LATE

WRITTEN ONLY

TESTIMONY BY GEORGINA K. KAWAMURA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
ON
HOUSE BILL NO. 2258

January 29, 2010

RELATING TO FAMILY LEAVE INSURANCE

House Bill No. 2258 creates the Family Leave Insurance Fund administered by the Department of Labor and Industrial Relations under the Workers' Compensation Law where revenues to the special fund comes from one cent collected from each employer and employee for each hour of employment for a maximum contribution of $2,000 per year.

As a matter of general policy, this department does not support the creation of any special or revolving fund which does not meet the requirements of Sections 37-52.3 and 37-52.4 of the Hawaii Revised Statutes. Special or revolving funds should: 1) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program; 2) provide an appropriate means of financing for the program or activity; and 3) demonstrate the capacity to be financially self-sustaining. It is difficult to determine whether there is a clear nexus between the benefits sought and the charges made upon the users or beneficiaries of the program and whether the fund will be self-sustaining.

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January 28, 2010

To: The Honorable Karl Rhoads, Chair
and Members of the Senate Committee on Labor

Date: January 29, 2010
Time: 9:30 a.m.
Place: Conference Room 224, State Capitol

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

Testimony in Strong Opposition to S.B. 2258 - Relating to Family Leave Insurance

The Department strongly opposes this measure to create a family leave insurance fund administered by the DLIR, and would like to note that the Hawaii Family Leave and the Federal Family and Medical Leave Act already provide family leave job protection to many of Hawaii's workers.

Given our current economic situation, the Department cannot think of a worse time to institute a family leave insurance program. The increase costs to **both employers and employees** along with the extensive government resources it would require to implement this measure, is completely unacceptable in this economy.

This bill seeks to expand government at a time when nearly every State agency is contracting. The DLIR and its fellow executive branch departments have undergone reductions in force, and have been looking for ways to cut costs and focus on core functions. In focusing on its core functions, the DLIR has identified administering unemployment benefits and getting the unemployed back to work as its main priorities. The DLIR finds that this bill is not inline with its core functions and priorities because Family Leave Insurance is a program geared toward providing extra perks and benefits to gainfully employed individuals. Furthermore, the DLIR believes that it would be insensitive to the numerous unemployed in our State, if departmental resources were diverted to Family Leave.

LINDA LINGLE
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MARIE C. LADERTA
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CINDY S. INOUYE
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January 28, 2010

TESTIMONY (WRITTEN ONLY) TO THE
HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
For Hearing on Friday, January 29, 2010
9:30 a.m., Conference Room 309

BY

MARIE C. LADERTA, DIRECTOR

House Bill No. 2258
Relating to Family Leave Insurance

TO CHAIR KARL RHOADS AND MEMBERS OF THE COMMITTEE:

The purpose of H.B. No. 2258, is to create a family leave insurance fund to be administered by the Department of Labor and Industrial Relations (DLIR) under the workers' compensation statute. It amends the definition of injuries covered under the workers' compensation statute to include family leave.

The Department of Human Resources Development is **strongly opposed** to this bill. Chapter 386, Hawaii Revised Statutes, was enacted for the sole purpose of creating a statutory framework for the benefit of employees who suffer work-related injuries or illnesses. By adding a non-industrial component to it, there might be unintended consequences (i.e. additional workers' compensation liability for employers).

The State currently has approximately 46,766 employees. This does not include the Legislature, the Judiciary, or Hawaii Health Systems Corporation. If the State, as an employer, is required to contribute one cent per employee, per hour worked, the State will be paying approximately $919,526.00 into the fund. This bill will add costs to employers at a time when they can least afford it and there is no appropriation for this program.

Additionally, State employees already earn paid sick and vacation leaves that may be applied to Family Leave. They may substitute up to four weeks of their accrued and available sick leave for family leave purposes as provided for by their respective collective bargaining unit agreements, and accrued vacation leave for any part of the four weeks of family leave.

Other states have implemented similar programs. Our understanding is that none of them are provided for under their workers' compensation statutes. Washington implemented a similar program and suspended it due to budget shortfalls until 2012. California has a State Disability Insurance (SDI) Program where employees contribute 1.1%. In May 2008, New Jersey enacted a Family Leave Insurance that is 100% worker-funded. Eligible employees began contributing .09% of their normal paycheck effective January 1, 2009, and can receive two-thirds of their normal pay up to $548.00 per week in 2009 for up to six weeks in any twelve-month period.

Thank you for the opportunity to testify on this measure.

Respectfully submitted,

for MARIE C. LADERTA

ECD/vp

HAWAII TEAMSTERS AND ALLIED WORKERS, LOCAL 996

Affiliated with the International Brotherhood of Teamsters

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Rep. Karl Rhoads, Chair
Rep. Kyle Yamashita, Vice-Chair
House Committee on Labor & Public Employment

Glenn Ida, Representative

Friday, Jan. 29, 2010, at 9:30 AM
Conference room 309

The Hawaii Teamsters Local 996 supports HB 2258, Relating to Family Leave Insurance.

