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

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February 23, 2009

To: The Honorable Angus L.K. McKelvey, Chair
and Members of the House Committee on
Economic Revitalization, Business, & Military Affairs

Date: Tuesday, February 24, 2009

Time: 9:30 a.m.

Place: Conference Room 312
State Capitol

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

Re: H.B. 319 - Relating to Family Leave

I. OVERVIEW OF PROPOSED LEGISLATION

H.B. 319 proposes to amend the Hawaii Family Leave Law ("HFLL"), Chapter 398, Hawaii Revised Statutes ("HRS") to require employers give annual notification of the employees' rights under the HFLL.

This legislation also requires an employer to inform the employee of any possible adverse impacts to any other employee rights as a result of taking leave under the HFLL.

This Act would take effect upon approval.

II. CURRENT LAW

The HFLL does not currently require any annual notifications by the employer or posting requirements. Hawaii Administrative Rule 12-27-10 (a) does require employers covered by the statute to "notify employees in writing at the time of hire of their rights and responsibilities, including any employer policy regarding the statute."

III. HOUSE BILL

The Department has the following concerns regarding H.B. 319:

1. This measure requires employers to alert employees of "possible adverse impacts from the taking of family leave". The purpose of the HFLL is to protect employee rights. This statement concerns the Department because it implies there is a problem with the law.
2. The Department finds that requiring annual notification to each employee of their rights under the HFLL is burdensome and unnecessary.
3. Although notice by the employer is already required under some labor laws, including the Wage and Hour Law, Chapter 387, HRS, and the Payment of Wages and Other Compensation Law, Chapter 388, HRS, none of the current notice requirements require employers to notify employees annually. Rather, these laws require employers to keep information posted in a conspicuous place that all have access to. This provides a daily reminder to individuals without waste of resources.
4. If the Committee were to amend the notification requirements in the bill, the Department recommends a posting requirement similar to Chapter 387, HRS, as follows:

"[§398-] **Posting of notices.** Every employer shall post and keep posted such notices pertaining to the application of the law as shall be prescribed by the director in conspicuous places in every establishment where any employee is employed so as to permit the employee to observe readily a copy on the way to or from the employee's place of employment."

LINDA LINGLE
GOVERNOR OF HAWAII



MARIE C. LADERTA
DIRECTOR

CINDY S. INOUE
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
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February 23, 2009

**TESTIMONY TO THE
HOUSE COMMITTEE ON ECONOMIC REVITALIZATION,
BUSINESS & MILITARY AFFAIRS**

For Hearing on February 24, 2009
9:30 a.m., Conference Room 312

BY

MARIE C. LADERTA, DIRECTOR

**House Bill No. 319
Relating to Family Leave**

WRITTEN TESTIMONY ONLY

TO CHAIRPERSON MCKELVEY AND MEMBERS OF THE COMMITTEE:

The bill proposes to amend the Hawaii Revised Statutes by adding a new section requiring employers to notify employees annually, in writing, of their entitlement to family leave, as well as possible adverse impacts that the taking of family leave may have on any other employee rights, entitlements, or benefits provided by the employer or required by law.

The Department of Human Resources Development (DHRD) opposes this measure. Given the current financial difficulties, it would not be prudent to pursue enactment. Requiring the State to send out written notices to 50,000+ employees within the Executive Branch each year will be too costly. In addition, this would go

House Bill No. 319
February 23, 2009
Page 2

against the State's and legislature's efforts to go paperless and conserve our natural resources. Notably, State employees already are apprised of the availability of Family Leave benefits via the booklet, "Summary of Employee Benefits for State of Hawaii Employees," which is posted on the DHRD website at www.hawaii.gov/hrd.

With regard to the bill requirement that employers "provide information relating to possible adverse impacts from taking family leave," we are unclear as to the intent since the Hawaii Family Leave Law has employment and benefit protection provisions.

Thank you for the opportunity to testify.

UNIVERSITY OF HAWAI‘I AT MĀNOA

School of Social Work

Testimony to the House Committee on Business, Economic Revitalization, and Military Affairs

Tuesday, February 24, 2009
Conference Room 312; 9:30am

RE: H.B. No. 319, Relating to Family Leave.

Chair McKelvey, Vice Chair Choy, and Members of the Committee,

My name is Wes Lum and I am testifying in support of this measure. I am an Assistant Specialist with the University of Hawaii Center on Aging. My testimony represents my personal opinion and does not reflect the position of the University of Hawaii nor of the Center on Aging.

