

# HB 406



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

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HONOLULU, HAWAII 96813  
[www.hawaii.gov/labor](http://www.hawaii.gov/labor)  
Phone: (808) 586-8842 / Fax: (808) 586-9099  
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February 04, 2013

To: The Honorable Mark M. Nakashima, Chair, Mark J. Hashem, Vice Chair  
and Members of the House Committee on Labor & Public Employment

Date: Tuesday, February 05, 2013

Time: 9:00 a.m.

Place: Conference Room 309, State Capitol

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

**Re: H.B. No. 406 Relating to Health**

**I. OVERVIEW OF PROPOSED LEGISLATION**

This measure and H.B. 6 are similar in that they propose a new chapter to provide paid sick and safe leave for employees that accrues one hour per thirty hours worked with a 72 hour maximum accrual, with small business accruals not more than 40 hours. Small business is defined as fewer than ten employees in 20 or more weeks.

Leave can be taken for various reasons including an employee's mental or physical disability or care for a family member with an injury, health closure of a business, a domestic violence, sexual assault or related legal action.

The Department supports H.B. 406 and offers comments and recommendations.

**II. CURRENT LAW**

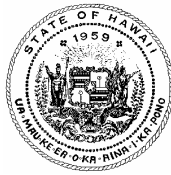
There is no provision for paid sick or safe leave in Hawaii.

**III. COMMENTS ON THE HOUSE BILL**

- DLIR supports efforts by employers to assist employees by providing sick leave and safe leave to take care of the various personal and family health issues that naturally arise in worker's lives. The provision of sick and safe leave may diminish private and public health care costs, protect the public health in the state, promote the economic security and stability of workers and their families, assist victims of domestic violence and their families, and protect employees in the state from losing their jobs while they use sick and safe leave to take care of themselves and their families.

- This measure would create conflict with the Hawaii Family Leave Law (HFLL) as it provides for accrual of 72 hours and HFLL allows up to ten days of paid sick leave. The conflict arises because some of the reasons for taking the family leave and paid sick and safe leave overlap.
- The DLIR is concerned that the Wage Standards Division lacks the resources to implement this amendment. Broadening the scope of the law, and requiring additional reporting requirements will further serve to increase an already overburdened staff of five investigators statewide who are responsible for conducting more than 700 investigations and responding to more than 22,000 inquiries annually.
- We recommend the enforcement provisions provide a right of civil action by an employee or a class of employees in order to alleviate the burden of additional investigations on the Department unless more resources to undertake investigations and to administer the law are furnished.

NEIL ABERCROMBIE  
GOVERNOR



BARBARA A. KRIEG  
DIRECTOR

LEILA A. KAGAWA  
DEPUTY DIRECTOR

**STATE OF HAWAII**  
**DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT**  
235 S. BERETANIA STREET  
HONOLULU, HAWAII 96813-2437

February 4, 2013

**TESTIMONY TO THE  
HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT**

For Hearing on Tuesday, February 5, 2013  
9:00 a.m., Conference Room 309

BY

BARBARA A. KRIEG  
DIRECTOR

**House Bill No. 406**  
**Relating to Health**

TO CHAIRPERSON NAKASHIMA AND MEMBERS OF THE COMMITTEE

Thank you for the opportunity to provide testimony on H.B. 406.

H.B. 406 would require employers to provide a minimum amount of paid sick and safe leave to employees to be used to care for themselves or a family member who is ill, needs medical care, or is a victim of domestic violence, sexual assault, or stalking. Under the measure, paid sick and safe leave taken by employees shall not count as an absence that may lead to or result in discipline, discharge, demotion, suspension, or any other adverse action.

The Department of Human Resources Development respectfully opposes H.B. 406 to the extent it applies to public sector employees.

The purpose of this bill is to ensure employees are able address their own health and safety needs and the health and safety needs of their families. However, public

sector employees are already afforded generous vacation and sick leave benefits which can be utilized for these purposes. Additionally, Hawaii Revised Statutes (HRS) Chapter 398 allows public employees to substitute up to four (4) weeks of their accrued and available sick leave for family leave purposes. Public employees are also covered by the victims' leave protection of HRS Chapter 378 and may use their accrued sick leave and vacation to care for themselves and their minor children. Considering the extensive paid and unpaid leaves afforded public employees, it is unnecessary to include public employers within the scope of this bill.

Furthermore, H.B. 406 appears to be in conflict with existing law. Act 253 (SLH 2000) removed routine human resource policy and management matters from civil service laws and included the enactment of HRS Section 78-23. That section specifically provides that employees "shall be eligible for vacation leave, sick leave, and other leaves of absence, with or without pay, as negotiated under chapter 89 or adjusted under chapter 89c, as applicable." H.B. 406 accordingly attempts to legislate in an area that is required by statute to be a mandatory subject of negotiation.

Given the foregoing, we recommend H.B. 406 be held or amended to expressly exclude public employees from its coverage. Thank you for the opportunity to testify on this measure.



Oahu Transit Services, Inc.

811 Middle St. Honolulu, HI 96819-2316  
telephone (808) 848-4400 facsimile (808) 848-4419

[www.thebus.org](http://www.thebus.org)

**TheBus**  
TheHandi-Van

**Testimony of J. Roger Morton  
In Opposition of HB6 and HB406, Relating to Paid Sick and Safe Leave  
Before the House Committee on Labor & Public Employment  
Tuesday, February 5, 2013 - 9:00 a.m.**

My name is J. Roger Morton, and I am the President and General Manager of Oahu Transit Services, Inc. OTS is a non-profit entity that operates TheBus and TheHandi-Van under a contract with the City and County of Honolulu. Our company employs about 1,850 employees. Almost all employees are covered by a collective bargaining agreement with the Hawaii Teamsters Union. Both parties to the collective bargaining agreement are under the jurisdiction of the Federal National Labor Relations Board. OTS provides good wages and benefits to its employees. These benefits include 21 days of paid vacation and 15 sick leave days per year.

The issue of employee absenteeism and sick leave usage has been negotiated within our collective bargaining agreement, which has specific sections dealing with the issue. I have attached a copy of the jointly bargained "POLICY ON EMPLOYEE ABSENTEEISM." Under this policy, employees who have a pattern of sick leave occurrences are subject to progressive discipline. This policy already contains safeguards for employees. For example, the following types of absences are not included in the definition of an absence:

1. Federal Family/Medical Leave Act absence
2. Hawaii Family Medical Leave Act absence
3. Tardiness
4. Maternity Leave
5. Funeral Leave
6. Jury Duty
7. Leave of Absence for Union Business
8. Personal Leave
9. Leave for Extended Trips
10. Military Leave
11. Any other type of leave granted at the discretion of the employer
12. Workers' Compensation Leave
13. Absences due to injury or illness requiring ongoing care such as chemotherapy, dialysis, or other required therapy
14. Menstrual Problems
15. Off-duty Status

Driving a transit bus is a difficult job. The operation runs 24-7, 365 days per year. Employees often report very early in the morning and often work long hours. Bus and Handi-Van operators are required to work on holidays and often late into the night. Having a reasonable attendance policy helps ensure the company is able to minimize the number of "last minute" absences that occur. If too many employees call in sick at the last minute, the Company may not have enough drivers to operate all of our public services. We are fearful that on major holidays too many employees could conceivably call in at the last minute and disrupt public transit service. The same might happen when a major sport contest such as the Super Bowl or when surf is especially high. After the Legislature passed the last paid sick leave law in 2011, our average sick leave usage by CDL drivers increased by 1.5 percent. In our world, with about 1,500 CDL employees, this represents about an additional 18 employees on sick leave every day.

For this reason, I urge you to hold HB 6 and 406 in Committee. In the alternative, I urge you to add an exemption to the bill that would exempt employers who have union contracts under the jurisdiction of the NLRB and who have already collectively bargained for specific provisions governing employee absenteeism in the work place including the use of paid sick.

Thank you for your consideration. I would be happy to answer any questions that the committee might have.

J. ROGER MORTON

**MTLInc.**

811 Middle Street, Honolulu, Hawaii 96819

HIROO W. MIYAGI  
President and Chief Executive Officer

May 8, 1990

Mr. Tony Rutledge, Vice President  
Hawaii Teamsters & Allied Workers  
Local 996  
615 Piikoi Street, 18th Floor  
Honolulu, HI 96814

Dear Mr. Rutledge:

This is to confirm our discussion and understanding reached during the recent contract negotiations:

"POLICY ON EMPLOYEE ABSENTEEISM"

"The employer shall set guidelines pertaining to reported absences and has established criteria on what is considered excessive absenteeism. More than six (6) absences within the most recent 12-month period is excessive. (Absences are defined as failure to report for work due to illness or injuries and/or any unexcused failure to report for work except in situations as stated below.)

The 12-month period is a rolling 12 months in which the month with the most recent absence serves as the starting point.

EXAMPLE: If the most recent absence occurs in August, you would go back 12 months using August as the first month. You would be reviewing the period of August in the current year through September of the previous year. More than six (6) absences within this period would constitute excessive absenteeism.