In 2006, my mother had a triple bypass heart surgery. I took Family Medical Leave from the bus company to provide the home care while she recovered. I was lucky in that OTS allowed me the option to receive pay from either vacation or sick leave bank for the first ten days.

The bills don't stop coming when you're ill or caring for someone who is. For others that don't have other sources of income, leave without pay could be devastating. There are follow up doctor visits, prescriptions to purchase, the gas to get there and the parking fee to get out.

While providing care for a loved one can be difficult, being able to get financial help, would be of some relief and greatly appreciated.

Therefore the Hawaii Teamsters Local 996 supports HB2258, Relating to Family Leave Insurance.

Thank you for allowing this opportunity to testify.

OUR UNION OUR FAMILY

UPW

AFSCME LOCAL 646 AFL-CIO

House of Representatives
The Twenty-Fifth Legislature
Regular Session of 2010

Committee on Labor & Public Employment
Rep. Karl Rhoads, Chair
Rep. Kyle T. Yamashita, Vice Chair

DATE: Friday, January 29, 2010
TIME: 9:30 a.m.
PLACE: Conference Room 309

TESTIMONY OF THE UNITED PUBLIC WORKERS, LOCAL 646, ON HB 2258, RELATING TO FAMILY LEAVE INSURANCE

HB 2258 creates a Family Leave Insurance Fund and amends the definition of injuries covered under the workers' compensation statute to include family leave.

The United Public Workers, Local 646 strongly supports this measure.

Although millions of workers have benefitted from the Family and Medical Leave Act (FMLA), millions more are constrained by its limited coverage simply because they cannot afford to take leave without pay. In one survey, seventy-five percent of workers who needed family and medical leave did not take it because they could not afford to miss a paycheck. This must change. Working families should not have to choose between the jobs they need and the families they love.

According to a 2007 report from The Project on Global Working Families, only four countries out of 173 studied did not offer paid maternity or parental leave for women: Liberia, Papua New Guinea, Swaziland and the United States. In 137 countries, workers are guaranteed some form of paid annual leave—but not in the United States.

As of July 2004, California became the first state in the country to offer a comprehensive paid family leave program. A 2007 Washington State law gives employees up to five weeks of paid leave after the birth or adoption of a child (effective date delayed until 2012). Beginning July 1, 2009, New Jersey's law will provide up to six weeks of Family Leave Insurance Benefits. Clearly, the momentum is finally growing in this country to catch up with the rest of the world.

We urge the passage of this pro-family legislation.

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L E G I S L A T I V E

TAXBILLSERVICE

126 Queen Street, Suite 304 TAX FOUNDATION OF HAWAII Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Family leave insurance fund

BILL NUMBER: SB 2392; HB 2258 (Identical)

INTRODUCED BY: SB by Takamine and 7 Democrats; HB by Rhoads

BRIEF SUMMARY: Adds a new section to HRS chapter 386 to establish a family leave insurance fund as a special fund to pay employee benefits for family leave taken pursuant to HRS chapter 398. The benefits received shall not exceed $250 per week, per employee, subject to a one-week waiting period, with the benefit amount prorated for employees who work less than 40 hours per week.

Requires every employer and employee to contribute up to one cent per hour into the fund or not more than $2,000 per year for each employee, whichever is less. The director of finance shall be the custodian of the fund with all disbursements paid by the director of finance on request by the director of labor and industrial relations.

Makes conforming amendments to HRS section 386-3.

EFFECTIVE DATE: July 1, 2010

STAFF COMMENTS: The Family and Medical Leave Act of 1993 (FMLA) requires larger employers to provide employees job-protected **unpaid** leave due to a serious health condition that makes the employee unable to perform his or her job, to care for a sick family member, or to care for a new child (by birth, adoption or foster care). On the state level, employers are required to provide up to four weeks of family leave during a calendar year which may consist of any combination of unpaid leave or paid leave.

This measure proposes to establish a state family leave insurance fund to allow employees to receive up to $250 per week while they are on family leave. The insurance would be financed by requiring each employer (with 100 or more employees) and employee to contribute up to 1 cent per hour or $2,000 per year per employee, whichever is less. The adoption of this measure would result in an expansion of state government to accommodate its residents while there is no similar fund on the federal level. As proposed in this measure, the initial rate to be paid into the insurance fund by employees and employers may appear to be reasonable, if the insurance fund becomes depleted or cannot meet the demands on the fund, the contribution rates will be increased to make up the necessary funds to accommodate all applicants who apply for family leave benefits.

While this proposal may appear insignificant, it is yet another cost of doing business in this state. Further, while the amount may seem insignificant now, there is no guarantee: (1) the rate will not rise in the future; and (2) the fund will not be another target for a legislative raid to address budget shortfalls. Gratuitous as the gesture may be, it is another deep black hole into which both employers and employees will be required to throw money that could be used to pay employee wages or expand the business creating new employment opportunities. Since the adoption of this measure would result in an additional financial burden on businesses and employees at a time when the economy is suffering, it is questionable whether it will slow economic recovery.

Digested 1/28/10