This bill requires employers to annually notify employees of their entitlement to family leave, as well as possible adverse impact of taking family leave.

The “Eldercare Policies in the Workplace: Results of a Survey Conducted in 2007” conducted by the Executive Office on Aging and the “State of Hawaii Family Caregiver Needs Assessment” that was conducted by the Joint Legislative Committee on Family Caregiving were simultaneously performed in the Fall of 2007, giving the surveyors an opportunity to ask an identical set of questions to both the family caregiver and the employer. Here, I provide a comparison of the responses of the working caregiver and the employer when asked about (1) the types of eldercare benefits that the employer offers and (2) the extent to which eldercare has affected the workplace.

Comparison of Eldercare Benefits

A major discrepancy exists between the types of eldercare policies and benefits that employers offer and what working caregivers believe is offered. In all cases, the employer said that they offered numerous eldercare benefits, but the working caregiver was not aware of these benefits. Eighty percent of the employers say that they offer paid bereavement leave while only 4.7% of the employed caregivers knew of this benefit. About 70% of the employers offered unpaid family leave while only 18.0% of the working caregivers were aware of this benefit. Only five percent of the working caregivers knew that their employer offered leave without pay, but the employers said that 66.3% of the employers offered this benefit.

Comparison of Eldercare Benefits from the Employer and Caregiver Perspective

Benefits/Policies	Employer Perspective	Working Caregiver Perspective
Unpaid family leave	70.2%	18.0%
Part time work	38.5%	9.7%
Dependent care flexible spending accounts	44.2%	9.7%
Flextime	55.8%	9.7%
Brown bag lunches	11.5%	8.5%
Caregiver support groups	8.7%	8.5%
Employee assistance programs	29.8%	8.5%
Compressed work scheduled	32.7%	7.5%
Paid sick leave	53.8%	7.4%
Leave sharing	9.6%	7.3%
Paid family leave	43.3%	7.3%
Eldercare referrals	25.0%	6.3%
Legal services	9.6%	6.3%
Long-term care insurance	15.4%	5.2%
Job sharing	11.5%	5.2%
Leave without pay	66.3%	5.0%
Paid bereavement leave	79.8%	4.7%

Comparison on the Effects of Employment

Working caregivers believed that they had a higher percentage change in their work situation and impact on employment because of caregiving than did the employers. Seventeen percent of working caregivers believed that they had reduced their number of work hours while only 12% of employers believed that their employees had reduced their number of work hours due to caregiving. Eleven percent of working caregivers said that they turned down a promotion and 6.9% of employed caregivers said that they took a less demanding job due to caregiving. However, none of employers believed that their employed caregivers had made changes to their work situation in these categories.

Of those caregivers who made changes to their work situation because of caregiving, 94.3% rearranged their work schedule, 77.9% took time off during the day, and 56.3% arrived early or left work late. In comparison, employers attributed the above-mentioned changes to employee's work situation due to caregiving at 45.3%, 35%, and 41% respectively.

Comparison of Effects on Employment from the Employer and Caregiver Perspective

Effects on Employment	Employer Perspective	Working Caregiver Perspective
Changes in Work Situation of all Employed Caregivers		
1. Reduced # of work hours	12.0%	16.5%
2. Leave of absence	17.1%	11.1%
3. Turned down promotion	0%	10.8%
4. Quit job	8.5%	9.3%
5. Changed job	--	8.7%
6. Took less demanding job	0%	6.9%
7. Took 2 nd or 3 rd job	1.7%	6.0%
8. Retired	12%	3.0%
Other Impacts on Employment among Those Who Made a Change Due to Caregiving		
1. Rearranged work schedule	45.3%	94.3%
2. Took time off during the day	35.0%	77.9%
3. Arrive early or leave late	41%	56.3%
4. Experience work day interruptions for crisis care	18.8%	52.7%
5. Experience scheduling difficulties	17.1%	52.2%
6. Experience stress related health problems	12.0%	48.1%
7. Conducted personal business during work hours	24.8%	41.8%
8. Missed meetings/appointments	9.4%	41.6%
9. Experience difficulties with management	2.6%	34.0%
10. Distracted at work/poor concentration	21.4%	26.9%
11. Experience resentment from coworkers	3.4%	14.6%
12. No problems I am aware of	29.9%	--

The response rate for EOA's Employer Survey was low, which may dilute the level of precision that reflects the results of the target population as precisely as needed. However, the methodology to select the sample represents a broad cross-section of employers in Hawaii and is representative due to the randomness of the sample selection. It is quite possible that a disproportionate number of employers may have responded who are interested in eldercare issues and have initiated some steps to support caregivers. The findings of the survey should be interpreted with this caveat in mind.