Absences of the following nature are not included in the total amount:

1. Tardiness
2. Maternity leave
3. Funeral leave
4. Jury duty
5. Leave of absences for Union business
6. Personal leave
7. Leave of extended trips



Mr. Tony Rutledge  
May 8, 1990  
Page 2

8. Military leave
9. Any other types of leave provided at the discretion of the employer
10. Workers' compensation leave
11. Absence due to injury and/or illness requiring ongoing care such as chemotherapy, dialysis, or other required therapy
12. Menstrual problems
13. Off duty status

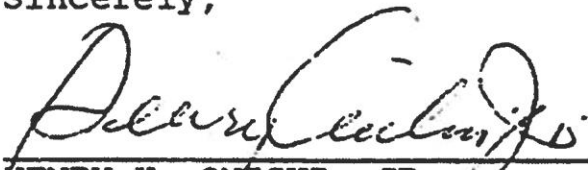
The following steps of progressive discipline may be administered to employees who fall in the category of excessive absenteeism:

- Verbal warning with counseling
- Written warning with counseling
- Suspension
- If absenteeism occurrences continue as stated herein, such employee may be terminated.

The employer agrees to provide an employee's absentee status not more than once a month when requested."

If this letter is acceptable to you, please signify your acceptance by signing one copy and returning one copy to us.

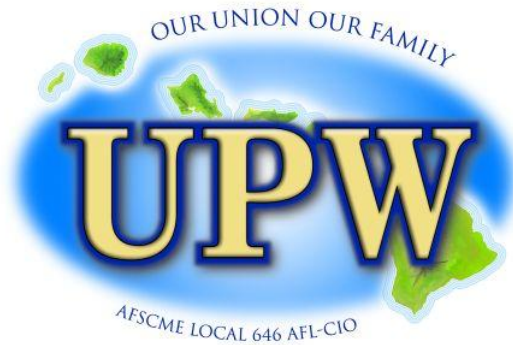
Sincerely,

  
HENRY H. ONISHI, JR.  
Executive Vice President and  
Chief Operating Officer

C O N C U R R E D :

  
TONY RUTLEDGE, Vice President  
Hawaii Teamsters & Allied Workers

5-24-90  
Date



THE HAWAII STATE HOUSE OF REPRESENTATIVES  
The Twenty-Seventh Legislature  
Regular Session of 2013

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

The Honorable Rep. Mark Nakashima, Chair  
The Honorable Rep. Mark Hashem, Vice Chair

DATE OF HEARING: Tuesday, February 5, 2013  
TIME OF HEARING: 9 A.M.  
PLACE OF HEARING: Conference Room 309

**TESTIMONY ON HB406 RELATING TO HEALTH**

By DAYTON M. NAKANELUA,  
State Director of the United Public Workers, AFSCME Local 646, AFL-CIO

My name is Dayton M. Nakanelua and I am the State Director of the United Public Workers, AFSCME, Local 646, AFL-CIO (UPW). The UPW is the exclusive representative for approximately 11,000 public employees, which include blue collar, non-supervisory employees in Bargaining Unit 01 and institutional, health and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties. The UPW also represents about 1,500 members of the private sector.

The UPW supports HB406 that requires employers to provide a minimum amount of paid sick and safe leave to employees to be used to care for themselves or a family member who is ill, needs medical care, or is a victim of domestic violence, sexual assault, or stalking.

This measure would increase worker productivity and general health, reduce the spread of illness among the workforce, and provide employees with the opportunity to care for themselves and their loved ones (including civil union partners) without fear of losing their job. We ask that you pass this measure out of Committee for the benefit of all working people in Hawaii.

Thank you for the opportunity to testify on this measure.



Randy Perreira  
President

# HAWAII STATE AFL-CIO

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The Twenty-Seventh Legislature, State of Hawaii  
House of Representatives  
Committee on Labor & Public Employment

Testimony by  
Hawaii State AFL-CIO  
February 5, 2013

## H.B. 406 – RELATING TO HEALTH

The Hawaii State AFL-CIO strongly supports H.B. 406 which requires employers to provide a minimum amount of paid sick and safe leave to employees to care for themselves or a family member who is ill, needs medical care, or is a victim of domestic violence, sexual assault, or stalking.

Many union workers in Hawaii are fortunate that have access to paid sick days. Even a number of businesses that do not have a collective bargaining agreement offer generous paid sick days to their employees and we commend them for providing such benefits. Sadly, not all workers are provided with equal benefits. In fact, over 170,000 Hawaii workers or nearly 43 percent of the state's private-sector workforce are not able to take paid sick days when they are ill. As a result, many sick employees attend work as they fear losing their job or they desperately need the pay given that a majority of the 170,000 workers are low-wage workers living paycheck to paycheck. This however can be changed for the better.

Supporting H.B. 406 will provide workers and workers who need it the most with a few paid sick days a year. Children who are sick will finally be able to stay at home and recover and sick employees will finally have the opportunity to regain their health allowing them to return to full productivity at work. And most importantly, the spread of illness will be greatly reduced among co-workers, school children and the general public. Hawaii will become a healthier state, a more productive state and of course a state that recognizes the impact of how contagious the flu or other diseases can be to Hawaii residents. A small number of paid sick days a year can go a long way to improving the quality of life for many.

Thank you for the opportunity to testify.

Respectfully submitted,

Randy Perreira  
President



Committee: Committee on Labor and Public Employment  
Hearing Date/Time: Tuesday, February 05, 2013, 9:00 a.m.  
Place: Conference Room 309  
Re: Testimony of the ACLU of Hawaii in Support of H.B. 406, Relating to Health

Dear Chair Nakashima and Members of the Committee on Labor and Public Employment:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in support of H.B. 406, which mandates that employers provide a minimum amount of paid sick and safe leave to employees to care for themselves or a family member who is ill, needs medical care, or is a victim of domestic violence, sexual assault, or stalking. H.B. 406 seeks to ensure that individuals don’t lose their jobs or paychecks because of unforeseen or uncontrollable circumstances.

More than 50 million workers in the U.S. do not have paid sick leave to care for sick children. Only 61 percent of private-industry workers have any paid sick leave at all to care for sick children or other family members. This problem is particularly acute for women on the lowest rungs of the economic ladder. As Joan Williams has put it, such workers are often “one sick child away from being fired.”

Without the provision of sick or safe leave, employees are faced with the difficulty of caring for their loved ones or themselves while maintaining their working hours. Unable to risk job security, individuals then bring their illnesses into the workplace or send their sick children into the schools—only exasperating the problem and heightening the need for paid absences. Facing additional challenges under the status quo, individuals who experience sexual assault, domestic violence, or stalking cannot seek the treatment and help they need without risking their employment status. We find the current practice of rejecting the needs of an employee—while threatening the loss of a job—blatantly unjust.

We need paid parental leave and a guarantee of paid sick leave that covers caring for sick children or other family members. We cannot hope to achieve full equality for women until our nation’s policies recognize the value of caregiving work, and adapt to the reality that pregnancy, childbirth, and caregiving are a part of the lives of many women in the workforce.

Because paid sick and safe leave contributes to a healthier and more productive workforce and because we want to ensure the economic security and safety of employees and full equality for women, we encourage you to support H.B. 406.

Thank you for this opportunity to testify.

Sincerely,

American Civil Liberties Union of Hawaii  
P.O. Box 3410  
Honolulu, Hawaii'i 96801  
T: 808-522-5900  
F: 808-522-5909  
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[www.acluhawaii.org](http://www.acluhawaii.org)

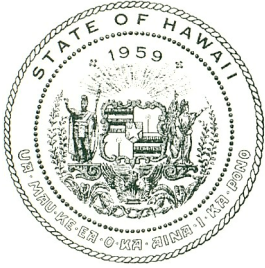
Chair Nakashima and Members of the Committee on  
Labor and Public Employment  
February 5, 2013  
Page 2 of 2

Laurie A. Temple  
Staff Attorney and Legislative Program Director  
ACLU of Hawaii

*The American Civil Liberties Union of Hawaii (“ACLU”) has been the state’s guardian of liberty for 47 years, working daily in the courts, legislatures and communities to defend and preserve the individual rights and liberties equally guaranteed to all by the Constitutions and laws of the United States and Hawaii. The ACLU works to ensure that the government does not violate our constitutional rights, including, but not limited to, freedom of speech, association and assembly, freedom of the press, freedom of religion, fair and equal treatment, and privacy. The ACLU network of volunteers and staff works throughout the islands to defend these rights, often advocating on behalf of minority groups that are the target of government discrimination. If the rights of society’s most vulnerable members are denied, everyone’s rights are imperiled.*

American Civil Liberties Union of Hawaii  
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HAWAII  
STATE  
COMMISSION  
ON THE  
STATUS  
OF  
WOMEN



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[humanservices.hawaii.gov/hscsw/](http://humanservices.hawaii.gov/hscsw/)

235 S. Beretania #407  
Honolulu, HI 96813  
Phone: 808-586-5758  
FAX: 808-586-5756

February 5, 2013

**Testimony in Support of HB 6 and HB 406, Relating to Health**

**To:** Representative Mark Nakashima, Chair  
Senator Mark J. Hashem, Vice Chair  
Members of the House Committee on Labor

**From:** Cathy Betts, Executive Director, Hawaii State Commission on the Status of Women

**Re:** Testimony in Support of HB 6/406, Relating to Health

On behalf of the Hawaii State Commission on the Status of Women, I would like to thank the committee for this opportunity to provide testimony on this important issue. I would like to express my strong support of this bill, which would require employers to provide a minimum level of paid sick and safe leave to employees within the State.

