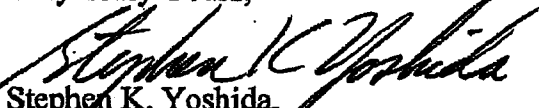
The purpose of the TDI Law is to provide partial wage replacement to employees who become disabled due to non-work related injuries or illness.

There are other laws, such as the Hawaii Family Leave Act, that provide eligible employees up to four weeks of family leave per year, which may consist of unpaid leave, paid leave, or a combination of both to care for a family member.

Jayar Construction, Inc. believes further dialogue is needed to address this very serious issue. Please do not pass this bill as a vehicle to encourage further collaboration and discussion.

Thank you for the opportunity to share our views.

Very Truly Yours,


Stephen K. Yoshida,
CFO and Human Resource Manage

"An Equal Opportunity Employer"

LATE**S & M SAKAMOTO, INC.**
GENERAL CONTRACTORS

March 12, 2008

TO: THE HONORABLE SENATOR SUZANNE CHUN OAKLAND AND BRIAN T. TANIGUCHI, CHAIRS AND MEMBERS OF THE COMMITTEE ON HUMAN SERVICES AND PUBLIC HOUSING AND JUDICIARY AND LABOR

SUBJECT: H.B. 2520 HD3, RELATING TO CAREGIVERS

NOTICE OF HEARING

DATE: Thursday, March 13, 2008
TIME: 1:30 p.m.
PLACE: Conference Room 016
FAX TO: 586-6659
EMAIL TO: testimony@capitol.hawaii.gov

Dear Chairs Chun Oakland and Taniguchi and Members of the Committee:

S & M Sakamoto, Inc. is strongly opposed to HB 2520, HD3 "Relating to Caregivers".

S & M Sakamoto, Inc. strongly opposes HB 2520, HD3 because it will increase the cost of doing business in Hawaii and is a misuse of the TDI law. The use of TDI benefits other than for the disabled employee is inconsistent with the purpose of the existing TDI insurance policies underwritten by the authorized TDI carriers. The current TDI rate structure is based on benefits for eligible and insured employees who become disabled and do not reflect the extra costs of taking leave to care for a family member. This is certain to increase the costs of TDI premiums.

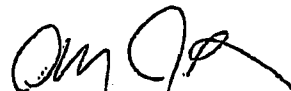
The application of TDI benefits to able employees who need to care for family members with serious health conditions is contrary to the TDI Law, which is to provide partial wage replacement to employees who become disabled due to non-work related injuries or illnesses.

There are other laws, such as the Hawaii Family Leave Act, that provide eligible employees up to four weeks of family leave per year, which may consist of unpaid leave, paid leave, or a combination of paid and unpaid leave. Please do not confuse TDI and Family Leave.

S & M Sakamoto, Inc. believes further dialogue is needed to address this very serious issue. Please do not pass this measure as the vehicle to encourage further collaboration and discussion.

Thank you for the opportunity to share our views.

Sincerely,



Dennis Ideta, Senior Vice President

LATE**Grace Pacific**CORPORATION
P.O. Box 78 / Honolulu, Hawaii 96810

Administrative Office	(808) 674-8383	fax (808) 674-1040
Paving Office	(808) 845-3991	fax (808) 842-3206
Quarry Office	(808) 672-3545	fax (808) 672-3998



March 12, 2008

TO: THE HONORABLE SENATOR SUZANNE CHUN OAKLAND AND BRIAN T. TANIGUCHI, CHAIRS AND MEMBERS OF THE COMMITTEE ON HUMAN SERVICES AND PUBLIC HOUSING AND JUDICIARY AND LABOR

SUBJECT: H.B. 2520 HD3, RELATING TO CAREGIVERS

NOTICE OF HEARING

DATE: Thursday, March 13, 2008
 TIME: 1:30 p.m.
 PLACE: Conference Room 016
 FAX TO: 586-6659
 EMAIL TO: testimony@capitol.hawaii.gov

Dear Chairs Chun Oakland and Taniguchi and Members of the Committee:

Grace Pacific Corporation, GP Roadway Solutions, GPRM Prestress LLC, Maui Paving LLC. strongly oppose HB 2520, HD3 "Relating to Caregivers".

Grace Pacific Corporation, GP Roadway Solutions, GPRM Prestress LLC, Maui Paving LLC. strongly oppose HB 2520, HD3 because it will increase the cost of doing business in Hawaii and is a misuse of the TDI law. The use of TDI benefits other than for the disabled employee is inconsistent with the purpose of the existing TDI insurance policies underwritten by the authorized TDI carriers. The current TDI rate structure is based on benefits for eligible and insured employees who become disabled and do not reflect the extra costs of taking leave to care for a family member. This is certain to increase the costs of TDI premiums.

The application of TDI benefits to able employees who need to care for family members with serious health conditions is contrary to the TDI Law, which is to provide partial wage replacement to employees who become disabled due to non-work related injuries or illnesses.

There are other laws, such as the Hawaii Family Leave Act, that provide eligible employees up to four weeks of family leave per year, which may consist of unpaid leave, paid leave, or a combination of paid and unpaid leave. Please do not confuse TDI and Family Leave.

Grace Pacific Corporation, GP Roadway Solutions, GPRM Prestress LLC, Maui Paving LLC. believes further dialogue is needed to address this very serious issue. Please do not pass this measure as the vehicle to encourage further collaboration and discussion.

Thank you for the opportunity to share our views.

Sincerely,
Cindy Saiki
 Cindy Saiki, SPHR
 Human Resources Manager

"An Equal Employment Opportunity Employer"

CONTRACTOR'S
LICENSE NO. C-5392**MASTER SHEET METAL, INC.**

1648 AUIKI ST, HONOLULU, HI 96819 / TELEPHONE 847-2128 / FAX 847-2131 / msm@hawaii.rr.com

FAX TO: 586-6659**LATE**

March 12, 2008

TO: THE HONORABLE SENATOR SUZANNE CHUN OAKLAND AND BRIAN T. TANIGUCHI, CHAIRS AND MEMBERS OF THE COMMITTEE ON HUMAN SERVICES AND PUBLIC HOUSING AND JUDICIARY AND LABOR**SUBJECT: H.B. 2520 HD3, RELATING TO CAREGIVERS**NOTICE OF HEARING**DATE:** Thursday, March 13, 2008
TIME: 1:30 p.m.
PLACE: Conference Room 016
FAX TO: 586-6659
EMAIL TO: testimony@capitol.hawaii.gov

Dear Chairs Chun Oakland and Taniguchi and Members of the Committee:

Master Sheet Metal, Inc. is strongly opposed to HB 2520, HD3 "Relating to Caregivers".

Master Sheet Metal, Inc. strongly opposes HB 2520, HD3 because it will increase the cost of doing business in Hawaii and is a misuse of the TDI law. The use of TDI benefits other than for the disabled employee is inconsistent with the purpose of the existing TDI insurance policies underwritten by the authorized TDI carriers. The current TDI rate structure is based on benefits for eligible and insured employees who become disabled and do not reflect the extra costs of taking leave to care for a family member. This is certain to increase the costs of TDI premiums.

