



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

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February 28, 2011

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

Date: Friday, February 28, 2011  
Time: 5:00 p.m.  
Place: Conference Room 308, State Capitol

From: Dwight Y. Takamine, Director  
Department of Labor and Industrial Relations

**Re: H.B. No. 1109 Relating to Family Leave**

**I. OVERVIEW OF PROPOSED LEGISLATION**

H.B. 1109 amends the Family Leave Law, Chapter 398, Hawaii Revised Statutes (HRS) by amending the family leave requirement to permit an employee to utilize family leave time for certain activities when a family member is on active duty or notified of a call to active duty.

**II. CURRENT LAW**

Employees are entitled to a total of four weeks of family leave during any calendar year upon the birth of a child of the employee, the adoption of a child, or to care for the employee's child, spouse or reciprocal beneficiary, or parent with a serious health condition. The care of employees whose family member is in the military is not covered.

**III. HOUSE BILL**

The department supports H.B. 1109.

Hawaii has a rich tradition of cooperation and support of our service members. To extend the ability to take family leave to take care of activities necessitated by a family member who is proudly serving in the defense of one's country is commendable.

Eligible employees to take the leave under this measure are likely to be those not already covered under the FMLA Military Family Leave Entitlements. These are likely to be employees of companies with 100 or more employees who have worked only 6 months

for the company, or are reciprocal beneficiaries or grandparents-in-law of eligible service members.

This measure will also allow all eligible employees of 100 or more employees to take up to ten sick days for this type of leave where in the federal environment the employer can determine if sick leave will be used.

NEIL ABERCROMBIE  
GOVERNOR



SUNSHINE P.W. TOPPING  
INTERIM DIRECTOR

**STATE OF HAWAII**  
**DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT**  
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February 27, 2011

TESTIMONY TO THE  
HOUSE COMMITTEE ON FINANCE

For Hearing on Monday, February 28, 2011  
5:00 P.M., Conference Room 308

BY  
SUNSHINE P. W. TOPPING  
INTERIM DIRECTOR

**House Bill No. 1109**  
**Relating to Family Leave**

**(WRITTEN TESTIMONY ONLY)**

TO CHAIRPERSON MARCUS OSHIRO AND MEMBERS OF THE COMMITTEE:

The purpose of H.B. No. 1109 is to allow an employee with a family member in the U. S. Armed Forces, who is on active duty or notified of a call to active duty, to use family leave for certain activities for which an employee may take military family leave under federal law.

The Department of Human Resources Development supports the intent of this measure and deeply appreciates the sacrifices made by those in the military service and their family members; however, we have the following concerns:

1. The federal Family and Medical Leave Act (FMLA) already provides for situations involving "qualifying exigencies."
2. The State government already provides generous leave benefits for our employees, which can be applied in "qualifying exigencies."
3. If H.B. No. 1109 is intended to mirror the FMLA, it does not reflect the

amendments to the FMLA which were enacted via the National Defense Authorization Act (NDAA) of 2010 and so will be confusing and difficult for all employers to administer. For example, H.B. No. 1109 uses the phrase, "in support of a contingency operation," whereas, the NDAA of 2010 updated the FMLA by removing that phrase. H.B. No. 1109 uses the terminology, "active duty," whereas, the NDAA of 2010 replaced the phrase with "covered active duty."

Thank you for the opportunity to testify on this measure.