If passed, this bill would set a standard practice for allowing sick and safe leave for all workers. Additionally, it would enable victims of domestic violence, sexual assault or stalking to participate in legal proceedings, receive medical treatment or counseling, or obtain other critical services, without fear that they may lose their job. A minimum of paid sick and/or safe leave would also allow victims to maintain some sense of safety and independence, without fear of retribution for asking for time off.

Maintaining a job can be extremely difficult for victims of violent crime. In 2009, the Department of Justice found that of the 79% of stalking victims who had a job, one in eight lost time from work. More than half of the victims surveyed lost five or more days from work.<sup>1</sup> In 2007, between 15.2% and 27.6% of those women surveyed lost a job due to abuse.<sup>2</sup> Allowing a minimum amount of paid time off is crucial for victims to recover from abuse. In one study, 23% of adults say they have been threatened with termination or fired for taking time off to take care of a sick family member.<sup>3</sup>

A lack of paid sick and safe leave has a detrimental affect on low-income women. Minority women continue to be paid less on average, and close to 2/3 of low wage workers do not have access to paid sick days.<sup>4</sup> While those who oppose this bill may argue that paid leave is bad for business, this is simply not true. Having a paid leave policy increases worker loyalty, decreases turnover and ensures a healthy workforce. Ensuring a minimum amount of paid sick and safe leave is a sound public policy that benefits the community and the workplace. The Commission respectfully requests that this Committee pass HB 6 and HB 406. Thank you for your time.

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<sup>1</sup> Katrina Baum, U.S. Dep't of Justice, Bureau of Justice Statistics, *Stalking Victimization in the United States* (2009).

<sup>2</sup> TK Logan, et al. *Partner Stalking and Implications for Women's Employment*, J. INTERPERS. VIOLENCE 22(3): 268-291 (2007).

<sup>3</sup> Tom W. Smith and Jibum Kim, *Paid Sick Days: Attitudes and Experiences*, Public Welfare Foundation (2010), available at <http://www.publicwelfare.org/resources/DocFiles/psd2010final.pdf>.

<sup>4</sup> National Partnership for Women and Families, *Women of Color Need a Paid Sick Day Standard* (December 2010).



**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, January 31, 2013 4:36 PM  
**To:** LABtestimony  
**Cc:** tedt@halemakua.org  
**Subject:** Submitted testimony for HB406 on Feb 5, 2013 09:00AM

**HB406**

Submitted on: 1/31/2013

Testimony for LAB on Feb 5, 2013 09:00AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Ted Tucker	Hale Makua Health Services	Oppose	No

Comments: Hale Makua Health Services operates 2 nursing homes on Maui and employs nearly 500 workers. At any given time, the company employs 20-40 casual part-time workers to fill in as needed due to short staffing. These casual employees are often in school or work at other jobs. Accruing and paying sick leave benefits, as well as replacement costs, for these workers will add significant additional expense that the company cannot afford. Hale Makua and nearly all other nursing homes in Hawaii are losing money because flat or declining reimbursements which are outstripped by rising costs. For the past several years we've had to negotiate wage freezes with our unions and even frozen our pension plans in an effort to reduce costs. The added cost of sick leave for casual workers is one this company simply cannot afford. We urge you to oppose this bill. Mahalo.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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February 5, 2013

Committee on Labor and Public Employment  
Rep. Mark M. Nakashima, Chair  
Rep. Mark J. Hashem, Vice Chair

Associated Builders and Contractors, Hawaii Chapter Testimony in  
**Opposition** to HB 406

Chair Nakashima, Vice Chair Hashem and members of the committee. My name is Malcolm Barcarse, Jr. I am the legislative committee chair for Associated Builders and Contractors, Hawaii Chapter. We are an organization of 165 members serving the merit shop construction industry through apprenticeship programs and other services. We also serve as the voice of the approximately 4500 merit shop construction companies in Hawaii.

While we appreciate the need for employers to treat their employees well through various benefits; we are **opposed** to this bill as we believe it would have a chilling effect on a benefit that many employers provide to their employees voluntarily.

Many employers including a significant number of our members provide as much if not more sick leave than this bill proposes. Therefore the most troubling portions of this bill are (1) the overly burdensome hoops that employers must jump through to verify their employees "sick and safe leave", and (2) in any action taken against the employer for a violation of this proposed law, employers are put at an unfair disadvantage in proving compliance with this proposed bill.

In order to balance the need of employees to take "paid sick and safe leave" with the employers need to maintain a functional and orderly work environment it is necessary for many employers to put in safeguards to ensure that employees are legitimately using paid leave and not gaming the system. These safeguards typically include setting clear guidelines explaining in what situations paid leave may be used and providing verification requirements that including a doctor's notes when a person in on leave for a certain period of time. This bill endangers this balance in

**America's Best Contractors**

two key areas. First, many of the permitted uses of “paid sick and safe leave” are very broad in particular many of the provisions for the care of a family member for health or domestic violence reasons. These provisions allow an employee who may want to game the system ample opportunity to hide behind the care of family member provisions to take paid leave with no real way for the employer to verify the legitimacy of the claim. Second, the documentation that an employer may request for absences three days and longer do not cover many of the situations where an employee may take paid leave for the care of a family member as the verification portions of the bill only cover someone who is seeking “paid sick and safe leave” for themselves as opposed to the care of a family member. The lack of verification in these situations provides a significant loophole for potential abuse of the system.

We are also very concerned about the provision of the bill creating a rebuttable presumption of unlawful retaliation of this proposed law if someone “requests or uses paid sick and safe leave” within ninety days after the adverse action takes place. Since any civil action resulting from this proposed law would concern use of “paid or sick leave” it would seem very logical that most of these cases are initiated when an adverse action occurs due to the use of such leave. It violates all principles of fairness when an employer is presumed to have violated the law when nothing more than a complaint is filed.

However the tragedy of this bill, is that the Legislature is transforming a benefit that has been traditionally given by employers to employees to ensure a healthful and happy environment to a mandate written in such a way that could create a adversarial culture built on mistrust which in turn may harm the very workers that the Legislature is seeking to protect. As I stated in my introduction many companies already provide sick leave benefits that go above and beyond than those that are proscribed in this bill. If a bill such as this becomes law I would guess that many of these businesses are likely to reduce the amount of sick leave they give their employees to track the law so that they can decrease their exposure to the various mandates and penalties included in this law.

Thank you for the opportunity to testify.



Representative Mark M. Nakashima, Chair  
Representative Mark J. Hashem, Vice Chair  
Committee on Labor & Public Employment  
State Capitol, Honolulu, Hawaii 96813

HEARING      Tuesday, February 05, 2013  
                  9:00 am  
                  Conference Room 309

RE      **HB6, Relating to Health**

Chair Nakashima, Vice Chair Hashem, 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. The retail industry is one of the largest employers in the state, employing 25% of the labor force.

**RMH strongly opposes HB406**, which requires employers to provide a minimum amount of paid sick and safe leave to employees to be used to care for themselves or a family member who is ill, needs medical care, or is a victim of domestic violence, sexual assault, or stalking.

Many businesses already have a paid sick leave policy in place, the duration of which, effective date of application and other specifics vary depending on the needs of the business and employers' resources. This sick leave benefit is intended to allow for the occasional cold or flu, which generally does not warrant a visit to a physician. Most employers do not require a doctor's validation in writing.

Employers already are mandated to provide Health Care Insurance. HB6 adds yet another costly benefit to the list, and it is Hawaii's small businesses that will experience the greatest hardship. It's important to note that in addition to the "sick leave" compensation the employer pays to the individual taking the sick leave, the employer most likely has to pay the same compensation to another employee "filling in" for this individual.

At this point in time, policy-makers should be eliminating obstacles to business growth, job creation and economic recovery, not adding additional costs that employers cannot afford.

The members of the Retail Merchants of Hawaii respectfully urge you to hold HB6. Thank you for the opportunity to comment on this measure.

Carol Pregill, President



House of Representatives  
Twenty-Seventh Legislature, 2013  
State of Hawai'i

TO: Honorable Mark Nakashima, Chair  
Honorable Mark Hashem, Vice Chair  
Members of the Committee on Labor & Public Employment

DATE: Tuesday, February 5, 2013

TIME: 9:00 AM

PLACE: Conference Room 309  
Hawai'i State Capitol  
415 South Beretania Street  
Honolulu, Hawai'i 96813

FROM: National Federation of Independent Business (NFIB) Hawai'i

**RE: HOUSE BILL 406, RELATING TO HEALTH**

Chair Nakashima, Vice Chair Hashem, and members of the Committee,

Thank you for the opportunity to testify on House Bill 406. NFIB Hawai'i respectfully **opposes** this measure.

