

LINDA LINGLE  
GOVERNOR OF HAWAII



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**STATE OF HAWAII**  
**DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT**  
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March 1, 2009

TESTIMONY TO THE  
HOUSE COMMITTEE ON FINANCE  
For Hearing on Tuesday, March 3, 2009  
12:00 p.m., Conference Room 308

BY  
MARIE C. LADERTA, DIRECTOR

**House Bill No. 982, H.D. 2**  
**Relating to Family Leave**

TO CHAIRPERSON OSHIRO AND MEMBERS OF THE COMMITTEE:

This bill proposes to amend the Hawaii Revised Statutes by adding a new section directing the Department of Labor and Industrial Relations to work with the University of Hawaii Center on Aging to create a web-based data collection system that will capture family leave information on public sector employees. Funding is to be appropriated to the University of Hawaii Center on Aging to develop and maintain the web-based system.

The Department of Human Resources Development opposes this measure for the following reasons:

1. The development and maintenance of this new system will result in increased costs at a time when the State is facing a severe budget shortfall.
2. It appears that an objective of the new system is to provide data to determine whether paid family leave should be developed and implemented for public sector employees (see page 3, lines 16-19), however, public sector employees already earn generous paid vacation and sick leaves that can be used for family leave purposes. Notably, regular public sector employees can even substitute

- accrued sick leave for any part or all of family leave allowable under the Hawaii Family Leave Law (HRS Chapter 398), up to 4 weeks per 12-month period, whereas, private sector employees can only substitute up to 10 days of sick leave for family leave purposes.
3. We are concerned that by restricting the collection and analysis of data to only one segment of the State's workforce (i.e., public sector employees), the family needs of all working individuals across the State will not be accurately represented.
  4. The data captured through this system will not even represent an accurate picture of public sector employees' needs for family leave. Since State and county government employees have generous vacation and sick leave benefits to utilize for family-related purposes, many would likely opt to apply for these paid leaves through the regular leave process, in lieu of applying for unpaid family leave through the proposed web-based process. As such, the number of employees requesting family leave through the proposed web-based system will be different from the actual number of employees taking leaves for family-related purposes.
  5. This bill requires that, prior to applying for family leave, public sector employees must enter pertinent data into the system and print out a form to submit to their employer certifying that the required data had been entered. Employees without computer access or those lacking in computer skills will clearly be at a disadvantage and may not apply for family leave because of this barrier.
  6. Employees may be apprehensive about entering personal health information into a computer system and so be reluctant to request family leave in this manner.

In view of the above concerns, we respectfully request that the Committee **HOLD** this bill. Thank you for the opportunity to testify on this matter.

LINDA LINGLE  
GOVERNOR



DARWIN L.D. CHING  
DIRECTOR

COLLEEN Y. LaCLAIR  
DEPUTY DIRECTOR

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

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To: The Honorable Marcus R. Oshiro, Chair  
and Members of the House Committee on Finance

Date: Tuesday, March 3, 2009  
Time: 12:00 p.m.  
Place: Conference Room 308  
State Capitol

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

**Re: H.B. No. 982, H.D. 2 - Relating to Family Leave**

**I. OVERVIEW OF PROPOSED LEGISLATION**

H.B. No. 982 establishes a web-based Family Leave Database in the Hawaii Family Leave Law ("HFLL"), Chapter 398, Hawaii Revised Statutes ("HRS") which is administered by the Department of Labor and Industrial Relations (DLIR) to collect data on public employees' use of family leave. The database would be created by the University of Hawaii Center on Aging (UH) and audited and reported on by the Legislative Auditor. It requires public employees to submit evidence of their submission of information into the Database as notice of their request for family leave.

Allocates funds to the University of Hawaii center on aging to develop the web-based data system and purchase equipment and hire personnel.

This Act would take effect July 1, 2020.

**II. CURRENT LAW**

The Department does no collection of any family leave data currently.

