

LINDA LINGLE
GOVERNOR OF HAWAII



CHIYOME LEINAALA FUKINO, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

SENATE COMMITTEE ON JUDICIARY AND LABOR

SB 3078, SD 1, RELATING TO WORKSITE WELLNESS PROGRAMS

**Testimony of Chiyome Leinaala Fukino, M.D.
Director of Health**

**February 25, 2008
10:00 AM**

1 **Department's Position:** The Department strongly supports this Administration bill.

2 **Fiscal Implications:** None.

3 **Purpose and Justification:** This measure amends Chapter 321 of the Hawaii Revised Statutes by
4 adding a new section, "Worksite Wellness." This bill would grant the State and counties immunity from
5 liability for unintentional injury or damage that may occur as a result of voluntary participation in state
6 or county worksite wellness programs, except for willful and wanton misconduct, gross negligence, or
7 intentional misconduct.

8 Currently, state and county agencies may be liable for injury and damage that might occur
9 through voluntary participation in worksite wellness programs such as departmental lunch walking
10 groups and stairwell promotions to increase physical activity during the work day. While departments
11 and employees may be supportive of physical activity and health promotion activities, the threat of
12 liability has had a dampening effect.

13 In Hawaii, about half of the population are at a healthy weight and meet the recommendations
14 for physical activity. One fifth of our population eats a minimum of five servings of fruits and
15 vegetables a day. The options and accepted practices in the workplace contribute to these health

1 statistics. Worksite wellness programs have been shown effective in promoting healthy behaviors. The
2 Department requests your support so state and county agencies can encourage voluntary participation in
3 worksite wellness programs without the disincentive of liability.

4 The Department worked with the Attorney General's office to provide the amended language for
5 this Senate Draft 1.

6 Thank you for the opportunity to testify on this important measure.



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 Judiciary and Labor

Testimony by
HGEA/AFSCME, Local 152, AFL-CIO
February 25, 2008

**S.B. 3078 (SD1) - RELATING TO
WORKSITE WELLNESS PROGRAMS**

The Hawaii Government Employees Association, Local 152, AFL-CIO, supports S.B. 3078 (SD1). The Department of Health has implemented a demonstration pilot project to encourage employees to increase their physical activity level and to eat healthier. There was concern about employees who might sustain an injury while participating in this voluntary program. This bill addresses the issue of liability which has been a major concern of employers considering adopting this program. This bill provides the employer immunity from liability should an employee sustain an injury while in the program. Additionally, employees will be eligible for Workers Compensation benefits while participating in this program.

A worksite wellness program would encourage employees to improve their overall fitness level and mental alertness on the job. Healthier employees should have a positive impact by reducing the amount of sick leave taken by employees. Operational costs such as over time pay should also be reduced for the employer. In the long run, healthcare costs to the employer should be reduced.

We respectfully urge the passage of S.B. 3078 (SD1) from your committee. Thank you for the opportunity to submit our testimony in support of this bill.

Respectfully Submitted,

Nora A. Nomura
Deputy Executive Director