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To: The Honorable Karl Rhoads, Chair
and Members of the House Committee on
Labor and Public Employment

Date: Tuesday, March 24, 2009
Time: 10:30 a.m..
Place: Conference Room 309
State Capitol

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

Re: S.B. 614, H.D. 1 - Relating to Family Leave

I. OVERVIEW OF PROPOSED LEGISLATION

S.B. 614, H.D. 1 proposes to amend the Hawaii Family Leave Law, Chapter 398, Hawaii Revised Statutes ("HRS") by allowing individuals to take Hawaii Family Leave when their child, spouse, parent, or reciprocal beneficiary is on military deployment.

This Act would take effect on July 1, 2112

II. CURRENT LAW

The Hawaii Family Leave Law applies only for the birth or adoption of child, or the care of a child, spouse, parent, or reciprocal beneficiary with a serious health condition. The law applies to employers with at least 100 employees.

The federal Family Medical Leave Act provides 12 weeks of family leave for military and applies to employers with at least 50 employees.

III. SENATE BILL

The Department supports the intent of this bill. However, we are concerned about the bill's impact on Hawaii business.

1. It is important to note that the Hawaii Family Leave Act, coupled with the federal Family Medical Leave Act (FMLA), already provides generous benefits to all families across the State. We must all assess the costs and benefits of expanding these programs during such difficult economic times.
2. The Department recognizes the many challenges that military families face when a loved one is deployed abroad. However, the Department is concerned that this legislation may place an extra burden on businesses during these difficult economic times. The loss of productivity due to the absence of an employee for reasons not related to his or her own inability to work may prove too costly for Hawaii businesses to absorb.

STATE OF HAWAII
DEPARTMENT OF DEFENSE

TESTIMONY ON SENATE BILL 614 HD1
A BILL FOR AN ACT RELATING TO FAMILY LEAVE

PRESENTATION TO THE
HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

BY

MAJOR GENERAL ROBERT G. F. LEE
ADJUTANT GENERAL
March 24, 2009

Chair Rhoads, Vice-Chair Yamashita, and Members of the Committee:

I am Major General Robert G. F. Lee, State Adjutant General. I am testifying on Senate Bill 614 HD1. This bill grants family leave to an employee during any calendar year during a military deployment.

We support the intent of Senate Bill 614 HD1, however are concerned about the impact on Hawaii business. Additionally, State and federal laws provides family leave up to twelve weeks and applies to employers that have fifty or more employees. Expansion of additional leave benefits to current laws may not be appropriate during such difficult economic situation in our nation and state.

Chair Rhoads, thank you for the opportunity to provide this written testimony.

LINDA LINGLE
GOVERNOR OF HAWAII



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March 21, 2009

TESTIMONY TO THE
HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
For Hearing on Tuesday, March 24, 2009
10:30 AM, Conference Room 309

BY
MARIE C. LADERTA, DIRECTOR

**Senate Bill No. 614, House Draft 1
Relating to Family Leave**

WRITTEN TESTIMONY ONLY

TO CHAIRPERSON RHOADS AND MEMBERS OF THE COMMITTEE:

This bill proposes to amend Section 398-3 of the Hawaii Revised Statutes to grant family leave to an employee during any calendar year to provide family care and support during the military deployment of the employee's child, spouse, or reciprocal beneficiary, or parent. It also requires an employee to provide proof of military deployment and defines "military deployment."

The Department of Human Resources Development understands the intent of this bill and deeply appreciates our military troops and their families for their daily sacrifices; however, **this bill is unnecessary**, as the federal Family and Medical Leave Act of 1993 (FMLA) was recently amended to provide eligible employees with generous military family leave entitlements. In addition, legislating new provisions in the Hawaii Family Leave Law through this bill that are different from the FMLA will cause confusion for the employers and employees.

In light of the above concerns, we respectfully recommend that the measure be **HELD**. Thank you for the opportunity to testify on this matter.



**Testimony to the House Committee on Labor and Public Employment
Tuesday, March 24, 2009
10:30 AM
Conference Room 309**

RE: SENATE BILL NO. 614, HD1, RELATING TO FAMILY LEAVE

Chair Rhoads, Vice Chair Yamashita, and members of the committee.

My name is Charles Ota and I am the Vice President for the Military Affairs Committee of The Chamber of Commerce of Hawaii (The Chamber). I am here to state The Chamber's support of the intent of Senate Bill No. 614, HD1, Relating to Family Leave, with a proposed amendment.

The Chamber's Military Affairs Council (MAC) serves as the liaison for the state in matters relating to the U.S. military and provides oversight for the State's multi-billion dollar defense industry.

The measure proposes to grant family leave to an employee during any calendar year to provide family care and support during the military deployment of the employee's child, spouse or reciprocal beneficiary, or parent. Requires an employee to provide proof of military deployment, and defines "military deployment".

I would specifically like to address SECTION 2, paragraph (a) (4) of this bill.

The MAC believes that this proposal was introduced to relieve serious family stresses for members of the Hawaii Army and Air National Guard units and Hawaii-based US military Reserve units that are being recalled to active duty to augment the over-burdened active duty force in the ongoing war against terrorism. Many of these National Guard and Reserve members, and their families, are facing extremely stressful situations that require strong family support. We support the intent of this proposal.

However, the Chamber's Human Resources Committee believes that the verbiage in the above cited paragraph is broader than the federal law enacted by the Family and Medical Leave Act of 1993 (as amended) and could result in confusion for Hawaii employers, especially with the most recent changes that were prompted by the National Defense Authorization Act of FY 2008 on January 16, 2009.

In light of the above, we recommend revision to paragraph (a) (4) under SECTION 2 to include the following verbiage to avoid conflict with the federal policies cited above:

"(4) Any qualifying exigency (as provided by regulation 29 C.F.R 825.126) arising out of the fact that the spouse, reciprocal beneficiary, son, daughter, or parent of the employee is on active duty, or has been notified of an impending call or order to active duty, in the Armed Forces of the United States in support of a contingency operation."

For these reasons, the MAC recommends the measure be held unless the proposal is reworded accordingly.

Thank you very much for the opportunity to testify.