**III. HOUSE BILL**

The Department opposes H.B. 982, H.D. 2 for the following reasons:

1. This measure now only applies to the public sector. The ability to track and authorize family leave, both HFLL and the Family Medical Leave Act (FMLA) is a human resource function and under the jurisdiction of the Department of Human Resources and Development in the Executive Branch. To obtain this information from the public sector is unnecessary to amend Chapter 398, HRS. In addition, if this web-based data collection is limited to Chapter 398, HRS, valuable data will be lost understanding how the FMLA affects employees and business.
2. While it is true that there is little real data about how often family leave is taken, the data that is available indicates that there is not an alarming problem as inquires regarding the HFLL to Wage Standards Division represent only 3% of almost 15,000 inquires annually.
3. This measure has an overall important purpose of using accurate data to make meaningful decisions about how to provide for future family care needs. Focusing only on the HFLL without inclusion of the effects of FMLA will create an incomplete picture.
4. The Department recommends amending the bill to keep the concept but take the requirement out of the Hawaii Revised Statutes and instead require a report from the UH Office of Aging. Public agencies employees are already required to document their leaves through their perspective personnel offices. The different personnel agencies should be the parties directed to support the UH Office on Aging to allow a complete collection of data.
5. Adding this type of responsibility at time when resources are thinnest would negatively impact the ability of the Wage Standards Division to carry out their core purpose of assuring a lawful working environment by equitably administering and enforcing labor laws for which the division is responsible.





Representative Marcus Oshiro, Chair  
Representative Marilyn Lee, Vice Chair  
Committee on Finance

HEARING      Tuesday, March 03, 2009  
                  12:00 pm  
                  Conference Room 308  
                  State Capitol, Honolulu, Hawaii 96813

RE:    **HB982, HD2, Relating to Family Leave**

Chair Oshiro, Vice Chair Lee, 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 supports HB982, HD2**, which establishes a new data collection system for family leave.

We concur that further study to determine the scope of the problem, i.e., the number of employees opting for family leave under HFLA and/or FMLA, is prudent. Since HFLA has been in effect in the public sector for a greater amount of time, we agree that limiting the collection of data to public employees is more efficient and will provide more pertinent and reliable information.

Thank you for your consideration and for the opportunity to comment on this measure.

Carol Pregill, President

**Testimony to the House Committee on Finance**  
**Tuesday, March 3, 2009**  
**12:00 p.m.**  
**Conference Room 308**  
**Agenda #3**

**RE: HOUSE BILL NO. 982, HD2 RELATING TO FAMILY LEAVE**

Chair Oshiro, Vice Chair Lee, and members of the committee:

My name is Jim Tollefson and I am the President and CEO of The Chamber of Commerce of Hawaii ("The Chamber"). The Chamber supports House Bill No. 982 HD2, relating to Family Leave in its current form.

The Chamber is the largest business organization in Hawaii, representing more than 1,100 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber well recognizes the growing number of caregivers in our state. Employers understand the hardships that some employees are experiencing and care about the well-being of their employees. They realize the importance of taking care of their employees and offering benefits to retain their staff. Many voluntarily offer benefits that address care giving responsibilities. Businesses are already providing a level of flexibility for employees who are in difficult situations.

This measure was amended by excluding private employers and private employees from the scope of the family leave data collection system and deleting the provisions that extend the Hawaii family leave law to firms with fifty or more. We appreciate the previous committees' amendments to the bill for the below reasons.

We believe the data collection system applied to the public sector first is an appropriate start in analyzing and developing improvements to the family leave system. When Hawaii enacted the Hawaii Family Leave Act in 1991 (HRS §398), the Legislature extended the law to the public sector first. The law was not applicable to the private sector until July 1, 1994. The Chamber believes that this is a step in the right direction. Furthermore, imposing this requirement on the private sector during a tough economic period will further undermine the employers' ability to direct their resources and attention to issues that greatly assist employees.

The Chamber also asks that the committee keeps the language in HD2 and not revert back to the original language which changes the Hawaii Family Leave Act by reducing the minimum from a 100 to 50. Many firms that employ between 50-100 employees, such as long-time local

establishments, operate on limited resources, and struggle on a daily basis to keep up with costly regulations. We ask that in these difficult economic times further costs not be imposed on Hawaii's businesses, particularly those affected by the proposed legislation. Implementing laws that will inflict further regulatory requirements will undermine efforts to keep businesses viable or even open during this volatile economic period. The bottom line goal is to save jobs and for companies to continue to provide the quality benefits to their valued employees.