HB 406 requires employers to provide a minimum amount of paid sick and safe leave to employees to be used to care for themselves or a family members who is ill, needs medical care, or is a victim of domestic violence, sexual assault, or stalking.

NFIB believes that government should not intrude on the employer/employee relationship. Many small businesses in Hawaii are family-operated and are already flexible in accommodating employees. It is inappropriate for the government to require a solution for a problem that does not exist.

The National Federation of Independent Business is the largest advocacy organization representing small and independent businesses in Washington, D.C., and all 50 state capitals. In Hawaii, NFIB represents more than 1,000 members. NFIB's purpose is to impact public policy at the state and federal level and be a key business resource for small and independent business in America. NFIB also provides timely information designed to help small businesses succeed.

Thank you for the opportunity to testify on this measure.



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Testimony to the House Committee on Labor and Public Employment  
February 5, 2013

Testimony in Opposition to HB 406 – Relating to Health

To: The Honorable Mark Nakashima, Chair  
The Honorable Mark Hasem, Vice-Chair  
Members of the Committee

My name is Stefanie Sakamoto, and I am testifying on behalf of the Hawaii Credit Union League, the local trade association for 78 Hawaii credit unions, representing approximately 804,000 credit union members across the state. We are opposed to HB 6, Relating to Health.

Our primary concern is that this legislation may work against the best interest of employees who receive paid sick leave as an employee benefit. In today's challenging economic climate, it has become common practice to cut staffing and expenses "to the bone", thus the survival of any business depends largely on its employees being on the job. If offering paid sick leave to their employees becomes overly burdensome, the employer might opt to do away with this altogether.

Thank you for the opportunity to provide comments.



Written Testimony of Debra L. Ness  
President, National Partnership for Women & Families  
on H.B. 6/H.B. 406, Paid Sick and Safe Leave

Submitted to Committee on Labor & Public Employment  
Hawaii House of Representatives  
February 5, 2013

**I am pleased to submit testimony IN SUPPORT of H.B. 6/H.B. 406, legislation to provide Hawaii's workers with access to earned paid sick and safe leave.**

Like many working families across the nation, many of Hawaii's families struggle to make ends meet. For workers without paid sick days, a bad case of the flu or a child's fever can mean the loss of a much-needed paycheck or even a job. Paid sick days policies protect workers' economic security and the health and well-being of their communities without over-burdening businesses.

The National Partnership for Women & Families is a nonprofit, nonpartisan advocacy group dedicated to promoting fairness in the workplace, access to quality health care and policies that help workers in the United States meet the dual demands of work and family. We are proud to work with public officials and community groups across the nation to provide public education about the need for common-sense policies such as paid sick days.

In 2011, Connecticut became the first state and Seattle the fourth city to adopt paid sick days laws. The cities of San Francisco and Washington, D.C., have also implemented successful paid sick days legislation. I applaud Hawaii for joining more than a dozen other states and cities across the nation in considering this important policy. I urge you to act this year to adopt a paid sick leave standard that will help people throughout the state to be both responsible workers and responsible family members when illness strikes or medical needs arise.

**The Economic Security of Working Families and the Well-Being of Our Communities Suffer When Workers Lack Paid Sick Leave**

Everyone gets sick, but too many workers in Hawaii cannot take time away from work to get better. The cost of allowing this to continue, and failing to enact a remedy, is high for Hawaii's families, communities and businesses. That is why establishing a minimum paid sick leave standard is so important.

Nearly 175,000 people in Hawaii — 43 percent of private sector workers — do not have paid sick days to use for their own illnesses, a rate slightly higher than the United States as a whole.<sup>1</sup>

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<sup>1</sup> Williams, C., et al. (2011, March). *Access to Paid Sick Days in the States, 2010*. Institute for Women's Policy Research publication. Retrieved 31 January 2013, from <http://www.iwpr.org/publications/pubs/access-to-paid-sick-days-in-the-states-2010>

Many more cannot take paid sick days to care for an ill child or family member; more than half of parents in the U.S. do not have even a few paid sick days they can use to care for a sick child.<sup>2</sup> In this economy, the lack of a paid sick days standard forces too many workers and their families to make the impossible choice between their health and their financial security. At a time when many families are living paycheck to paycheck and the average unemployed worker searches for many months for a new job, workers without paid sick days can ill afford to lose pay when they get the flu, or risk job loss when they need to take a child to the doctor.

Research released in 2011 shows that for an average family without paid sick days even a few unpaid days away from work can jeopardize their ability to pay bills or meet basic needs. For example, just 3.5 days of lost pay are equivalent to that average family's entire monthly grocery budget.<sup>3</sup> And that assumes a breadwinner is able to return to work after taking the time off. Unfortunately, too often, workers lose their jobs when they have to take time away from work because they are ill or a family member needs care. In a recent study, 23 percent of adults in the United States reported losing a job or being threatened with job loss for needing time away from work to address personal or family illness, and 16 percent reported actually losing their jobs.<sup>4</sup>

Working women, who continue to be the primary caregivers for their families, are particularly impacted by lack of paid sick days. Half of working mothers miss work when a child comes down with a common illness, and many of these women — two-thirds of low-income mothers and more than one-third of middle- and upper-income mothers — lose pay when they care for sick children.<sup>5</sup> Women are now the sole or co-breadwinners in nearly two-thirds of U.S. households.<sup>6</sup> There is no question that the economic security of families is put in jeopardy when working mothers have to miss work to care for their ill children.

Because of the economic hardships and job insecurity associated with a lack of paid sick days, too often, workers without paid sick days are forced to go to work rather than care for their health; as a result, they delay preventive care or turn to emergency rooms instead of using lower-cost health care options. In these cases, potentially treatable problems can become more severe. Nationwide, people without paid sick days are twice as likely as those with paid sick days to use an emergency room because of their inability to take time off of work,<sup>7</sup> and parents without paid sick days are *five times* more likely to take a child or family member to an emergency room.<sup>8</sup> In the ongoing effort to improve the health of Americans and reduce health care costs, the lack of a paid sick days standard is simply bad health policy. In fact, a recent

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<sup>2</sup> Smith, K., & Schaefer, A. (2012, June). *Who Cares for the Sick Kids? Parents' Access to Paid Time to Care for a Sick Child*. Carsey Institute at the University of New Hampshire publication. Retrieved 31 January 2013, from <http://www.carseyinstitute.unh.edu/sites/carseyinstitute.unh.edu/files/publications/IB-Smith-Paid-Sick-Leave-2012.pdf>

<sup>3</sup> Gould, E., Fillion, K., & Green, A. (2011, June 29). *The Need for Paid Sick Days: The lack of a federal policy further erodes family economic security*. Economic Policy Institute publication. Retrieved 31 January 2013, from <http://www.epi.org/page/-/BriefingPaper319.pdf?nocdn=1>

<sup>4</sup> Smith, T., & Kim, J. (2010, June). *Paid Sick Days: Attitudes and Experiences*. National Opinion Research Center at the University of Chicago for the Public Welfare Foundation publication (pp. 5-6). Retrieved 31 January 2013, from <http://www.publicwelfare.org/resources/DocFiles/psd2010final.pdf>

<sup>5</sup> Kaiser Family Foundation. (2003, April). *Women, Work and Family Health: A Balancing Act* (p. 2). Retrieved 31 January 2013, from

[http://paysickdays.nationalpartnership.org/site/DocServer/Women\\_Work\\_Family\\_Health.pdf?docID=366](http://paysickdays.nationalpartnership.org/site/DocServer/Women_Work_Family_Health.pdf?docID=366)

<sup>6</sup> Boushey, H., & O'Leary, A., eds. (2009). *The Shriver Report: A Woman's Nation Changes Everything* (p. 32). Center for American Progress and A Woman's Nation publication. Retrieved 31 January 2013, from

[http://www.americanprogress.org/issues/2009/10/pdf/awn/a\\_womans\\_nation.pdf](http://www.americanprogress.org/issues/2009/10/pdf/awn/a_womans_nation.pdf)

<sup>7</sup> See note 4, p. 40.

<sup>8</sup> Ibid. (Unpublished calculations).

study estimates that if all workers in the United States had access to paid sick days, health care costs associated with emergency room use would be reduced by \$1.1 billion nationwide each year, with \$517 million in savings going to taxpayer-funded health insurance programs.<sup>9</sup>

What's more, the lack of a paid sick days standard creates serious public health risks. People without paid sick days are 1.5 times more likely to go to work sick than people with paid sick days.<sup>10</sup> And workers who have the most direct contact with the public are the ones least likely to have access to paid sick days. For example, nearly three out of four food preparation and food service workers have no paid sick days,<sup>11</sup> and nearly two-thirds of restaurant workers report having worked sick,<sup>12</sup> potentially leading to the spread of contagious illnesses to customers. Similarly, just 28 percent of child care workers have paid sick days,<sup>13</sup> risking the spread of contagious illnesses to young children. Nearly half of "personal care workers" (such as home health care workers who assist the infirm and the elderly) do not have paid sick time,<sup>14</sup> causing potentially serious health problems in these vulnerable populations. When disease spreads because workers can't stay home, everyone loses.