The application of TDI benefits to able employees who need to care for family members with serious health conditions is contrary to the TDI Law, which is to provide partial wage replacement to employees who become disabled due to non-work related injuries or illnesses.

There are other laws, such as the Hawaii Family Leave Act, that provide eligible employees up to four weeks of family leave per year, which may consist of unpaid leave, paid leave, or a combination of paid and unpaid leave. Please do not confuse TDI and Family Leave.

Master Sheet Metal, Inc. believes further dialogue is needed to address this very serious issue. Please do not pass this measure as the vehicle to encourage further collaboration and discussion.

Thank you for the opportunity to share our views.

LATE



HAWAII BANKERS ASSOCIATION

1000 BISHOP ST., SUITE 301B • HONOLULU, HAWAII 96813-4203
PHONE: (808) 524-5161 • FAX: (808) 521-4120

Presentation to the Senate Committee on Human Services & Public Housing and
Senate Committee on Judiciary and Labor
Thursday, March 13, 2008
1:30 p.m.
Conference Room 016

March 13, 2008

Testimony in opposition to HB 2520, HD 3 Relating to Caregivers

TO: The Honorable Suzanne Chun Oakland, Chair
The Honorable Les Ihara, Vice Chair
Members of the Senate Committee on Human Services & Public Housing

The Honorable Brian Taniguchi, Chair
The Honorable Clayton Hee, Vice Chair
Members of the Senate Committee on Judiciary and Labor

My name is Neal Okabayashi with First Hawaiian Bank testifying on behalf of the Hawaii Bankers Association. We oppose this bill however we recognize that while the intent of this measure is "laudable", "this is a complex issue" with many unanswered questions.

We, as this nation does, recognize the serious societal ramifications of the need to care for a family member with a serious health condition. I am sure that some of you, like I, have a personal history of grappling with this need.

This nation has attempted to address this issue by enactment of the Family Medical Leave Act in 1993, one of the first bills signed by President Clinton. Hawaii passed its Family Leave law in 1991. Developing further societal solutions to a real dilemma will not be easy and will take time and should be addressed in a more deliberative manner.

Hawaii law does provide protective measures for an employee forced to take family leave to care for a loved family member. Under a recent amendment to Hawaii law, the employee may select paid vacation instead of unpaid leave for family leave (HRS section 398-4(b)) and also use up to ten days of sick leave for family leave purposes. Thus, Hawaii law already provides a mechanism for paid leave for family leave purposes.

However, the concept of using temporary disability benefits for four weeks of paid family leave purposes leads us into uncharted waters. The purpose of disability insurance is to protect the employee if the employee is disabled but to expand the scope of coverage to the disability of non-employees raises issues which should be addressed carefully and deliberately. Among the questions which may arise are whether a disability insurance carrier would even provide such coverage; the costs of such coverage; or whether the increase in costs would induce employers to reduce employee benefits to offset increased premium costs.

Given the complexity of the situation, it would seem prudent to table this bill and explore alternative solutions to this issue including addressing long term care needs such as encouraging enrollment in long term care insurance policies.

Thank you for this opportunity to testify.

**LATE**

March 12, 2008

TO: THE HONORABLE SENATOR SUZANNE CHUN OAKLAND AND BRIAN T. TANIGUCHI, CHAIRS AND MEMBERS OF THE COMMITTEE ON HUMAN SERVICES AND PUBLIC HOUSING AND JUDICIARY AND LABOR

SUBJECT: H.B. 2520 HD3, RELATING TO CAREGIVERS

NOTICE OF HEARING

DATE: Thursday, March 13, 2008
TIME: 1:30 p.m.
PLACE: Conference Room 016
FAX TO: 586-6659
EMAIL TO: testimony@capitol.hawaii.gov

Dear Chairs Chun Oakland and Taniguchi and Members of the Committee:

Projects Plus Inc. is strongly opposed to HB 2520, HD3 "Relating to Caregivers".

Projects Plus Inc. strongly opposes HB 2520, HD3 because it will increase the cost of doing business in Hawaii and is a misuse of the TDI law. The use of TDI benefits other than for the disabled employee is inconsistent with the purpose of the existing TDI insurance policies underwritten by the authorized TDI carriers. The current TDI rate structure is based on benefits for eligible and insured employees who become disabled and do not reflect the extra costs of taking leave to care for a family member. This is certain to increase the costs of TDI premiums.

The application of TDI benefits to able employees who need to care for family members with serious health conditions is contrary to the TDI Law, which is to provide partial wage replacement to employees who become disabled due to non-work related injuries or illnesses.

There are other laws, such as the Hawaii Family Leave Act, that provide eligible employees up to four weeks of family leave per year, which may consist of unpaid leave, paid leave, or a combination of paid and unpaid leave. Please do not confuse TDI and Family Leave.

Projects Plus Inc. believes further dialogue is needed to address this very serious issue. Please do not pass this measure as the vehicle to encourage further collaboration and discussion.

Thank you for the opportunity to share our views.

Sincerely,

A handwritten signature in black ink, appearing to read 'James K. Kobatake', written over a horizontal line.

James K. Kobatake
President

Testimony before the Senate Committees on Human Services and Public Housing and Judiciary and Labor

HB 2520, HD3 Relating to Caregivers

By Julie Price
Manager, Compensation and Benefits
Hawaiian Electric Company, Inc.

LATE

March 13, 2008, at 1:30 p.m.

Chairs Chun Oakland and Taniguchi, Vice Chairs Ihara and Hee, and members of the Committees:

Hawaiian Electric Company and its subsidiaries, Hawaii Electric Light Company and Maui Electric Company, oppose HB 2520, HD3. Our companies represent over 2,000 employees.

Increased Company Costs and Meeting Staffing Requirements.

This bill will increase operational costs and non-productive time. Employee absences due to sickness, holidays, vacation, family leave, and military leave make it difficult to maintain adequate staffing levels necessary for a 24/7 utility operation such as ours.

Conflicts between TDI law and Hawaii Family Leave Law.

As currently drafted, this bill allows employees to collect up to four weeks of TDI benefit payments to care for a family member with a serious health condition. Under the Hawaii Family Leave Act, employees may use up to ten days of unused sick leave to care for a family member with a serious health condition. This sick leave is at full pay. Therefore, we do not understand the need for additional mandates.

HB 2520 HD3 requires employers to provide TDI coverage for family members – child and parent as defined under HRS Chapter 398 (which refers to natural, adopted, step and hanai relationships), spouses and reciprocal beneficiaries – who suffer a serious health condition as defined under HRS Chapter 398 (Hawaii's Family Leave Law). HRS Chapter 398 defines a serious health condition to include any health condition that requires medical attention for three or more days (which can include cases of influenza or similar common illnesses that last

for more than three days). These definitions would greatly expand the situations in which TDI benefits can be used.