Furthermore, due to the nature of the business, industries such as retail and restaurant, many of which employ 50 or more, experience high employee turnover on a regular basis. Reducing the applicability standard from 100 to 50 employees will impose a significant and unfair burden on these businesses. Changing HFLA so that it is consistent with FMLA will lead to reduced litigation. Since HFLA was enacted, many employment cases have centered around the confusion between HFLA and FMLA. Businesses with less than 100 employees have few personnel to devote to the complexities of federal and state law overlapping rules.

In summary, we support the HD2 version and respectfully request that the bill be passed unamended. Thank you for the opportunity to testify.

# UNIVERSITY OF HAWAI'I AT MĀNOA

School of Social Work

**Testimony to the House Committee on Finance  
Tuesday, March 3, 2009  
Conference Room 308; 12:00pm (Agenda #3)**

**RE: H.B. No. 982, H.D. 2, Relating to Family Leave.**

Chair Oshiro, Vice Chair Lee, and Members of the Committee,

My name is Wes Lum and I am testifying in support of the intent of this measure. However, I would recommend that:

1. You restore the provision to HD 1 to collect data from private employers. The data from private employers are necessary to understand, on a statewide basis, the possible costs of existing or future family leave laws; and
2. An entity other than the UH Center on Aging be responsible for the data collection because other departments on campus or within state government have the expertise to collect labor-related/family leave data.

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.

Act 243, SLH 2008, established a family leave working group to explore the provision of wage replacement benefits to employees who need to take time off from work to care for a family member with a serious health condition. This working group was a part of, and also required to report to, the Joint Legislative Committee on Aging in Place (JLCAIP). The group was created to represent constituencies who were promoting a policy of paid family leave as well as those who had expressed concern. The goal was to arrive at a consensus proposal based on careful consideration of available data and alternative funding mechanisms and which would address concerns which had been raised during the 2008 Session.

Representing the Hawaii Family Caregiver Coalition, I was elected the Chair of the working group. The working group met six times between August, 2008 – December, 2008 to explore funding mechanisms for a paid family leave program, including income tax credits, temporary disability insurance benefits, and unemployment benefits. Paid family leave legislation in California, Washington, and New Jersey were discussed, along with issues surrounding medical privacy. The working group also reviewed the needs assessment of family caregivers that was conducted in 2007 by the Joint Legislative Committee on Family Caregiving and the results of an inventory of eldercare policies and practices that currently exist in the workplace.

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The working group concluded without recommending any legislation because of the state's weak economy and a lack of consensus for wage replacement benefits; the Chamber of Commerce of Hawaii and the Lingle Administration, represented by the Department of Labor and Industrial Relations, did not believe that wage replacement benefits were necessary. The work of the group was also hindered by a lack of data needed to develop estimates of the number of likely participants in a paid leave program and the potential costs of the program.

The working group endorsed a continuum of short- and long-term concepts. This bill before you is the only concept that the JLCAIP chose to adopt for introduction in the 2009 session. The continuum consisted of three parts: (1) the creation of a data collection system that is capable of analyzing and reporting family care data for both public and private employees, (2) the establishment of an eldercare tax credit for employees, similar to tax credits for childcare, and (3) the establishment of a state-sponsored long-term care insurance program through employee payroll deductions and a tax credit for employers who purchase long-term care insurance for their employees.

This measure is the first step to build a system of wage replacement benefits for families who are balancing work and eldercare, and therefore, I support the intent of this measure and ask for your favorable consideration. Thank you for the opportunity to testify.



Chair, Representative Marcus R. Oshiro  
Vice-chair, Representative Marilyn B. Lee  
Committee: Finance  
Society for Human Resource Management (SHRM) Hawaii  
Testimony date: Tuesday, March 3, 2009

### **Opposition to HB982 HD2 Relating to Family Leave**

SHRM Hawaii is the local chapter of a National professional organization of Human Resource professionals. Our 1,200+ Hawaii membership includes those from small and large companies, local, mainland or internationally owned - tasked with meeting the needs of employees and employers in a balanced manner, and ensuring compliance with laws affecting the workplace. We (HR Professionals) are the people that implement the legislation you pass, on a day-to-day front line level.