Failing to provide workers with paid sick days can also cause a reduction in productivity for businesses — which can have a ripple effect when disease spreads through a worksite. In fact, lost business productivity due to workers being sick on the job costs an estimated \$160 billion annually.<sup>15</sup> A snapshot from the H1N1 pandemic in 2009 shows why. During a three-month period in the fall of 2009, 26 million workers suffered from H1N1 and eight million workers went to work sick, infecting up to seven million of their co-workers.<sup>16</sup> H1N1 lasted longer in private sector workplaces than in public sector workplaces during those three months — a difference that researchers attribute to the lack of paid sick days in the private sector.<sup>17</sup> Business productivity and efficiency suffer when illness overcomes the workplace.

## **H.B. 6/H.B. 406: An Important First Step Toward Meeting the Needs of Hawaii's Workers and Their Families**

The tremendous costs of inaction and the benefits that paid sick days policies have for working

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<sup>9</sup> Miller, K., Williams, C., & Yi, Y. (2011, October 31). *Paid Sick Days and Health: Cost Savings from Reduced Emergency Department Visits*. Institute for Women's Policy Research publication. Retrieved 31 January 2013, from <http://www.iwpr.org/publications/pubs/paid-sick-days-and-health-cost-savings-from-reduced-emergency-department-visits>

<sup>10</sup> See note 4, p. 39.

<sup>11</sup> Joint Economic Committee of the U.S. Congress. (2010, March). *Expanding Access to Paid Sick Leave: The Impact of the Healthy Families Act on America's Workers* (p. 2). Retrieved 31 January 2013, from [http://jec.senate.gov/public/index.cfm?a=Files.Serve&File\\_id=abf8aca7-6b94-4152-b720-2d8d04b81ed6](http://jec.senate.gov/public/index.cfm?a=Files.Serve&File_id=abf8aca7-6b94-4152-b720-2d8d04b81ed6)

<sup>12</sup> Restaurant Opportunities Centers United. (2010, September). *Serving While Sick: High Risks and Low Benefits for the Nation's Restaurant Workforce, and Their Impact on the Consumer* (p. 11). Restaurant Opportunities Centers United publication. Retrieved 31 January 2013, from <http://rocunited.org/roc-serving-while-sick/>

<sup>13</sup> See note 11, p. 3. Number applies to establishments with 15 or more employees.

<sup>14</sup> Ibid, p. 8. Number applies to establishments with 15 or more employees.

<sup>15</sup> Stewart, W., et al. (2003, December). "Lost Productive Health Time Costs from Health Conditions in the United States: Results from the American Productivity Audit." *Journal of Occupational and Environmental Medicine*, 45. Retrieved 31 January 2013, from [http://www.workhealth.org/whatsnew/whnewrap/Stewart%20etal\\_lost%20productive%20work%20time%20costs%20from%20health%20conditions%20in%20the%20US\\_%20Results%20from%20the%20American%20Productivity%20Audit%202003.pdf](http://www.workhealth.org/whatsnew/whnewrap/Stewart%20etal_lost%20productive%20work%20time%20costs%20from%20health%20conditions%20in%20the%20US_%20Results%20from%20the%20American%20Productivity%20Audit%202003.pdf)

<sup>16</sup> Institute for Women's Policy Research. (2010, February). *Sick at Work: Infected Employees in the Workplace During the H1N1 Pandemic* (p.1). Institute for Women's Policy Research publication. Retrieved 31 January 2013, from <http://www.iwpr.org/publications/pubs/sick-at-work-infected-employees-in-the-workplace-during-the-h1n1-pandemic>

<sup>17</sup> Ibid, p. 8.



families, our public health, our children and our communities are clear. That is why the National Partnership supports a standard that would allow all workers to earn paid sick time. H.B. 6/H.B. 406 would be an excellent first step toward meeting the needs of nearly 175,000 Hawaii workers and their families while respecting the needs of the state's businesses. We look forward to the day when all Hawaii workers have access to paid sick time.

Paid sick days laws in San Francisco and Washington, D.C., in place since 2007 and 2008, respectively, demonstrate the positive impact that a paid sick days standard has for workers without burdening business. A study of San Francisco workers and employers shows that, as a result of the city's paid sick days law, many of the workers most in need of paid sick days now have access to them.<sup>18</sup> As a result, a majority of workers say they are better able to care for their own health needs and the health needs of their families, that their employers are more supportive of workers using sick time, or that they gained more sick time because of the floor set by the law.<sup>19</sup> There is also indisputable evidence refuting opponents' claims that paid sick days laws harm business and job growth. San Francisco's experience shows that businesses — including the smallest businesses — can flourish when a paid sick days standard is in place. In the two years following the implementation of the city's paid sick days law (a time period that includes the recent recession), the number of businesses and jobs in San Francisco grew relative to business and job growth in surrounding counties.<sup>20</sup> The growth pattern held true even in the industries that had to make the biggest changes by offering paid sick days as a result of the law — retail and food service.<sup>21</sup>

The experiences of San Francisco businesses show that fears of disruption from a paid sick days standard are vastly overblown. For example, most businesses did not have to make any changes to their policies as a result of the law.<sup>22</sup> And two-thirds of businesses now say they support the law.<sup>23</sup> With respect to concerns that workers might overuse paid sick time, the data show that workers in the city used just three sick days per year on average, despite the availability of many more days under the law. One-quarter of all workers did not use *any* sick days within a one-year period.<sup>24</sup> As the Golden Gate Restaurant Association, an opponent of the law prior to adoption now concedes, paid sick days is “is the best public policy for the least cost.”<sup>25</sup>

### **A Paid Sick Days Standard: A Public Policy Solution That Works for Everyone**

Everyone gets sick. Everyone should have time to get better without jeopardizing their economic security or their families' health. The National Partnership urges the Committee on Labor & Public Employment to pass H.B. 6/H.B. 406 to protect the economic security of Hawaii's working families and the health and well-being of its residents.

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<sup>18</sup> Drago, R., & Lovell, V. (2011, February). *San Francisco's Paid Sick Leave Ordinance: Outcomes for Employers and Employees* (p. 9). Institute for Women's Policy Research publication. Retrieved 31 January 2013, from <http://www.iwpr.org/publications/pubs/San-Fran-PSD>

<sup>19</sup> Ibid, p. 11.

<sup>20</sup> Petro, J. (2010, October). *Paid Sick Leave Does Not Harm Business Growth or Job Growth* (pp. 5-6). Drum Major Institute for Public Policy publication. Retrieved 31 January 2013, from [http://paysickdays.nationalpartnership.org/site/DocServer/Petro\\_DMI\\_Paid\\_Sick\\_Leave\\_Does\\_Not\\_Harm\\_2010\\_Unabbr\\_.pdf?docID=7721](http://paysickdays.nationalpartnership.org/site/DocServer/Petro_DMI_Paid_Sick_Leave_Does_Not_Harm_2010_Unabbr_.pdf?docID=7721)

<sup>21</sup> Ibid, p. 7.

<sup>22</sup> See note 18, p. 17.

<sup>23</sup> Ibid, p. 22.

<sup>24</sup> Ibid, p. 9.

<sup>25</sup> Warren, J. (2010, June 2). Cough If You Need Sick Leave. *Bloomberg Business Week*. Retrieved 31 January 2013, from [http://www.businessweek.com/magazine/content/10\\_24/b4182033783036.htm](http://www.businessweek.com/magazine/content/10_24/b4182033783036.htm)

# BIA-HAWAII

## BUILDING INDUSTRY ASSOCIATION

*"Building Better Communities"*

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Pacific Rim Partners

**W. Bruce Barrett**

Castle & Cooke Homes Hawaii, Inc.

## Testimony to the House Committee on Labor and Public Employment Tuesday, February 5, 2013

**9:00 a.m.**

**State Capitol - Conference Room 309**

**RE: H.B. 6 and H.B. 406, RELATING TO HEALTH**

Dear Chair Nakashima, Vice-Chair Ing, and members of the committee:

My name is Gladys Marrone, Government Relations Director for the Building Industry Association of Hawaii (BIA-Hawaii), the voice of the construction industry. We promote our members through advocacy and education, and provide community outreach programs to enhance the quality of life for the people of Hawaii. BIA-Hawaii is a not-for-profit professional trade organization chartered in 1955, affiliated with the National Association of Home Builders.

BIA-Hawaii **strongly opposes** H.B. 6 and H.B. 406, both Relating to Health. These measures propose to require employers to provide a minimum amount of paid sick and safe leave to employees to be used to care for themselves or a family member who is ill, needs medical care, or is a victim of domestic violence, sexual assault, or stalking.

Businesses generally offer paid leave (i.e. vacation, sick leave, PTO) to employees to create a healthy work environment and to foster a positive relationship with its employees. They understand that employees will require occasional leave from work due to a legitimate sickness or other reasons, and generally accommodate and work with them.

This "one-size fits all" approach, however, will hinder an employer's flexibility in providing this benefit and result in additional direct and indirect costs. This is another mandate placed on businesses among others that already exist.

Moreover, for employers that already provide the benefit, this measure adds another layer of administrative burden. Many small businesses do not have the human resources capacity, or additional resources, to keep up with the regulatory requirements.