Clarification is needed as to whether the four week period is a maximum per year or per family member with a serious health condition. Conflicts between the TDI law and Hawaii Family Leave Act need to be addressed in detail. The “conformity with other laws” provision is not sufficient for employers to administer the requirements under both laws.

Administration and Medical Privacy.

Medical privacy is governed by the federal Health Insurance Portability and Accountability Act which protects employees from releasing their medical information. Obtaining medical information for non-employees to substantiate TDI must be addressed.

TDI law.

The original intent of TDI is to provide employees with replacement wages during their temporary non-occupational disability. Expanding coverage to include caregiving of family members, although laudable, will significantly impact companies’ operational costs.

We cannot support this bill in its present form.

Thank you for the opportunity to provide testimony on this matter.

Senator Suzanne Chun-Oakland, Chair
Committee on Human Services and Public Housing

and

LATE

Senator Brian Taniguchi, Chair
Committee on Judiciary and Labor

Support Testimony of Representative Marilyn Lee for HB2520 HD3
March 13, 2008
1:30 PM

I am in strong support of HB2520, HD3, which extends the TDI benefit to provide paid family leave benefits to workers caring for family members with a serious health condition.

In December, the Joint Legislative Committee on Family Caregiving presented a report to the Legislature recommending that paid family leave be part of an overall package to help family caregivers in our state.

Family caregivers are a huge economic asset to our state. Many family caregivers are employed, and suffer from great financial harm due to expenses incurred, and lost wages when time needs to be taken off to deal with caregiver crises.

I have become aware that the State of New Jersey has been considering a similar proposal—extending New Jersey's TDI law to provide paid family leave benefits for workers caring for sick family members, newborn and newly adopted children through A-873 introduced by Assemblyman Nelso T. Albano and others. It is moving rapidly now through the New Jersey Legislature and is expected to pass.

The mechanics of the two TDI systems vary in some degree as A-873 is broader than HB2520 in some ways and more restrictive in others. However, A-873 provisions that may be instrumental to improve or clarify the intent of HB2520.

1. A-873 provides that an employee is not eligible to receive temporary disability benefits for family leave purposes if the employee is already receiving temporary disability benefits for the employee's own disability.

H.B. 2520 can be amended by amending section 392-21, HRS, to read:

(c) An employee shall not be entitled to temporary disability benefits for a period of disability pursuant to subsection (a)(1) and (a)(2) simultaneously.

2. A-873 provides that in the case of intermittent family leave, the seven-day waiting-period applies only one time during the entire period of leave, provided that no temporary disability benefits shall be paid for family

leave that is shorter in duration than one workweek.

H.B. 2520 can be amended by adding a new section to the bill, amending section 392-24, HRS, to read:

~~[§392-24]~~ **Waiting period.** (a) No temporary disability benefits shall be payable during the first seven consecutive days of any period of disability.

(b) Consecutive periods of disability due to the same or related cause and not separated by an interval of more than two weeks shall be considered as a single period of disability~~[-]~~; provided that consecutive periods of disability of an employee's family member due to the same or related cause that are intermittent and separated by more than two weeks shall be considered as a single period of disability and the seven day waiting period under subsection (a) shall apply only one time during the entire period of disability of an employee's family member in the benefit year.

3. A-873 provides that no temporary disability benefits shall be payable for more than twelve weeks for family leave purposes during any twelve month period.

H.B. 2520 can be amended by amending section 392-23, HRS, to read:

. . . ; provided that the duration of temporary disability benefit payments for the period of disability of an employee's family member shall not exceed four weeks during any benefit year. (Emphasis added.)

4. A-873 states that "[n]othing shall be construed as nullifying any provision of an existing collective bargaining agreement or employer policy, or preventing any new provision of a collective bargaining agreement or employer policy, which provides employees more generous leave or gives employees greater rights to select which kind of leave is used or select the order in which the different kinds of leave are used."

H.B. 2520 can be amended by amending section 398-4, HRS, to read:

(d) Nothing shall be construed as nullifying any provision of an existing collective bargaining agreement or employer policy, or preventing any new provision of a collective bargaining agreement or employer policy, that provides employees more generous family leave or gives employees greater rights to select which kind of leave is used or select the order in which the different kinds of leave are used.

(Note: The addition of a new subsection will require section 398-4, HRS, to be set out in its entirety.)

5. A-873 requires an employer to notify employees of their right to use temporary disability benefits for family leave purposes.

H.B. 2520 can be amended by adding a new section to chapter 392, HRS (in section 2 of the bill), as follows:

§392-C Notice of disability benefits. An employer shall conspicuously post notification, in a place or places accessible to all employees in each of the employer's workplaces, in a form prescribed by the director, of an employee's rights regarding disability benefits under this chapter.

In addition, the following provisions of A-873 may help address other concerns raised by testifiers:

1. A-873 requires an employee to provide an employer with "prior notice of the leave in a reasonable and practicable manner" and to make "a reasonable effort to schedule the leave so as not to unduly disrupt the operations of the employer." However, consider the testimony before the Joint Legislative Committee on Family Caregiving that family caregiving responsibilities can arise unexpectedly.
2. A-873 specifies certain issues that must be addressed in the certification of disability, such as the probable duration of the condition and an estimate of the amount of time that the employee is needed to care for the family member.
3. A-873 requires a family member to submit to an independent medical examination, if requested by the State, at no cost to the employee or family member. However, consider that differences between the treating provider and the independent medical examiner may increase the number of appeals disputing the amount or duration of benefits. Also, the New Jersey temporary disability benefit law is state-operated.
4. A-873 requires the employee to contribute towards the cost of the temporary disability benefits for family leave purposes.
5. A-873 provides that an employer may require the employee to use any paid sick leave, vacation time, or other leave at full pay made available by the employer before the employee is eligible for temporary disability benefits for family leave purposes, provided that the employee cannot be required to use more than two weeks of such leave. Also, A-873 permits the use of any paid leave to be applied towards the seven-day waiting period. This provision is more restrictive than H.B. 2520, in which an

employee has discretion to use unpaid leave, including temporary disability benefits, or a combination of both. However, it may be helpful to amend H.B. 2520 to specify that an employee may use any paid sick leave, vacation time, or other leave at full pay made available by the employer during the seven-day waiting period.

Some have said this legislation would increase the cost of business—yet the opposite is true. Keeping people in the workplace is the issue here—and the cost of hiring and training a new employee is said to be 1-1/2 times yearly pay. Another positive point is the effect this would have helping families of veterans returning from war with a disability. This bill would help both veterans and workers.

This is not easy legislation—however, it is important to note that the bill would not be implemented for 2 years. This would allow the Labor Department to suggest necessary changes in the law and would allow for input from the community.

The passage of such a bill would give strong assurance to the caregivers in our community that the Legislature is appreciative of their work and encourage caregivers to continue their role.

Thank you for the opportunity to present testimony.