SHRM Hawaii strongly opposes House Bill 982 HD2, which would establish a new data collection system for family leave. We are concerned about the additional administrative burden this will put on our members.

SHRM Hawaii respectfully urges the committee to kill House Bill 982 HD2.

Thank you for the opportunity to testify. SHRM Hawaii offers the assistance of the Legislative Committee in discussing this matter further.

## Testimony of Jim Shon

**RE: HB 982 H.D. 2 RELATING TO FAMILY LEAVE**

**Committee: Finance**

**March 3, 2009 12:00 pm Agenda #3 Room 308**

**I support this bill.** I served on the Paid Family Leave Task Force, representing Kokua Council. Kokua Council has endorsed this bill as one of the important strategies to support Kupuna in our community.

### Summary of Rationale:

- There are not enough services for seniors. Employed family members often are called upon to take time off for family leave. Some are retiring prematurely to provide this care. The workforce is being sapped of its most experienced workers.
- We need good data on **both** public and private sector current use of family leave.
- We can do this at minimum cost to the system (\$10K), employers, and employees.
- We need to close the gap group (firms with 50-100 employees).
- State agencies should incorporate this small but important task rather than arguing against the concept.
- Those who oppose this bill seem to offer no alternatives for employees or their family members.
- Because the DLIR does not want responsibility, another agency should be given the resources to implement the data base. A likely candidate would be the UH Center on Aging.

### Supporting Data

1. Data from the UH Center on the Family indicate many seniors need some form of assistance, and the number is growing far beyond Hawaii's ability to respond.

### General Observations re Hawaii's 60+ population:

- **The 2000 census estimates approximately 250,000 seniors 60+. The non-institutionalized population is 203,000.**
- **Hawaii's 60+ population stats are similar to national stats, and thus national data are relevant for determining many of the costs and trends for Hawaii;**
- **About 75% own their own home, meaning they do not necessarily need assisted living IF services can be delivered to their homes.**
- **37.5% have some disability, or 93,750 (about 30,000 between the age of 60+ and 65+ have some disability).**
- **Hawaii's 60+ population has a higher percentage of language barriers (11.2%) vs. the national average (4.1%)/**
- **Nearly 18% have no source of transportation (about 36,540). Even in households with more than one, this rate is nearly 16%.**
- **About 28,000 living at home have a sensory disability.**

- About 40,000 cannot easily leave home (a ‘go-outside-of-home disability’)
- About 22,000 have a mental disability.

**General Observations re Hawaii’s 65+ population:**

- About 172,000 65+
  - Slightly higher % of population than national average (13.6 vs. 12.4)
  - Slightly higher % of all households (23.1 vs. 21.5)
  - Much higher % living with grandchildren under 18 years (12.3 vs. 4.4)
  - About 36% have some disability, or about 62,000.
- According to a 2007 study by the Hawaii Legislative Reference Bureau, “Between 2000 and 2020, Hawaii’s older adult population is projected to increase by 70%, a rate three times faster than Hawaii’s total population. The population of those 85 and older is projected to increase 93%, over four times faster than Hawaii’s total populations. “(*Selected Issues in Work-Family Policy; A Brief Overview, Report No.1, 2007*)
  - According to the State Data Book (Table 12.26) there are over 200,000 non federal employees that are NOT covered by the federal family leave law (Federal Family and Medical Leave Act of 1993 or FLMA), and an additional 75,000 employees not covered by state law.
  - A 1999 MET LIFE study found that among employed caregivers, 13% needed to retire early, 16% quit their job, 20% changed from full time to part time, 22% took a leave of absence, 33% worked decreased hours, and 64% took increased sick days or vacation time.
  - According to researchers at the University of Hawaii, approximately 10% of Hawaii’s total workforce (800,000 +) has taken some length of family leave to care for elders.
2. The most recent Hawaii State Plan on Aging (2007-20011) indicates large numbers of seniors and households with unmet needs. See attached charts for the City and County of Honolulu. An additional chart lists many of the issues faced by seniors who continue to live at home.
  3. During deliberations of the Family Leave Task Force, it was estimated that from 80,000 to 100,000 current employees were taking time off to address many of these unmet needs for their aging family members. Clearly, the workforce is under stress, in part, because the large number of 60+ residents are over whelming the current service delivery system.
  4. HB 982 seeks to create a data base of all employees who apply for family leave. This data base will be helpful in developing a future paid family leave program, as well as other needed services in the community.

