

HB 982

LINDA LINGLE
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**STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT**

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April 1, 2009

COMMENTS TO THE
SENATE COMMITTEE ON WAYS & MEANS
For Decision-Making on Friday, April 3, 2009
9:45 a.m., Conference Room 211

BY
MARIE C. LADERTA, DIRECTOR

**House Bill No. 982, H.D. 3
Relating to Family Leave**

TO CHAIRPERSON DONNA MERCADO KIM 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 private and public sector employees. Funding is to be appropriated out of the Disability Benefits special fund under section 392-61, HRS, and to be expended by the Department of Labor and Industrial Relations for the purposes of this Act.

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

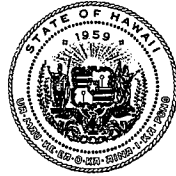
1. The development and maintenance of this new system will result in increased costs at a time when the State is facing a severe budget shortfall.
2. It appears that an objective of the new system is to provide data to determine whether paid family leave should be developed and implemented for employees in Hawaii (see page 3, lines 19-22). 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.

3. The data captured through this system will not 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.
4. 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 comment on this matter.

LINDA LINGLE
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To: The Honorable Donna Mercado Kim, Chair
and Members of the Senate Committee on Ways and Means

Date: Friday, April 3, 2009
Time: 9:45 p.m.
Place: Conference Room 211
State Capitol

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

COMMENTS Re: H.B. No. 982, H.D. 3 - Relating to Family Leave

I. OVERVIEW OF PROPOSED LEGISLATION

H.B. No. 982, H.D. 3, establishes a web-based Family Leave Database in the Hawaii Family Leave Law ("HFFL"), 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 all employees to submit evidence of their submission of information into the Database as notice of their request for family leave.

Allocates funds from the Disability Benefits Special Fund to the DLIR 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. 3 for the following reasons:

1. Hawaii Insurers Council v. Lingle 120 Hawai'i 51, 201 P.3d 564Hawai'i, 2008 prohibits use of the TDI funds for general purposes like the one proposed by this measure.
2. 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. Broad based studies as called for in this measure are more suited for an agency that is not limited in the scope of their work and are set up to conduct research as opposed to enforcement, i.e. the Legislative Reference Bureau or the University of Hawaii, Office of Aging.
3. Using the funds in the Disability Benefits Special Fund for this project is in conflict with section 392-61, HRS, which limits them to the use of the Temporary Disability Law.
4. 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.
5. 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. Of 859 complaints lodged in fiscal year 2007-2008, only 4 related to family leave.
6. The Department recommends amending the bill to keep the concept but remove from Chapter 398, HRS the database creation and the requirement for employees to report to the data base and instead require a research report from the Legislative Reference Bureau or University of Hawaii Office of Aging and amending the appropriation to general funds.



Chair, Senator Donna Mercado Kim
Vice-chair, Senator Shan Tsutsui
Committee: Ways and Means
Society for Human Resource Management (SHRM) Hawaii
Testimony date: Friday, April 3, 2009

Opposition to HB982 HD3 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 HD3, 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 HD3.

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



Senator Donna Mercado Kim, Chair
Senator Shan Tsutsui, Vice Chair
Committee on Ways and Means

HEARING Friday, April 03, 2009
 9:45 am
 Conference Room 211
 State Capitol, Honolulu, Hawaii 96813

RE: HB982, HD3, Relating to Family Leave

Chair Kim, Vice Chair Tsutsui, 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 HB982, HD3, relating to family leave, which establishes a new data collection system for family leave.

We do 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 before adding greater onus to our employers. However, we believe that the data collection system proposed should be **first limited to public employees since HFLA has been effective in the public sector for a greater amount of time and more extensive data is readily available.** Given the current economic crisis, it is imprudent to add additional cost burdens to businesses which are struggling to maintain employment levels, avoid layoffs and keep their doors open.

We respectfully ask that HB982, HD3 be amended to delete the provisions imposed in the HD3 and advance as amended in the HD2. Thank you for your consideration and for the opportunity to comment on this measure.

Carol Pregill, President

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TO : SENATE COMMITTEE ON WAYS AND MEANS
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

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

SUBJECT: **HB982 HD3 Relating to Family Leave**

HEARING: 9:45 am, Friday April 3, 2009
Conference Room 211, Hawaii State Capitol

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

POSITION: **PABEA supports the intention of HB982 HD3.**

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 impossible 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.