Lindemann Construction Inc.
500 Ala Kawa St. #216-J

FAX TO: 586-6659

LATE

March 12, 2008

TO: THE HONORABLE SENATOR SUZANNE CHUN OAKLAND AND BRIAN T. TANIGUCHI, CHAIRS AND MEMBERS OF THE COMMITTEE ON HUMAN SERVICES AND PUBLIC HOUSING AND JUDICIARY AND LABOR

SUBJECT: H.B. 2520 HD3, RELATING TO CAREGIVERS

NOTICE OF HEARING

DATE: Thursday, March 13, 2008
TIME: 1:30 p.m.
PLACE: Conference Room 016
FAX TO: 586-6659
EMAIL TO: testimony@capitol.hawaii.gov

Dear Chairs Chun Oakland and Taniguchi and Members of the Committee:

Lindemann Construction Inc. is strongly opposed to HB 2520, HD3 "Relating to Caregivers".

Lindemann Construction Inc. strongly opposes HB 2520, HD3 because it will increase the cost of doing business in Hawaii and is a misuse of the TDI law. The use of TDI benefits other than for the disabled employee is inconsistent with the purpose of the existing TDI insurance policies underwritten by the authorized TDI carriers. The current TDI rate structure is based on benefits for eligible and insured employees who become disabled and do not reflect the extra costs of taking leave to care for a family member. This is certain to increase the costs of TDI premiums.

The application of TDI benefits to able employees who need to care for family members with serious health conditions is contrary to the TDI Law, which is to provide partial wage replacement to employees who become disabled due to non-work related injuries or illnesses.

There are other laws, such as the Hawaii Family Leave Act, that provide eligible employees up to four weeks of family leave per year, which may consist of unpaid leave, paid leave, or a combination of paid and unpaid leave. Please do not confuse TDI and Family Leave.

Lindemann Construction Inc. believes further dialogue is needed to address this very serious issue. Please do not pass this measure as the vehicle to encourage further collaboration and discussion.

Thank you for the opportunity to share our views.

LATE

91-255 Oihana Street, Kapolei, Hawaii 96707 ▲ Tel: 808.682.1315 ▲ Fax: 808.682.5629 ▲ Toll Free: 1.800.342.1513

VIA FACSIMILE (586-6659)**March 12, 2008**

**TO: THE HONORABLE SENATOR SUZANNE CHUN OAKLAND AND
BRIAN T. TANIGUCHI, CHAIRS AND MEMBERS OF THE
COMMITTEE ON HUMAN SERVICES AND PUBLIC HOUSING
AND JUDICIARY AND LABOR**

SUBJECT: H.B. 2520 HD3, RELATING TO CAREGIVERS

NOTICE OF HEARING

DATE: Thursday, March 13, 2008
TIME: 1:30 p.m.
PLACE: Conference Room 016
FAX TO: 586-6659
EMAIL TO: testimony@capitol.hawaii.gov

Dear Chairs Chun Oakland and Taniguchi and Members of the Committee:

**DELTA CONSTRUCTION CORPORATION is strongly opposed to HB 2520, HD3
"Relating to Caregivers".**

**DELTA CONSTRUCTION CORPORATION strongly opposes HB 2520, HD3
because it will increase the cost of doing business in Hawaii and is a misuse of the TDI
law. The use of TDI benefits other than for the disabled employee is inconsistent with
the purpose of the existing TDI insurance policies underwritten by the authorized TDI
carriers. The current TDI rate structure is based on benefits for eligible and insured
employees who become disabled and do not reflect the extra costs of taking leave to care
for a family member. This is certain to increase the costs of TDI premiums.**

**The application of TDI benefits to able employees who need to care for family members
with serious health conditions is contrary to the TDI Law, which is to provide partial
wage replacement to employees who become disabled due to non-work related injuries or
illnesses.**

**There are other laws, such as the Hawaii Family Leave Act, that provide eligible
employees up to four weeks of family leave per year, which may consist of unpaid leave,
paid leave, or a combination of paid and unpaid leave. Please do not confuse TDI and
Family Leave.**

March 12, 2008
Page 2

DELTA CONSTRUCTION CORPORATION believes further dialogue is needed to address this very serious issue. Please **do not pass** this measure as the vehicle to encourage further collaboration and discussion.

Thank you for the opportunity to share our views.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME LOCAL 152, AFL-CIO

888 MILILANI STREET, SUITE 601 • HONOLULU, HAWAII 96813-2991



Randy Pereira *Executive Director*
Tel: 808 543-0011 Fax: 808 528-0922

Nora A. Nomura *Deputy Executive Director*
Tel: 808 543-0003 Fax: 808 528-0922

Derek M. Mizuno *Deputy Executive Director*
Tel: 808 543-0055 Fax: 808 523-6879

The Twenty-Fourth Legislature, State of Hawaii
Hawaii State Senate
Committee on Human Services and Public Housing
Committee on Judiciary and Labor

LATE

Testimony by
Hawaii Government Employees Association
March 13, 2008

**H.B. 2520, H.D. 3 – RELATING
TO CAREGIVERS**

The Hawaii Government Employees Association supports the purpose and intent of H.B. 2520, H.D. 3. The purpose of this bill is to amend the Temporary Disability Insurance (TDI) law (Chapter 392, HRS) by allowing an employee to collect up to four weeks of TDI benefit payments to care for a family member who suffers a "serious health condition," as defined in Section 398-1, HRS (family leave law).

The proposed changes to Chapter 392, HRS, maintain the existing eligibility for benefits, excluded services, waiting period, weekly benefit amount and other features. However, now, in addition to being able to collect TDI benefits if the eligible employee suffers a qualifying disability, the employee can use up to four weeks of the 26 weeks of TDI benefits if the family member has a "serious health condition." Providing wage replacement benefits are an appropriate and productive means of supporting family caregivers.

Thank you for the opportunity to present testimony in support of H.B. 2520, H.D. 3.

Respectfully submitted,

Nora A. Nomura
Deputy Executive Director

testimony

From: Scotty Anderson [scotty@pacrim-partners.com]
Sent: Wednesday, March 12, 2008 2:55 PM
To: testimony
Subject: FW: HB2520, HD3

LATE

Sorry forgot to put name etc on this first time I sent it.

From: Scotty Anderson [mailto:scotty@pacrim-partners.com]
Sent: Wednesday, March 12, 2008 2:53 PM
To: 'testimony@capitol.hawaii.gov'
Subject: HB2520, HD3

HB2520, HD3
March 13, 2008
Room 016

This bill is another assault on businesses. We cannot continue to get mandates that cost us money and we get nothing in return. This is not fair and way out of bounds.

F.M. Scotty Anderson, Pacific Rim Partners, LLC, 1405 N. King St, Hnl 96817

No virus found in this outgoing message.

Checked by AVG.

Version: 7.5.518 / Virus Database: 269.21.7/1327 - Release Date: 3/12/2008 1:27 PM

No virus found in this outgoing message.

Checked by AVG.