**Summary**

Support for Aging in Place is what seniors want and need most, but are least able to receive. This bill is an important component to a future that honors and respects seniors.



State agencies should not be giving excuses for not collecting data, they should be stepping forward with productive solutions.

**Attachments:**

**Common Issues Faced by Kupuna living at Home**

<b>Disability or Challenge</b>
1. Lacking in Financial Literacy.
2. Vulnerable to Financial abuse.
3. Physically hard to maintain a house.
4. Physically hard to do all chores.
5. Working family cannot always help.
6. Family moves far away. Loss of supporters.
7. Neighbors are new and unknown. Isolation.
8. Eyesight restricts night activities. Isolation.
9. Hearing limits phone, parties.
10. Cannot drive anymore. Major loss of dignity.
11. Some short term memory loss.
12. Hard to keep proper diet. Impacts health.
13. Difficulty in taking meds – threat to health.
14. Few recreational opportunities. Isolation
15. Short hospital stay. 4 wk recovery. ADLs.
16. Move to Condo. Stress.
17. Condo dwellers are strangers. Isolation
18. Hurricane – no electricity, no elevators, isolated for days.
19. Spouse Dies. Grief. Isolation. Depression.
20. More memory loss, depression.
21. Falls, breaks bone. Immobility. ADLs hard.
22. Need daily assistance, observation.
23. Serious hospitalization. 2 mos. recovery at home.
24. Difficulty in preparing meals. Poor diet.
25. Early Alzheimers.

Attachment: Unmet needs for Honolulu. Hawaii State Plan on Aging (2007-20011)

**City and County of Honolulu**

<b>Programs and Services</b>	<b>Data Source and Methodology</b>	<b>Extent of Need</b>	<b>Existing Capacity</b>	<b>Informal Capacity</b>	<b>Unmet Needs</b>
<b>Access</b>					
Information & Assistance	BFRSS 2000; all adults 18+	696,421	118,474		577,947
Outreach	BFRSS 2000; all 60+ and caregivers under age 60 (14%)	245,571	35,495		210,076
Case Management	NHIS-D, 2004, MEPS 2002 Special Tabulation Diminished functional capacities which require the provision of services by formal service providers or family caregivers	50,467	6,937	38,355	5,175
Assisted Transportation	NHIS-D, MEPS 2002 Special Tabulation Physical or cognitive difficulty using regular vehicular transportation	50,467	6,477	38,355	5,635
Transportation	60+ mobility disadvantaged; 65+ nondrivers - AARP report: Aging Americans: Stranded Without Options; 21% of 60+	36,157	40,263		(4,106)
<b>Supportive Services – Community Based</b>					
Adult Day Care	NHIS - D MEPS 2002 Special Tabulation Need daytime personal care in a supervised, congregate setting	50,467	1,832		48,635
Congregate Meals	60+ Hot meals in a congregate or group setting	172,177	5,822		166,355
Health Maintenance	60+ with Disability 60+ with Chronic Conditions	66,960	25,007		41,953
Housing Assistance	65+ Low-Income 65+ Renter		2,748		(2,748)
<b>Supportive Services – In-home</b>					
Attendant Care (1)			2,197		(2,197)
Chore	NHIS 2003-2004; DHHS, CMS, MCBS 2002 Difficulty standing and performing heavy housework	45,139	547		44,592
Homemaker	NHIS 2004 Needs help of another person handling routine needs such as household chores, shopping or getting around	18,929	798		18,131