H.B. 6 and H.B. 406 prohibits employers from verifying whether the employee is taking "sick and safe leave" for the first three (3) days of absence. This bill prohibits employers from requesting reasonable documentation unless the "sick and safe leave" exceeds three consecutive days. And, it penalizes the employer for asking to verify whether someone is truly sick by requiring the employer to pay for the doctor's note.

Mailing address: P.O. Box 970967, Waipahu, HI 96797 Street address: 94-487 Akoki St., Waipahu, HI 96797-0967;  
Telephone: (808) 847-4666 Fax: (808) 440-1198 E-mail: [info@biahawaii.org](mailto:info@biahawaii.org); [www.biahawaii.org](http://www.biahawaii.org)

In December, 2012, the Small Business & Entrepreneurship Council's 17th "U.S. Business Policy Index", which ranks states on policy measures and costs impacting small business and entrepreneurship, put Hawaii at No. 45 among the 50 states and Wash., D.C.

At a time when the State is placing an emphasis on jobs and the economy, this measure, and any other mandate that creates perceived or real additional costs, will undermine those efforts, hinder economic progress and entrepreneurial activity, and deter business investment in our State. During this uncertain state of the economy, the passage of this measure would be unfortunate and devastating for Hawaii's economic recovery.

Small businesses are especially vulnerable to any increase in costs, especially those who operate on low margins. In order to adjust to the consequences of this measure, many small employers will be required to offset higher costs through lower wages to their employees, fewer work hours, less pay raises, decreased discretionary benefits, and higher health care costs. Furthermore, increased cost of doing business is ultimately passed on to the consumer. Even worse, for those companies on the "tipping point," any increase may force them to close shop.

For the foregoing reasons, BIA-Hawaii is **strongly opposed** to H.B. 6 and H.B. 406.

Thank you for the opportunity to express our views on this matter.

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Email: [info@gcawhawaii.org](mailto:info@gcawhawaii.org)  
Website: [www.gcawhawaii.org](http://www.gcawhawaii.org)



# GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

Uploaded via Capitol Website

February 5, 2013

TO: HONORABLE MARK NAKASHIMA, CHAIR, HONORABLE MARK HASHEM,  
VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR &  
PUBLIC EMPLOYMENT

SUBJECT: **OPPOSITION TO H.B. 6, RELATING TO HEALTH.** Requires employers to provide a minimum amount of paid sick and safe leave to employees to be used to care for themselves or a family member who is ill, needs medical care, or is a victim of domestic violence, sexual assault, or stalking.

**OPPOSITION H.B. TO 406, RELATING TO HEALTH.** Requires employers to provide a minimum amount of paid sick and safe leave to employees to care for themselves or a family member who is ill, needs medical care, or is a victim of domestic violence, sexual assault, or stalking. Effective 7/1/13.

HEARING

DATE: Wednesday, February 5, 2013  
TIME: 9:00 a.m.  
PLACE: Conference Room 309

Dear Chair Nakashima, Vice Chair Hashem and Members of the Committee:

The General Contractors Association (GCA) is an organization comprised of over six hundred general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is the largest construction association in the State of Hawaii. The GCA's mission is to represent its members in all matters related to the construction industry, while improving the quality of construction and protecting the public interest.

GCA **opposes** H.B. 6, Relating to Health and H.B. 406, Relating to Health because these bills propose to mandate that an employer provide paid sick and safe leave not just for my employee's illness, but illness of the employee's family members. These bills will add huge costs and a large administrative burden to employers both big and small.

Both H.B. 6 and H.B. 406 would increase the cost for employers significantly and potentially force employers to eliminate positions in order to comply with the demands required under these measures. Some of the concerns with both H.B. 6 and H.B. 406, include but are not limited to, potential employee abuse due to proposed changes in documentation requirements and additional costs, direct and indirect, including employment, bookkeeping, compliance, economic and business, etc.

We respectfully request that H.B. 6 and H.B. 406 be held in committee.

Thank you for the opportunity to share our opposition to these measures.

Presentation to  
Committee on Labor and Public Employment  
February 5, 2013 at 9:00am  
State Capitol Conference Room 309

**Testimony in Opposition to H. B. 6 and H. B. 406**

TO: The Honorable Mark M. Nakashima, Chair  
The Honorable Mark J. Hashem, Vice Chair  
Members of the Committee

My name is Neal Okabayashi and I represent the Hawaii Bankers Association, a trade group of local FDIC insured banks.

We oppose HBs 6 and 406 because, as an unintended consequence, it actually hurts working people. When sick leave is misused and treated as time off, a company will consider reducing sick leave benefits. This bill exacerbates the consequence because it broadens the scope of sick leave to include other purposes, including paid family medical leave. Ultimately, the impact will not help workers but hurt workers because the logical outcome is to reduce generous sick leave policies.

Employers provide sick leave so workers can recover from illness or injury. Many employers today are quite generous with sick leave benefits. However, there is abuse today, when some workers will use sick leave as vacation time. The well-known Friday-Monday syndrome is well known, as some workers tend to be sick on such days to elongate the weekend. Under this bill, available sick leave time becomes more like paid time off because a worker can use sick leave even when not sick. CareerBuilder.com reported that 1 in 4 workers consider sick leave to be vacation time. The knowledge of potential abuse is the reason the state credits sick leave towards years of service.

This bill would make sick leave vacation time as well as paid time off for other purposes which means that companies would be forced to reduce sick leave time or switch to a Paid Time Off (PTO) system which often reduces time off which can be used for both vacation and sick leave time. For those with a serious health problem, such a reduction may have dire consequences.

This bill does not protect the ill worker. An ill worker, especially one who is seriously ill, will be able to document the illness and use the available sick leave. This bill only protects the worker who is not sick but who wishes to take a day off but cannot document his sickness. In addition, companies with generous vacation policies will be incentivized to reduce the number of vacation days given that this bill seeks to expand the use of sick leave to far beyond time off for being ill. This bill also fails to address the interplay of disability benefits and sick leave benefits.

Thus, while the concept seems fair on paper, in reality it will be bad for most workers, and unfortunately fails to protect the vast majority of hard working employees who benefit from a sick leave policy that can be used when genuinely ill. Thus, the goal of this bill, while it seems to be well-intended, has the opposite effect and thus, we ask that this bill be held indefinitely.

Thank you for the opportunity to submit this testimony and please let us know if we can provide further information.

Neal Okabayashi  
(808) 525-5785



Activities & Attractions Association of Hawaii  
PO Box 598, Makawao, Hawaii 96768  
(808)871-7947 Main (808)877-3104 Fax

**Testimony to the Labor & Public Employment  
Tuesday, February 5, 2013, 9:00 am  
Conference Room 309**

**RE: HB6 RELATING TO SICK LEAVE COMPENSATION**

Chair Nakashima, Vice Chair Lee & Members of the committee;

Mahalo for this opportunity to testify, my name is Toni Marie Davis. For the last 16 years it has been my honor to serve the activity & attraction industry of Hawaii through my position as the Executive Director of the Activities & Attractions Association of Hawaii (A3H). A3H represents over 200 businesses statewide. These businesses range in size from very large (over 300 employees) to very small (1-2 employees). **A3H strongly opposes HB406.**

**Here's a top 5 reasons (there are many more) for this opposition:**

1. Small business by Federal definition is less than \$7million in annual sales ([http://www.sba.gov/sites/default/files/files/Size\\_Standards\\_Table%281%29.pdf](http://www.sba.gov/sites/default/files/files/Size_Standards_Table%281%29.pdf)) 98% of A3H members fit this definition and are small businesses. The proposed Bill practically flips that with making more than 90% of A3H members' large businesses.
2. 40 or 72 hours per employee, which accrues, either is a huge expense for Hawaii's Small Businesses to absorb regardless of size.
3. One sided legislation in favor of employee. Leaving large potential for abuse by employees.
4. US Businesses are being burdened with additional expenses/taxes imposed already e.g.: increase Federal Tax, Reduced Deductions & Health Care Reform. Hawaii making strides to alleviate added expenses on small businesses not proposing additional burdens. Small Business is at the core of Hawaii's economic Tourism engine.
5. Oversteps the boundaries of free enterprise and resembles tactics of a union. Government should be reduced not enlarged dictating the relationship between employers and employees to this degree. The additional paperwork and tracking is again burdensome.

What ever happen to great employers that attract & take care of great employees and grow from good to great? Less government please!!! Businesses that make jobs not government!

Sincerely,

Toni Marie Davis

## **H.B. No. 406**

Aloha:

My name is Jozette Montalvo and I am the Human Resources Director of Maui Petroleum, Inc., Hawaii Petroleum, Inc, and Minit Stop Holdings, LLC. We have operations on Maui, as well as the Big Island.

I kindly ask that you vote **against** HB No. 406.

This bill if passed would place a tremendous burden on many employers, ours included. We already provide comparable benefits for our employees and are mandated to follow the Family Medical Leave Act as well as the State Family Leave Act, not mention domestic violence leave laws.

The way this bill is written is very anti-employer a sentiment that is not needed when employers are still struggling to recover from years of economic strife.