Version: 7.5.518 / Virus Database: 269.21.7/1327 - Release Date: 3/12/2008 1:27 PM

testimony

LATE

From: Rodney Yamamoto [Rodney@kokea.com]
Sent: Wednesday, March 12, 2008 6:28 PM
To: testimony
Subject: HD2520HD3 Relating to caregivers

My name is Rodney Yamamoto, Exec. VP of Kokea Construction and Consultants, Inc.
I AM OPPOSED TO THE PASSAGE OF THIS BILL. As legislators, you are trying to address every sociological problem at the expense of the business community. Businesses will have to hire, train and support temporary employees to take care of the workers who take advantage of the caregiver's timeoff. I am hopeful that my Representative (Scott Nishimoto) and Senator (Les Ihara) will consider the pleas of a constituent. Thank you.
Rodney T. Yamamoto 3228 Winam Avenue, Kapahulu.

3/12/2008

"Our Business is of a Higher Calling"

3 Point  **Restoration**
Interior Restoration Solutions

LATE

1-877-3 POINT O

www.3pointrestoration.com

1-808-235-7710

Committees on Human Services and Public Housing and
Judiciary and Labor
March 13, 2008
1:30 P.M.
Room 016

Chairs Chun Oakland and Taniguchi and Members of the Committees on Human Services and Public Housing and Judiciary and Labor:

RE: HB 2520, HD3 "Relating to Caregivers"

3 Point Restoration Hawaii, Inc. is strongly opposed to HB 2520, HD3 "Relating to Caregivers".

3 Point strongly opposes HB 2520, HD3 because it will increase the cost of doing business in Hawaii and is a misuse of the TDI law. The use of TDI benefits other than for the disabled employee is inconsistent with the purpose of the existing TDI insurance policies underwritten by the authorized TDI carriers. The current TDI rate structure is based on benefits for eligible and insured employees who become disabled and do not reflect the extra costs of taking leave to care for a family member. This is certain to increase the costs of TDI premiums.

The application of TDI benefits to able employees who need to care for family members with serious health conditions is contrary to the TDI Law, which is to provide partial wage replacement to employees who become disabled due to non-work related injuries or illnesses.

There are other laws, such as the Hawaii Family Leave Act, that provide eligible employees up to four weeks of family leave per year, which may consist of unpaid leave, paid leave, or a combination of paid and unpaid leave. Please do not confuse TDI and Family Leave.

3 Point Restoration Hawaii, Inc. believes further dialogue is needed to address this very serious issue. Please **do not pass** this measure as the vehicle to encourage further collaboration and discussion.
Thank you for the opportunity to share our views.

RL GREEN
3 Point Restoration Hawaii, Inc.

The Twenty-Fourth Legislature
Regular Session of 2008

THE SENATE

Committee on Human Services and Public Housing

Senator Suzanne Chun Oakland, Chair

Senator Les Ihara, Jr., Vice Chair

Committee on Judiciary and Labor

Senator Brian T. Taniguchi, Chair

Senator Clayton Hee, Vice Chair

LATE

State Capitol, Conference Room 016
Thursday, March 13, 2008; 1:30 p.m.

**STATEMENT OF THE ILWU LOCAL 142 ON H.B. 2520, HD3
RELATING TO CAREGIVERS**

The ILWU Local 142 supports H.B. 2520, HD3, which amends the Temporary Disability Insurance law to permit an eligible employee to collect up to four weeks of temporary disability insurance benefit payments to care for a family member with a qualifying disability.

Many workers in Hawaii today are called upon to be family caregivers. These individuals are forced to take time off from work (either unpaid leave or vacation) or even retire to provide care to family members who are disabled and/or elderly and need assistance with one more activities of daily living.

Allowing family caregivers to claim TDI benefits in order to provide care to family members serves multiple purposes. First, it allows for family caregivers to fulfill their obligations to family members without undue financial hardship. Second, it allows family members needing care to remain at home and not require institutionalization. Third, it promotes good will in the workplace that boosts morale and productivity and instills greater loyalty to the employer. All in all, a win-win situation.

As last amended, H.B. 2520 seems to address concerns raised by the ILWU in previous testimony. In addition, it judiciously addresses concerns raised by others and is, admittedly, a work in progress. However, the direction of the bill is clearly on the right path as it addresses a growing need and provides for family caregivers while helping to keep those needing care at home.

The ILWU urges passage of H.B. 2520, HD3. Thank you for the opportunity to share our views and concerns.

testimony

From: Ann Thornock
Sent: Thursday, March 13, 2008 8:24 AM
To: testimony
Subject: Revised SB2520 HD3 testimony.3-13-08.doc

LATE

Senator Suzanne Chun-Oakland, Chair
Committee on Human Services and Public Housing

and

Senator Brian Taniguchi, Chair
Committee on Judiciary and Labor

Support Testimony of Representative Marilyn Lee for HB2520 HD3
March 13, 2008
1:30 PM

I am in strong support of HB2520, HD3, which extends the TDI benefit to provide paid family leave benefits to workers caring for family members with a serious health condition.

In December, the Joint Legislative Committee on Family Caregiving presented a report to the Legislature recommending that paid family leave be part of an overall package to help family caregivers in our state.

Family caregivers are a huge economic asset to our state. Many family caregivers are employed, and suffer from great financial harm due to expenses incurred, and lost wages when time needs to be taken off to deal with caregiver crises.

I have become aware that the State of New Jersey has been considering a similar proposal—extending New Jersey's TDI law to provide paid family leave benefits for workers caring for sick family members, newborn and newly adopted children through A-873 introduced by Assemblyman Nelson T. Albano and others. It is moving rapidly now through the New Jersey Legislature and is expected to pass.

The mechanics of the two TDI systems vary in some degree as A-873 is broader than HB2520 in some ways and more restrictive in others. However, the following provisions of A-873 may be instrumental to improve or clarify the intent of HB2520.

1. A-873 provides that an employee is not eligible to receive temporary disability benefits for family leave purposes if the employee is already receiving temporary disability benefits for the employee's own disability.

H.B. 2520 can be amended by amending section 392-21, HRS, to read:

(c) An employee shall not be entitled to temporary disability benefits for a period of disability pursuant to

subsection (a) (1) and (a) (2) simultaneously.

2. A-873 provides that in the case of intermittent family leave, the seven-day waiting-period applies only one time during the entire period of leave, provided that no temporary disability benefits shall be paid for family leave that is shorter in duration than one workweek.

H.B. 2520 can be amended by adding a new section to the bill, amending section 392-24, HRS, to read:

[†]§392-24[†] Waiting period. (a) No temporary disability benefits shall be payable during the first seven consecutive days of any period of disability.

(b) Consecutive periods of disability due to the same or related cause and not separated by an interval of more than two weeks shall be considered as a single period of disability[→]; provided that consecutive periods of disability of an employee's family member due to the same or related cause that are intermittent and separated by more than two weeks shall be considered as a single period of disability and the seven day waiting period under subsection (a) shall apply only one time during the entire period of disability of an employee's family member in the benefit year.

3. A-873 provides that no temporary disability benefits shall be payable for more than twelve weeks for family leave purposes during any twelve month period.