Programs and Services	Data Source and Methodology	Extent of Need	Existing Capacity	Informal Capacity	Unmet Needs
Home Delivered Meals	NHIS-D, MEPS 2002 Special Tabulation  Hot meals delivered to frail, homebound	50,467	3,515	38,355	8,597
Nutrition Counseling	BFRSS 2003 Nutritionally at risk	111,915	32,940		78,975
Nutrition Education	60+ and caregivers under 60 Nutrition information	245,571	3,005		
Para-Professional Services					
Counseling (1)			8,736	0	(8,736)
Escort (1)			1,298	0	(1,298)
Literacy/Language		18,455	10	14,026	4,419
Personal Care	DHHS, CDC, National Center for Health Statistics, NHIS 2004	9,922	3,617	7,541	(1,236)
Respite	BFRSS 2000 Adult caregivers 18+ (14%)	97,499	1,467	74,099	21,933
<b>Legal</b>					
Legal Assistance	60+	172,177	2,790		169,387
Elder Abuse & Neglect	65+ Living Alone	22,813	705		22,108
<b>National Family Caregiver Support Services (Title III-E)</b>					
Access Assistance	BFRSS 2000 Adult caregivers 18+ (14%) Assists caregivers in obtaining access to services	97,499	3,276		94,223
Information Services	All adults 18+	696,421	6,139		690,282
Counseling	BFRSS 2000 Adult caregivers 18+ (14%)	97,499	4,380		93,119
Respite	BFRSS 2000 Adult caregiver 18+ (14%)	97,499	1,836		95,663
Supplemental Services	BFRSS 2000 Adult caregiver 18+ (14%) Services provided on a limited basis which may include home modifications, emergency response systems, and incontinence supplies	97,499	351		97,148
Support Groups	BFRSS 2000 Adult caregiver 18+ (14%)	97,499	4,528		92,971
Training	BFRSS 2000 Adult caregiver 18+ (14%)	97,499	326		97,173
<b>Multipurpose Senior Center</b>					
Recreation	60+	172,177	1,423		170,754

(1) Estimate of need not available

Representative Marcus Oshiro, Chair  
Representative Marilyn Lee, Vice-Chair  
Finance Committee

House of Representatives of the State of Hawai'i

Lance D. Collins, Esq.  
Attorney for Akaku: Maui Community Television

Tuesday, March 3, 2009  
Support of HB No. 984, HD 3, Relating to Technology with Amendments

I represent Akaku: Maui Community Television, the access organization serving the cable subscribers of Maui County. Akaku and the people of Maui strongly support House Bill No. 984, Relating to Technology, with amendments, which would give the public and access organizations a clear and meaningful process by which the administration designates and regulates cable access.

The bill provides for a clear and rationalized form of regulation and oversight of PEG access organizations. However, the "cut and paste" transporting of the current Chapter 440G, Haw. Rev. Stat. does not address the underlying long-term problems in the area of regulation and oversight of PEG access organizations.

The Cable Communications Policy Act of 1984 (hereafter '1984 Cable Act') amended the federal Communications Act to explicitly allow cable franchising authorities to require cable operators to set aside channel capacity for PEG use and to provide adequate facilities or financial support for those channels. While the federal law leaves to the discretion of cable franchising authorities the discretion to require channel capacity for PEG use, Hawai'i state law requires it: "The cable operator shall designate three or more channels for public, educational, or governmental use." Haw. Rev. Stat. 440G-8.2(f)

Consistent with its erratic and politically motivated interpretations of the Public Procurement Code (hereafter 'Code'), the Administration attempted to radically change public policy regarding access organization designation – claiming the director's power was subject to the Code. Aside from the illegal delegations of power necessary to fulfill this policy change, the underlying intent of the Code and the 1984 Cable Act's PEG provisions are inherently incompatible.

Federal law's inclusion of PEG access in the powers of local franchising authorities was intended to recognize that access to media and exercise of other First Amendment rights simply are not supported by free market conditions or the structure of the commercial television market. To counteract the problems of concentrated ownership of media, the federal law was amended to allow

local franchising authorities to require PEG access. In 1987, the Legislature made PEG access mandatory in Hawai'i.