In essence, there is a major discrepancy between the types of eldercare policies and benefits that employers offer and what working caregivers believe to be offered. If employees are unaware of available benefits, there will be an underutilization of such benefits.

Employers must ensure that their employees are aware of all benefits to them, and therefore, I support this measure and ask for your favorable consideration. Thank you for the opportunity to testify.

TO : HOUSE COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS &
MILITARY AFFAIRS
Rep. Angus I.K. McKelvey, Chair
Rep. Isaac W. Choy, Vice Chair

FROM: Eldon L. Wegner, Ph.D.,
PABEA (Policy Advisory Board for Elder Affairs)

SUBJECT: HB 319, HSCR 142, Relating to Family Leave

HEARING: 9:30 am Tuesday February 24, 2009
Conference Room 312, Hawaii State Capitol

RPOSE: Requires employers to notify employees annually of their entitlement to family leave, as well as possible adverse impact of taking family leave

SITION: PABEA supports this bill to require employers to notify employees annually of their entitlement to family leave as well as possible adverse impact of taking family leave.

TIONALE:

I am offering testimony on behalf of PABEA, the Policy Advisory Board for Elder Affairs, which is an appointed board tasked with advising the Executive Office on Aging (EOA). My testimony does not represent the views of the EOA but of the Board. I am also a professor of medical sociology at UH-Manoa who has worked with elderly services in Hawaii for more than 20 years.

PABEA supports the measure to require employers to notify employees of their entitlement to family leave under both federal and state laws.

§ The 2007 Family Caregiver survey sponsored by the Hawaii State Legislature showed that the vast majority of employed caregivers were unaware of the entitlement to family leave they have under state and federal laws;

§ A high proportion of employed caregivers experience high levels of stress which can interfere with their work performance, their ability to remain in the workforce or their willingness to continue caregiving;

§ Providing assistance to employed family caregivers can be a win-win for caregivers, their employers and the general public good, but such assistance is only effective if employees know of their entitlements;

§ THEREFORE, we urge your approval of this proposal.

Thank you for the opportunity to testify.



Representative Angus McKelvey, Chair
Representative Isaac Choy, Vice Chair
Committee on Economic Revitalization, Business & Military Affairs

HEARING Tuesday, February 24, 2009
 9:30 am
 Conference Room 312
 State Capitol, Honolulu, Hawaii 96813

RE: HB319, Relating to Family Leave

Chair McKelvey, Vice Chair Choy and Members of the Committee:

Retail Merchants of Hawaii (RMH) is a not-for-profit trade organization representing 200 members and over 2,000 storefronts, and is committed to support the retail industry and business in general in Hawaii.

RMH opposes HB319, relating to family leave, which requires employers to notify employees annually of their entitlement to family leave, as well as possible adverse impact of taking family leave.

Both the Family & Medical Leave Act and the Hawaii Family Leave Law require employers to place posters defining these as well as other employee benefits in prominent locations. In addition, most employers provide employee handbooks which explain employee benefits in greater detail.

Requiring an annual review of this entitlement by employers is a redundancy that is not without expense, particularly for the small business owner, and places a needless and costly burden on the employer. It would be far more efficient and effective for the employee, when faced with a family leave situation, to sit down and discuss options particular to his/her circumstance with the employer.

We respectfully request that you hold HB319. Thank you for your consideration and for the opportunity to comment on this measure.

A handwritten signature in cursive script, appearing to read 'Carol Pregill', is written in black ink.

Carol Pregill, President

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From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 21, 2009 2:50 PM
To: EBMtestimony
Cc: refrey2001@yahoo.com
Subject: Testimony for HB319 on 2/24/2009 9:30:00 AM

Testimony for EBM 2/24/2009 9:30:00 AM HB319

Conference room: 312
Testifier position: oppose
Testifier will be present: No
Submitted by: Richard Frey
Organization: Individual
Address:
Phone:
E-mail: refrey2001@yahoo.com
Submitted on: 2/21/2009

Comments:
This bill adds yet another expense to small business without any additional benefit to employees.