H.B. 2520 can be amended by amending section 392-23, HRS, to read:

. . . ; provided that the duration of temporary disability benefit payments for the period of disability of an employee's family member shall not exceed four weeks during any benefit year. (Emphasis added.)

4. A-873 states that "[n]othing shall be construed as nullifying any provision of an existing collective bargaining agreement or employer policy, or preventing any new provision of a collective bargaining agreement or employer policy, which provides employees more generous leave or gives employees greater rights to select which kind of leave is used or select the order in which the different kinds of leave are used."

H.B. 2520 can be amended by amending section 398-4, HRS, to read:

(d) Nothing shall be construed as nullifying any provision of an existing collective bargaining agreement or employer policy, or preventing any new provision of a collective bargaining agreement or employer policy, that provides employees more generous family leave or gives employees greater rights to select which kind of leave is

used or select the order in which the different kinds of leave are used.

(Note: The addition of a new subsection will require section 398-4, HRS, to be set out in its entirety.)

5. A-873 requires an employer to notify employees of their right to use temporary disability benefits for family leave purposes.

H.B. 2520 can be amended by adding a new section to chapter 392, HRS (in section 2 of the bill), as follows:

§392=C Notice of disability benefits. An employer shall conspicuously post notification, in a place or places accessible to all employees in each of the employer's workplaces, in a form prescribed by the director, of an employee's rights regarding disability benefits under this chapter.

In addition, the following provisions of A-873 may help address other concerns raised by testifiers:

1. A-873 requires an employee to provide an employer with "prior notice of the leave in a reasonable and practicable manner" and to make "a reasonable effort to schedule the leave so as not to unduly disrupt the operations of the employer." However, consider the testimony before the Joint Legislative Committee on Family Caregiving that family caregiving responsibilities can arise unexpectedly.
2. A-873 specifies certain issues that must be addressed in the certification of disability, such as the probable duration of the condition and an estimate of the amount of time that the employee is needed to care for the family member.
3. A-873 requires a family member to submit to an independent medical examination, if requested by the State, at no cost to the employee or family member. However, consider that differences between the treating provider and the independent medical examiner may increase the number of appeals disputing the amount or duration of benefits. Also, the New Jersey temporary disability benefit law is state-operated.
4. A-873 requires the employee to contribute towards the cost of the temporary disability benefits for family leave purposes.
5. A-873 provides that an employer may require the employee to use any paid sick leave, vacation time, or other leave at full pay made available by the employer before the employee is eligible for temporary disability benefits for family leave purposes, provided that the employee cannot be required to use more than two weeks of such leave. Also, A-873 permits the use of any paid leave to be applied towards the seven-day waiting period. This provision is more restrictive than

H.B. 2520, in which an employee has discretion to use unpaid leave, including temporary disability benefits, or a combination of both. However, it may be helpful to amend H.B. 2520 to specify that an employee may use any paid sick leave, vacation time, or other leave at full pay made available by the employer during the seven-day waiting period.

Some have said this legislation would increase the cost of business—yet the opposite is true. Keeping people in the workplace is the issue here—and the cost of hiring and training a new employee is said to be 1-1/2 times yearly pay. Another positive point is the effect this would have helping families of veterans returning from war with a disability. This bill would help both veterans and workers.

This is not easy legislation—however, it is important to note that the bill would not be implemented for 2 years. This would allow the Labor Department to suggest necessary changes in the law and would allow for input from the community.

The passage of such a bill would give strong assurance to the caregivers in our community that the Legislature is appreciative of their work and encourage caregivers to continue their role.

Thank you for the opportunity to present testimony.



LATE

To: Senate Committee on Human Services and Public Housing
Senate Committee on Judiciary and Labor

Hearing: March 13, 2008
1:30 p.m.
Conference Room 016

From: Society for Human Resource Management - Hawaii Chapter

SHRM Hawaii represents more than 1,200 human resource professionals in the State of Hawaii. On behalf of our members, we would like to thank the Committee for giving us an opportunity to comment on **HB 2520, HD3**. We are currently **OPPOSED** to **HB 2520, HD3**.

As we informed the Joint Legislative Committee on Family Caregiving during its informational hearing on November 7, 2007, although providing support to caregivers is a laudable goal, insured benefits and leaves of absence are governed by a complex web of federal and state laws and regulations. Consequently, any proposed changes to HRS Chapter 392 should be thoroughly researched and carefully considered.

SHRM Hawaii has reviewed **HB 2520, HD3** and has identified several serious issues which must be addressed. These issues include:

1. **ERISA Preemption.** The Employee Retirement Income Security Act preempts state laws which seek to create employee benefit plans, 29 U.S.C. § 1144(as). HB 2520 stated purpose is to "permit an eligible employee to collect up to two weeks of temporary disability insurance benefit payments to care for a family member with a serious health condition." By imposing this new benefit requirement on employers, **HB 2520, HD3** falls squarely within the preemption provisions of ERISA. See, *Kentucky Association of Health Plans, Inc., v. Miller*, 123 S. Ct. 1471 (2003).
2. **Insurability.** **HB 2520, HD3** requires employers to provide TDI coverage for family members -- child and parent as defined under HRS Chapter 398 (which refers to natural, adopted, step and *hanai* relationships), spouses and reciprocal beneficiaries -- who suffer a serious health condition as defined under HRS Chapter 398 (Hawaii's Family Leave Law). HRS Chapter 398 defines a serious health condition to include any health condition that requires medical attention for 3 or more days (which can include cases of influenza or similar common illnesses that last for more than 3 days). These definitions would *greatly expand*

the situations in which TDI benefits can be used. The question is whether such an expansion of the program results in *uninsurable risk*.

As we suggested in November, it is critical that input be obtained from the insurance industry. If **HB 2520, HD3** is passed and the insurance companies conclude the risk is *uninsurable*, both the Department of Labor and Industrial Relations and employers will be faced with a nightmare. How can we administer a program in which a significant part of the coverage cannot be insured? Does that mean employers will be found liable for noncompliance if they cannot convince an insurance company to provide the requisite coverage? And what if an insurer provides the coverage but only at a *cost prohibitive* price? Would employers be forced to lay off some employees in order to properly insure the remaining workers? Such a result would clearly be at odds with one of the stated purposes of **HB 2520, HD3** – to ensure participation in the workforce.

3. Confusion Over Coverage. Some of the language in **HB 2520, HD3** is based on the assumption that HRS Chapter 392 requires employers to provide a leave of absence to employees who receive TDI benefits. HRS Chapter 392 *does not provide leave benefits to eligible employees* – it simply provides insurance benefits (a wage replacement) for employees who work 20 or more hours per week, have been in employment for 14 weeks, and are temporarily and totally disabled. See HRS §§ 392-21 and 392-25.

On the other hand, leaves of absence are either required by law or provided by employers through their own policies (i.e. sick leave, vacation, paid time off). Because **HB 2520, HD3** makes repeated reference to HRS Chapter 398, some will reasonably assume that coverage must only be extended to employees who have worked at least 6 or more months for employers with 100 or more employees. See HRS § 398-1.