The principles of public procurement is intended to remove barriers and open up new, non-discriminatory and competitive markets through a legal and rational process offering the State and the people of Hawai'i the highest quality goods and services at the lowest reasonable price.

However, there are no instances where the free market supports PEG access services. The requirement of access channels and services is a direct intervention in the free-market by the federal and state government to provide a public benefit that the market simply cannot provide. There are a number of reasons for this, including the complex and indirect way that consumers "buy" programming and the power of cable operators to control content.

This is also exacerbated by the structure of the current cable television or broadcast television paradigm that are unable to support the types of programming access provides because the mechanisms for attracting capital to viewpoints that are not popular, minority, minoritarian, fringe or unfamiliar. Even popular viewpoints in small communities cannot compete with nationally distributed cable networks. For this reason, the logic of highest quality, lowest price does not work for these services.

Some have argued that the services themselves can be subject to the free market model. This is also not supported by the evidence. Market-based television and cable network stations are supported by the capital their programming attracts from advertisers through viewership. Yet, the government has intervened in the marketplace to require PEG access because PEG programming is not likely to attract the kind of capital necessary to support itself.

The result is that the use of procurement in the long-term, will likely undercut the public benefit the original market intervention intended to support. The original intent of providing funding to access organizations linked to the profits and rates of the cable franchisee is a rational method of funding access in proportion to the overall use of the cable franchise.

Cost-effectiveness and cost-savings are not the same policy consideration. While cost-savings is not appropriate for the access model, cost-effectiveness can be appropriate. This is an issue of proper regulation and oversight. By treating access organizations under the same rational principles of oversight as cable operators, cost-effectiveness can be achieved without undercutting the purpose of PEG access by subjecting it to the very conditions the market intervention was designed to avoid.

Attached is language which would conform HB 984 HD 3's language with SB 1680 SD 1 language which was approved by consensus of all PEG stakeholders.

APPENDIX WITH PROPOSED AMENDMENTS

“ § -67 Cable system installation, construction, operation, removal; general provisions.

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(f) The cable operator shall designate seven or more television channels or video streams of not less than equal value to the television channels for PEG access organization use as directed by the commission, and up to ten per cent of the total bandwidth capacity for PEG access organization use, as directed by the commission by rule applicable to all franchises uniformly: and this designation shall be re-evaluated every other year based on input solicited from the public, PEG access organizations, and cable franchise holders on how best to configure public, educational, or governmental capacity in order to maximize the achievement of the objectives of public, educational, and government access in a changing environment.

The Hawaii broadband commissioner shall have the authority to designate the PEG access organization consistent with administrative rules that shall be adopted by the commissioner. These administrative rules shall be adopted with input from the public and with recognition of the First Amendment rights of individuals who utilize these PEG access services. Board of director positions on these PEG access organizations will be managed by each designated PEG access organization, including but not limited to the selection of directors, length of terms, and number of directors.

PEG assets include, but are not limited to equipment, facilities, cash, financial assets and instruments, land, and buildings. These assets will be available to the PEG access organization designated by the Hawaii broadband commissioner to provide PEG services in a particular service area. If the contract between Hawaii broadband commissioner and a PEG access organization is terminated or cancelled, these PEG assets will be held in trust for the benefit of PEG services until a new PEG access organization is designated by the Hawaii broadband commissioner.”

**TO:** COMMITTEE ON FINANCE  
Representative Marcus Oshiro, Chair  
Representative Marilyn Lee, Vice Chair

**FROM:** Eudice R. Schick  
PABEA (Policy Advisory Board for Elder Affairs)

**SUBJECT:** HB 982, HD 2

**HEARING:** Tuesday, March 3, 2009 12:00 p.m. Room 308

**POSITION:** Support of HB 982, HD 2

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.

HB 982, HD 2 requests the necessary funding for the Data Collection System that will, in the future, provide us with the necessary information so that the employee that is in need of family leave will be able to take this leave with pay, and also know that they will be able to return to the work force. The University of Hawaii Center on Aging is certainly the perfect place to have this data collection system set-up. The University is well versed on projects such as this.

Your support of HB 982, HD 2 is appreciated.