Our Company priority and assets is our employees. We do everything to create a positive work environment and provide benefits that we can afford.

Employers already face many mandated benefits, and additional mandates only further burden employers.

Your vote against and close scrutiny of this bill would be greatly appreciated!



**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 04, 2013 8:46 AM  
**To:** LABtestimony  
**Cc:** nokumura@vipfoodservice.com  
**Subject:** Submitted testimony for HB406 on Feb 5, 2013 09:00AM

**HB406**

Submitted on: 2/4/2013

Testimony for LAB on Feb 5, 2013 09:00AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Nelson T. Okumura	VIP Foodservice	Oppose	No

Comments: This is a large and broad expansion of sick leave benefits that will increase the cost of doing business in Hawaii.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)



Carl R. Sokia  
Director of Human Resources  
St. Regis Princeville Resort  
5520 Ka Haku Road  
Princeville, Kauai, HI 96722

phone: (808) 826-9644  
fax: (808) 826-2270  
e-mail: [carl.sokia@stregis.com](mailto:carl.sokia@stregis.com)

February 4, 2012

Honorable Mark Nakashima, Chair  
Honorable Mark Hashem, Vice Chair  
House Committee on Economic Revitalization and Business

**RE: HB6 & HB406 – Relating to Health - Oppose**  
Conference Room 309, 9:00 AM

Aloha Chair Nakashima, Vice Chair Nakashima and members of the committee:

I am Carl Sokia, Director of Human Resources at the St. Regis Princeville. I am testifying on behalf of the St. Regis Princeville in opposition to both HB6 and HB406 - Relating to Health.

This bill requires employers to provide a minimum amount of paid sick and safe leave to employees to be used to care for themselves or a family member who is ill, needs medical care, or is a victim of domestic violence, sexual assault or stalking. It is a one-size-fits-all approach that impinges on employers' ability to provide this benefit and will result in additional costs and reporting requirements to businesses.

The St. Regis Princeville diligently works to foster a nurturing environment for our employees and one of the ways we accomplish this is to provide a benefits program that is competitive and takes care of our employee's needs. We have a good assistance program in place and provide our employees with an array of benefits. Our current sick leave plan for both bargaining and non-bargaining employees is generous and in most cases is greater than what is being proposed.

Furthermore, the Federal FMLA and the Hawaii Family Leave Act (HFLA) for employees already provides appropriate safeguards and a safety net for employees to take additional leave to care for loved ones. So, this bill is not necessary.

At a time when the state and our nation are focused on restoring the economy and jobs, this bill will hinder economic progress and only make the cost and regulations of doing business in Hawaii higher and more burdensome.

For these reasons, we respectfully urge members of the committee to hold this bill.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Carl R. Sokia', written in a cursive style.

Carl R. Sokia  
Director of Human Resources  
St. Regis Princeville

Cc: Starwood Hotels & Resorts Worldwide, Inc.



February 4, 2013

**Testimony to the House Committee on Labor  
Tuesday, February 5, 2013 9:00AM in House Conference Room 309**

**RE: House Bills 6 and 406 RELATING TO PAID SICK and SAFE LEAVE**

Thank you for the opportunity to submit written testimony on House Bills 6 and 406 related to Paid Sick and Safe Leave.

Please hold HB 6 and 406, bills that propose to mandate businesses to provide paid sick and safe leave not just for my employee's illness, but illness of the employee's family members. These bills will add huge costs and a large administrative burden on my business.

Our company priority is the employees. Therefore, we do everything we can to create a positive work environment and provide benefits that we can afford.

I also have concerns with the following parts of these bills:

- Accrual rate of 1 hour of leave for every 30 hours worked and it can be carried over to the following year.
- Employers may ask for documentation that the employee is sick only if they take more than three consecutive days and the employer is responsible for paying the cost of the physician visit. This may lead to employee abuse and also provides a disincentive for employers to ask for documentation from a health professional or other documentation from a professional (i.e. attorney's fees).
- The language of rebuttable presumption of unlawful retaliation. This means that if an employer reprimands an employee the employer is, under the eyes of the law, considered guilty of retaliation unless the employer can prove otherwise.
- Employees are eligible to leave after working 80 hours in the state. It does not specify if they work for more than one employer if they are eligible for the same benefit from each employer.

Additional costs, direct and indirect, include: employment, bookkeeping, compliance, economic and business, etc. Please also keep in mind that we have prepaid healthcare as a mandated cost that other states do not.

I respectfully ask that HB 6 and 406 be held in committee.

Sincerely,

Casey Riemer  
General Manager/VP

P.O. Box 306  
Lihue, HI 96766

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[www.helicopters-kauai.com](http://www.helicopters-kauai.com)



February 4, 2012


RE: HB 406

To Hawaii State Legislature:

While I am in favor of paid time off benefits for employees, I strongly OPPOSE this bill on the basis of:

1. Paid sick leave is a benefit that is regularly used by less than 20% of the employee population. And of those, it is often questionable as to whether or not the employee was actually sick.
  - a. HIPAA Laws, while necessary, make it impossible for employers to ascertain the nature of an employee's illness and the degree to whether or not it is necessary to miss work. This combined with the ease to which an employee can obtain a doctor note excusing him/her from work provides an opportunity for abuse.
    - i. For example, we recently had an employee, who knowing we had a "black-out period" for time-off requests over the Christmas and New Year's holiday was able to get 3 weeks off during this time by presenting a doctor's note excusing him from work. Because the employee did not request any other health related benefits, for example, FMLA or TDI, the credibility/validity of the doctor note was questionable.
2. Requiring employers to provide paid sick time off will impose a financial burden on employers, and at the very least may force employers to reduce other benefits, which add value to 100% of the employee population.
  - a. For example, in my company, we offer 2 types of time off benefits: Vacation and PTO (Paid Time Off). Whereas "Paid Sick Time Off" could only be used by sick employees, PTO can be used by all employees, thereby providing additional paid time off benefits to the 80% of employees who do not need time off for sickness while still providing this benefit to the 20% who need the time off due to illness. If HB 406 were to be passed, our time off benefit program would need to be restructured and would likely result in a negative impact to the 80% of employees who do not utilize sick time off benefits.
3. Requiring employers to provide paid sick time off benefits will create undue hardship to employers in the form of more absenteeism in the workplace and result in higher costs for overtime necessary to cover the shifts of those who call out sick, and result in other negative intangibles, such as burn-out, low morale, and other related stresses to those employees who are left to get the work done.

In closing, while the spirit of the proposed legislation is honorable, there are already programs in place, for example FMLA and TDI, that provide job and income protection to those employees who truly are suffering from an illness that prevents them from being at work. Please allow these programs to continue providing protection and do not impose the undue hardships on employers that would be caused by the passage of HB 406.



**Mandy Woulfe, SPHR**  
*Human Resources Manager*  
**Honua Kai Resort & Spa**  
o. 808.662.2814  
c. 808.298.2117  
f. 808.662.2848

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 02, 2013 3:02 PM  
**To:** LABtestimony  
**Cc:** tony@rmasalesco.com  
**Subject:** Submitted testimony for HB406 on Feb 5, 2013 09:00AM

**HB406**

Submitted on: 2/2/2013

Testimony for LAB on Feb 5, 2013 09:00AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Anthony Borge	RMA Sales	Oppose	No

Comments: The INTENT of HB 406 is applaudible. The effects, however, of such a law will result in fewer small business start-ups as well as well the downsizing of exisitng small businesses. So as a business owner, I am OPPOSED to HB 406. Small business that operate lean and thin to meet committments cannot afford to operate and pay for services not rendered. 40 hours of paid time off per year aside from paid vacations, sick leave etc, will will add to the cost of doing business that will be added on to the cost of goods and or services the respective businesses provide to consumers. If consumers decide the cost for the goods and services are to high and decide not to patronize the business. Small businesses will need to cut back, downsize or close. There are sufficien t, established programs available. Respectively submitted by Anthony Borge

Please note that testimony submitted less than 24 hours prior to the hearing , improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Rep. Mark M. Nakashima, Chair

Rep. Mark J. Hashem, Vice Chair

NOTICE OF HEARING

DATE: Tuesday, February 05, 2013

TIME: 9:00 A.M.

PLACE: Conference Room 309

**Speaking in Strongest Opposition to HB6 & HB 406**

RE: HB 6 & HB 406: Relating to Health

Chair Nakashima, Vice Chair Hashem, and Members of the LAB Committee:

My name is Jim Coon, Speaking for the Ocean Tourism Coalition.