Needless to say, the confusion in the language will inevitably result in legal disputes. It will not result in paid leaves for caregivers.

4. Medical Privacy. Although the intent of **HB 2520, HD3** is to enable employees to obtain a leave of absence if their family members suffer serious illnesses, there are no provisions which would enable: (a) a health care provider to provide information about a patient; to (b) the employer and insurance carrier of the patient's family member. Since such a disclosure is governed by the federal Health Insurance Portability and Accountability Act, what would happen if the requisite release were not or could not be provided and, as a result, no information could be given to the insurance carrier so as to obtain benefits? Clearly this is another complicated set of regulatory requirements which would have to be addressed and which is not within the control of the State.
5. Federal Legislation. It is our understanding that Congress is also looking into the possibility of enacting legislation for paid family leave. If that occurs, SHRM

Hawaii is concerned about whether steps will be taken to reconcile any federal legislation with **HB 2520, HD3** should it be enacted. At the present time, the federal Family and Medical Leave Act and the Hawaii Family and Medical Leave Act are *different* and these differences create much confusion and difficulty for employers with 100 or more employees. Should these "conflicts" continue with the passage of paid family leave at the State and Federal levels, we are fearful the result will simply be increased litigation.

Until the foregoing issues can be resolved, we are opposed to **HB 2520, HD3**. We would be more than happy to provide more information and to work with you and other important stakeholders on possible resolutions.

Once again, thank you for this opportunity to provide you with this input.

testimony

From: Judy Engkabo [jengkabo@TGHAWAII.com]
Sent: Thursday, March 13, 2008 10:21 AM
To: testimony
Subject: HB 2520, HD3 "Relating to Caregivers"

LATE

My name is Judy Engkabo, Vice President of Title Guaranty Escrow Services, Inc..

I am providing Testimony for the Human Services and Public Housing and Judiciary and Labor Committees Hearing on March 13, 2008 at 1:30 pm in Room 016.

I am opposed to HB2520, HD3 "Relating to Caregivers". This added mandated benefit will add to the costs of doing business and is unfair to employers who need to control their costs.

Customer Service Survey!- TG is committed to providing you with excellent service. Please click [here](#) to complete our Customer Service Survey!

Judy Engkabo
Vice President, Business Development
Statewide Projects Manager
Title Guaranty Escrow Services, Inc.
(808) 521-0228 Direct
(808) 533-5854 Fax
E-mail: jengkabo@tghawaii.com
Please visit our website:www.tghawaii.com
<http://www.tghawaii.com>
A Legacy Built on Promises Delivered

DISCLAIMER: This message is only intended for the addressee named above. Its contents may be confidential, privileged or otherwise protected. Any unauthorized use, disclosure or copying of this message or its contents is prohibited. If you are not the intended recipient, (i) please do not read or disclose it to others, (ii) please notify the sender by reply e-mail or phone, and (iii) please delete this communication from your system. Any personal opinions expressed in this message do not necessarily represent the views of Title Guaranty.



RALPH S. INOUE CO LTD
GENERAL CONTRACTOR

2831 Awaawaloa Street
Honolulu, Hawaii 96819

T. 808.833.9002
F. 808.833.5971

License No. ABC-457
Founded in 1962

March 12, 2008

The Honorable Senator Suzanne Chun Oakland and Brian T. Taniguchi, Chairs and Members of the
Committees on Human Services and Public Housing and Judiciary and Labor

SUBJECT: H.B. 2520 HD3, RELATING TO CAREGIVERS

NOTICE OF HEARING

LATE

DATE: Thursday, March 13, 2008
TIME: 1:30 p.m.
PLACE: Conference Room 016
FAX TO: 586-6659
EMAIL TO: testimony@capitol.hawaii.gov

Dear Chairs Chun Oakland and Taniguchi and Members of the Committee:

Ralph S. Inouye Co., Ltd. (RSI), General Contractor and a member of the General Contractors Association of Hawaii, is **strongly opposed** to HB 2520, HD3 "Relating to Caregivers".

RSI strongly opposes HB 2520, HD3 because it will increase the cost of doing business in Hawaii and is a misuse of the TDI law. The use of TDI benefits other than for the disabled employee is inconsistent with the purpose of the existing TDI insurance policies underwritten by the authorized TDI carriers. The current TDI rate structure is based on benefits for eligible and insured employees who become disabled and do not reflect the extra costs of taking leave to care for a family member. This is certain to increase the costs of TDI premiums.

The application of TDI benefits to able employees who need to care for family members with serious health conditions is contrary to the TDI Law, which is to provide partial wage replacement to employees who become disabled due to non-work related injuries or illnesses.

There are other laws, such as the Hawaii Family Leave Act, that provide eligible employees up to four weeks of family leave per year, which may consist of unpaid leave, paid leave, or a combination of paid and unpaid leave. Please do not confuse TDI and Family Leave.

RSI believes further dialogue is needed to address this very serious issue. Please **do not pass** this measure as the vehicle to encourage further collaboration and discussion.

Thank you for the opportunity to share our views.

Very truly yours,

RALPH S. INOUE CO. LTD.

Lance M. Inouye
President

LMI:ma

Testimony before the Senate Committees on Human Services and Public Housing and Judiciary and Labor

HB 2520, HD3 Relating to Caregivers

LATE

By Julie Price
Manager, Compensation and Benefits
Hawaiian Electric Company, Inc.

March 13, 2008, at 1:30 p.m.

Chairs Chun Oakland and Taniguchi, Vice Chairs Ihara and Hee, and members of the Committees:

Hawaiian Electric Company and its subsidiaries, Hawaii Electric Light Company and Maui Electric Company, oppose HB 2520, HD3. Our companies represent over 2,000 employees.

Increased Company Costs and Meeting Staffing Requirements.

This bill will increase operational costs and non-productive time. Employee absences due to sickness, holidays, vacation, family leave, and military leave make it difficult to maintain adequate staffing levels necessary for a 24/7 utility operation such as ours.

Conflicts between TDI law and Hawaii Family Leave Law.

As currently drafted, this bill allows employees to collect up to four weeks of TDI benefit payments to care for a family member with a serious health condition. Under the Hawaii Family Leave Act, employees may use up to ten days of unused sick leave to care for a family member with a serious health condition. This sick leave is at full pay. Therefore, we do not understand the need for additional mandates.

HB 2520 HD3 requires employers to provide TDI coverage for family members – child and parent as defined under HRS Chapter 398 (which refers to natural, adopted, step and hanai relationships), spouses and reciprocal beneficiaries – who suffer a serious health condition as defined under HRS Chapter 398 (Hawaii's Family Leave Law). HRS Chapter 398 defines a serious health condition to include any health condition that requires medical attention for three or more days (which can include cases of influenza or similar common illnesses that last

for more than three days). These definitions would greatly expand the situations in which TDI benefits can be used.