Eudice R. Schick, Chair PABEA Legislative Committee

**TO :** COMMITTEE ON FINANCE  
Representative Marcus R. Oshiro, Chair  
Representative Marilyn B. Lee, Vice chair

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

**SUBJECT:** **HB982 HD2 , Relating to Family Leave**

**HEARING:** Tuesday, March 3, 2009, 12 pm,  
Conference Room 308, Hawaii State Capitol

**PURPOSE:** Establishes a new data collection system for family leave. Appropriates funds.

**POSITION:** **PABEA supports the intention of HB982 HD2. However, we suggest restoring the provision in HD 1 to collect data from private employers.**

**RATIONALE:**

The Policy Board for Elder Affairs has a statutory obligation to advocate on behalf of the senior citizens of Hawaii. While we advise the Executive Office on Aging, we do not speak on behalf of the Executive Office of Aging.

This bill stems from the recommendation of the workgroup on family leave established in the 2008 Legislative Session to explore possibilities for financial assistance to employed caregivers who need to take a leave for caregiving.

- The workgroup concluded that there were insufficient data regarding the current use of family leave provisions to make any estimates regarding the need for family leave.
- Furthermore, it was possible to make any estimates regarding the costs of implementing a paid family without further data;
- Finally, the Department of Labor needs to have an ongoing data collection for monitoring the provision of existing family leave laws as well as future laws. No data collection currently exists.

In conclusion, while current economic situation makes it impossible to undertake any expansion of family leave benefits at this time, we need to develop the data system which will make possible creating a viable policy in the future. States as well as the Federal government are in the process of establishing paid family leaves for caregivers, and we believe such a policy in Hawaii would be created with the benefit of adequate data

Thank you for allowing me to testify.



**TO :** COMMITTEE ON FINANCE  
Representative Marcus R. Oshiro, Chair  
Representative Marilyn B. Lee, Vice chair

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

**SUBJECT: HB982 HD2 , Relating to Family Leave**

**HEARING:** Tuesday, March 3, 2009, 12 pm,  
Conference Room 308, Hawaii State Capitol

**PURPOSE:** Establishes a new data collection system for family leave. Appropriates funds.

**POSITION: PABEA supports the intention of HB982 HD2.**

**SUGGESTED Amendment:**

However, we suggest restoring the provision in HD 1 to collect data from private employers. The data from private employers are necessary if the state is to be in a position to understand the possible costs of existing or future family leave laws.

With employed caregivers growing rapidly in numbers, we need to create policies which enable them to remain as productive participants in the workforce, but we also need to understand the relative costs of such policies and the extent to which they are being utilized by the workforce. At present, we have no way of knowing this important information.

MAR-02-2009 21:37

The Twenty-Fifth Legislature  
Regular Session of 2009

HOUSE OF REPRESENTATIVES  
Committee on Finance  
Rep. Marcus R. Oshiro, Chair  
Rep. Marilyn B. Lee, Vice Chair

State Capitol, Conference Room 308  
Tuesday, March 3, 2009; 12:00 p.m.

**STATEMENT OF THE ILWU LOCAL 142 ON H.B. 982, HD2  
RELATING TO FAMILY LEAVE**

The ILWU Local 142 supports in concept and with comments H.B. 982, HD2, which establishes a new data collection system for family leave.

The original bill intended to expand family leave requirements to employers with 50 or more employees and to provide for data collection from all workers affected by the law. HD2 leaves the worker threshold at 100 and limits the data collection only to public employees.

If a database system will be set up anyway to collect data from public employees, we cannot see the logic of excluding other employees and giving the State a more complete picture of the scope of the family leave problem. Hawaii's population is growing older and not always in good health. That means more and more adults will need some kind of help for caregiving--and more and more workers will be called upon to serve in a caregiver capacity and will need family leave. The Legislature should want to know how many people are affected if it is even to begin to consider what to do about the problem.

The problem of long-term care and family caregiving will only get worse. Instead of simply waiting for the baby boomer tsunami to hit, we should be preparing by gathering data to understand the potential scope of the problem and looking at multiple alternatives. The State should be proactive, not reactive.

The ILWU urges reconsideration of the original bill. Thank you for considering our testimony.