Clarification is needed as to whether the four week period is a maximum per year or per family member with a serious health condition. Conflicts between the TDI law and Hawaii Family Leave Act need to be addressed in detail. The “conformity with other laws” provision is not sufficient for employers to administer the requirements under both laws.

Administration and Medical Privacy.

Medical privacy is governed by the federal Health Insurance Portability and Accountability Act which protects employees from releasing their medical information. Obtaining medical information for non-employees to substantiate TDI must be addressed.

TDI law.

The original intent of TDI is to provide employees with replacement wages during their temporary non-occupational disability. Expanding coverage to include caregiving of family members, although laudable, will significantly impact companies’ operational costs.

We cannot support this bill in its present form.

Thank you for the opportunity to provide testimony on this matter.

testimony

From: Kirt Pruyn [kpruyn@hdcc.com]
Sent: Thursday, March 13, 2008 12:54 PM
To: testimony
Cc: Kirt Pruyn; Allan Lock; Gladys@GCAHawaii.Org
Subject: OPPOSITION to HB 2520 HD 3 Relating to Caregivers by Hawaiian Dredging

LATE



P.O. Box 4088
Honolulu, HI 96812-4088
Phone: (808) 735-3211
Fax: (808) 735-7416

Ma

13, 2008

Committee on Human Services and Public Housing and Judiciary and Labor
Conference Room 016
1:30 PM

SUBJECT: OPPOSITION TO HB 2520 HD 3 RELATING TO CAREGIVERS

Dear Chairs Chun-Oakland and Taniguchi and Members of the Committee:

My name is Kirt Pruyn, and I am the Manager of Business Development & Community Relations for Hawaiian Dredging Construction Company. Founded in 1902, Hawaiian Dredging is Hawaii's largest and oldest full-service general contractor, currently employing over 1,100 employees.

Hawaiian Dredging Construction Company **STRONGLY OPPOSES** HB 2520, HD3 "Relating to Caregivers" for the reasons noted below.

We believe this bill will increase the cost of doing business in Hawaii and is a misuse of the TDI law. The use of TDI benefits other than for the disabled employee is inconsistent with the purpose of the existing TDI insurance policies underwritten by the authorized TDI carriers. The current TDI rate structure is based on benefits for eligible and insured employees who become disabled and do not reflect the extra costs of taking leave to care for a family member. This is certain to increase the costs of TDI premiums.

The application of TDI benefits to able employees who need to care for family members with serious health conditions is contrary to the TDI Law, which is to provide partial wage replacement to employees who become disabled due to non-work related injuries or illnesses.

3/13/2008

There are other laws, such as the Hawaii Family Leave Act, that provide eligible employees up to four weeks of family leave per year, which may consist of unpaid leave, paid leave, or a combination of paid and unpaid leave. Please do not confuse TDI and Family Leave.

We believe that further dialogue is needed to address this very serious issue. Please do not pass this measure, and further collaboration and discussion will be encouraged.

Thank you for the opportunity to share our views.

I can be reached at 808-735-7411.



KING & NEEL, INC.

1164 Bishop Street • Suite 1710 • Honolulu, Hawaii 96813
Telephone: (808) 521-8811
Fax: (808) 526-3893



LATE

March, 13, 2008

TO: THE HONORABLE SENATOR SUZANNE CHUN OAKLAND AND BRIAN T. TANIGUCHI, CHAIRS AND MEMBERS OF THE COMMITTEE ON HUMAN SERVICES AND PUBLIC HOUSING AND JUDICIARY AND LABOR

SUBJECT: H.B. 2520 HD3, RELATING TO CAREGIVERS

Dear Chairs Chun Oakland and Taniguchi and Members of the Committee:

King & Neel, Inc. strongly opposed to HB 2520, HD3 "Relating to Caregivers".

King & Neel, Inc. strongly opposes HB 2520, HD3 because it will increase the cost of doing business in Hawaii and is a misuse of the TDI law. The use of TDI benefits other than for the disabled employee is inconsistent with the purpose of the existing TDI insurance policies underwritten by the authorized TDI carriers. The current TDI rate structure is based on benefits for eligible and insured employees who become disabled and do not reflect the extra costs of taking leave to care for a family member. This is certain to increase the costs of TDI premiums.

The application of TDI benefits to able employees who need to care for family members with serious health conditions is contrary to the TDI Law, which is to provide partial wage replacement to employees who become disabled due to non-work related injuries or illnesses.

There are other laws, such as the Hawaii Family Leave Act, that provide eligible employees up to four weeks of family leave per year, which may consist of unpaid leave, paid leave, or a combination of paid and unpaid leave. Please do not confuse TDI and Family Leave.

King & Neel, Inc. believes further dialogue is needed to address this very serious issue. Please do not pass this measure as the vehicle to encourage further collaboration and discussion.

Thank you for the opportunity to share our views.

Sincerely,

John N. Bustard
Executive Vice President

MARSH

Jerome L. Mester
Safety Consultant



MARSH MERCER KROLL
GUY CARPENTER OLIVER WYMAN

Marsh USA Inc.
745 Fort Street
Honolulu, HI 96813
808 585 3610 Fax 808 585 3510
jerome.l.mester@marsh.com
www.marsh.com

LATE

FAX TO: 586-6659

March 12, 2008

TO: THE HONORABLE SENATOR SUZANNE CHUN OAKLAND AND BRIAN T. TANIGUCHI, CHAIRS AND MEMBERS OF THE COMMITTEE ON HUMAN SERVICES AND PUBLIC HOUSING AND JUDICIARY AND LABOR

SUBJECT: H.B. 2520 HD3, RELATING TO CAREGIVERS

NOTICE OF HEARING

DATE: Thursday, March 13, 2008
TIME: 1:30 p.m.
PLACE: Conference Room 016
FAX TO: 586-6659
EMAIL TO: testimony@capitol.hawaii.gov

Dear Chairs Chun Oakland and Taniguchi and Members of the Committee:

Marsh USA strongly opposed to HB 2520, HD3 "Relating to Caregivers".

Marsh USA strongly opposes HB 2520, HD3 because it will increase the cost of doing business in Hawaii and is a misuse of the TDI law. The use of TDI benefits other than for the disabled employee is inconsistent with the purpose of the existing TDI insurance policies underwritten by the authorized TDI carriers. The current TDI rate structure is based on benefits for eligible and insured employees who become disabled and do not reflect the extra costs of taking leave to care for a family member. This is certain to increase the costs of TDI premiums.

The application of TDI benefits to able employees who need to care for family members with serious health conditions is contrary to the TDI Law, which is to provide partial wage replacement to **employees** who become disabled due to non-work related injuries or illnesses.

There are other laws, such as the Hawaii Family Leave Act, that provide eligible employees up to four weeks of family leave per year, which may consist of unpaid leave, paid leave, or a combination of paid and unpaid leave. Please do not confuse TDI and Family Leave.

Marsh USA believes further dialogue is needed to address this very serious issue. Please do not pass this measure as the vehicle to encourage further collaboration and discussion.

Thank you for the opportunity to share our views.