The OTC represents over 300 small ocean tourism businesses state wide. Most of our businesses are family businesses that are struggling to survive. We are strongly opposed to HB 6 and HB 406 for some of the following reasons:

- 72 Hours of Sick and Safe Leave time per year accrues each and every year. This adds an additional 9 days of payroll per person per year which is a huge impact on our operation expense.
- The Ocean Tourism Industry already has very high overhead and very slim profit margins (2.7% before income taxes). This law would add a very substantial burden to our small companies.
- All small businesses are experiencing more taxes and fees this year.
- The overall tax increase this year on the Federal level is substantial. Most small businesses file taxes as S-Corporations which mean that all the corporate income flows do the individual owner for tax purposes. This gives the illusion that the owner is making a lot of money when in reality, the owner takes enough salary to live on and the rest of the money goes back into the business to service debt, upgrade equipment, grow the business. This very possibly puts the individual into a much higher tax bracket. The top personal income tax rate is 41% Federal and 11% State = 52% Income Taxes. Federal Capital Gains Tax is 23.8% plus Hawaii CG Tax. Payroll tax 12.4%. ObamaCare payroll tax surcharge 0.9%. Deductions and exemptions are phased out for couples (read small businesses) with incomes

over \$300,000, yet the owner will only get a fraction of this because the rest is reinvested in keeping his business alive.

- Most small businesses already have an accrued vacation benefits for their employees. It will be very difficult to continue this benefit if these small businesses are saddled with this onerous sick and safe leave policy.
- This will force many small businesses to cut back on employee hours, new hiring, other employee benefits, and general business growth.
- This is putting the same burden on small businesses that the State and County governments are trying to cope with in their unfunded employee benefit packages. One of the reasons small business have survived the Great Recession up to this point is that they have cut costs to the bone. It is unconscionable to mandate this type of economic burden on the business of this state.
- The scope of events that would trigger the use of paid sick and safe leave pay are so incredibly broad that abuse of this policy is assured.
- Paid Sick Safe leave is required to be provided upon oral request. Apparently this leave can be taken immediately and in small increments.
- Lack of adequate notice to employer. In the Charter Boat industry our vessels have specific U.S. Coast Guard manning requirements with specific licenses and duties. We must have adequate notice of a crew absence before the start of a trip so we can arrange for alternate captains/crew, otherwise we can't operate.
- Paid leave can be used in smaller than hourly increments. How can this work when we have employees entrusted with the safety of others in an ocean environment? Does the Captain or Crew take an hour leave while the vessel is operating?
- Only after the employee has been paid and absent three consecutive days can the employer ask for reasonable documentation that it was allowed.
- The employer has virtually no rights under this legislation except to pay all bills. Not only that, the employer must be very careful to not get a complaint lodged against them even if the complaint is alleged but ill founded because the bill is very biased against the employer.
- This provides employee immunity to normal employee management within 90 days of any requests or use of paid sick leave. With 9 sick leave days per year and an employee exercised the Paid sick and safe leave only once every three months, that employee could have immunity the entire year and would put the employer in an untenable position trying to enforce normal company policies.
- Notice and posting measures are onerous.



- Record keeping is onerous and the burden is completely on the employer. Imagine an employee that randomly takes an hour sick leave or when caught on the time card but clearly skipping work claims they were sick that hour, then trying to log each event for each employee every day and keep that record for five years. We will have to hire additional staff to comply.
- Enforcement sets up an adversarial atmosphere which could lead to witch hunts by the Director and unfair retribution against the employer by a disgruntled employee with complete confidentiality and no liability for the employee.
- Civil suit may be brought without first filing an administrative complaint. This is unreasonable. This gives the employer very little if any recourse.
- There is a three year statute of limitations to file civil suit from the date the alleged violation occurred. This law is written to make it virtually impossible for the employer to win this suit regardless of the lack of merit.
- This law contemplates that all of this is just the minimum requirements of paid sick safe leave.
- This act appears to be a way to impose conditions that might be part of a labor union negotiation on to all businesses in the state.
- This act is a massive intrusion on the freedoms of the marketplace and will have a chilling effect on our economy.

For the 300 small ocean tourism businesses in the state, we humbly ask you to not pass this onerous piece of legislation. Please do Not Pass HB 6 or HB 406.

Thank you for the opportunity to submit testimony. If you have any questions, please contact me at 808-870-9115.

Sincerely,

James E. Coon, President  
Ocean Tourism Coalition  
captcoon@gmail.com

## hashem1 - Kenneth

---

**From:** Lance Tanaka [lance.tanaka@tsocorp.com]  
**Sent:** Monday, February 04, 2013 4:11 PM  
**To:** LABtestimony  
**Subject:** Labor Committee & My Legislator: Please vote against HB 6 and 406 Mandatory Sick & Safe Leave

Dear Chair Nakashima & Committee Members,

Thank you for allowing Tesoro Hawaii to submit testimony on House Bills 6 and 406. My name is Lance Tanaka, and I am the government and public affairs manager for Tesoro Hawaii, LLC. Our company is a long-standing member of the Chamber of Commerce of Hawaii.

The business of manufacturing and distributing transportation fuels to keep Hawaii's economy rolling is a 24-hour-a-day, seven-days-a-week endeavor. For the past 40 years, Tesoro and its predecessor companies have strived to provide competitive benefits to its employees, including sick-leave benefits.

Since Hawaii's sick-leave law was last amended, Tesoro Hawaii has experienced a slight increase in the use of sick leave. Even a slight increase significantly impacts our 24/7 operations, particularly at the Kapolei refinery where Tesoro manufactures jet fuel, gasoline, diesel and fuel oil.

Operations at the refinery demand 24-hour coverage by qualified personnel to safely and effectively run the machinery and processing units. Employees who call-in sick must be backfilled by equally qualified personnel. Admittedly, this is partly a cost issue: We currently must expend 2.5 times the cost to cover each worker for every day that person is away from work.

If passed, HB 6 and HB 406 will enable workers to use sick leave for broader purposes beyond being personally ill. Besides cost, this could evolve into issues involving both safety and energy security. The plant cannot run without an adequate number of qualified employees.

Please hold HB 6 and 406, which will mandate that businesses provide paid sick and safe leave not just for my employee's illness, but illness of the employee's family members. These bills will add huge costs and a large administrative burden on our business.

Our company priority is the employees. Therefore, we do everything we can to create a positive work environment and provide benefits that we can afford.

Tesoro Hawaii also has concerns with the following provisions of these bills:

. Accrual rate of 1 hour of leave for every 30 hours worked and it can be carried over to the following year.

. Employers may ask for documentation that the employee is sick only if they take more than three consecutive days and the employer is responsible for paying the cost of the physician visit. This may lead to employee abuse and also provides a disincentive for employers to ask for documentation from a health professional or other documentation from a professional (i.e. attorney's fees).

. The language of rebuttable presumption of unlawful retaliation. This means that if an employer reprimands an employee the employer is, under the eyes of the law, considered guilty of retaliation unless the employer can prove otherwise.

. Employees are eligible to leave after working 80 hours in the state. It does not specify if they work for more than one employer if they are eligible for the same benefit from each employer.

Additional costs, direct and indirect, include: employment, bookkeeping, compliance, economic and business, etc. Please also keep in mind that we have prepaid healthcare as a mandated cost that other states do not.

Given these issues, Tesoro Hawaii respectfully asks that HB 6 and 406 be held in committee.

Thank you for the opportunity to submit testimony.

Sincerely,

Lance Tanaka  
1234 Mowai St  
Kailua, HI 96734



ISLAND PRINCESS

February 1, 2013

Labor and Public Employment Committee Chair Mr. Nakashima and committee members

Regarding HB 6 and HB 406

Greetings,

My name is David Schell. I manage the agricultural holdings of Island Princess in Kea'au on the Big Island. Please allow me a moment to contribute some thoughts on the two bills referenced above being considered by your committees on February 5.

I am writing to urge this committee to reject both of these measures and any future legislation that mandates on businesses similar requirements for paid leave. These proposals, should one or the other become law, would deal a crippling blow to hundreds of small and medium businesses in this state. Businesses that are already in a constant battle to compete in a weak economic environment and contending with the highest costs for fuel, electricity and shipping in the entire nation.

As with the proposals to raise the minimum wage that I recently testified to, these bills fly in the face of the expressed desire of many legislators to improve employment rates in the state. It is counter productive to demand from private sector businesses additional costs that could easily be used to employ more people. Indeed, the impact of such mandates would very likely result in a net loss of jobs in the state.

Employee absences already cost businesses in the U.S. millions of dollars in lost productivity and overtime compensation every year. These losses are suffered by companies that do provide sick leave as well as those that do not. Naturally, businesses have little choice but to pass these expenses on to their customers, making the costs for goods and services all that much higher. Is it really in the long-term interest of the public for this state to inflate the cost of living by implementing such laws as these?

I fail to see how mandating business to offer paid sick leave – especially with such generous and abuse-friendly provisions – is going to facilitate economic growth or create a more stable employment environment. Certainly, there will be individuals who will benefit (some handsomely) from such mandates, but the overall consequences to the private sector will unquestionably be negative. If the legislature fails to see this, then they fail to understand that everybody benefits from a growing economy and everybody suffers from a shrinking one. The

16-261 Shipman Road, P.O. Box 340, Keaau HI 96749  
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engine of economic growth in our country is small and medium businesses – those that are most likely to be hurt from these proposals.

From the perspective of people trying to conduct business in Hawaii, the state should be looking for ways to assist workers in bettering themselves. Offering them compensated sick leave on the backs of business only fosters dependency and does not encourage personal growth. In a free society, people should be able to realize the benefits that come from their own industry and hard work. Any individual that feels they deserve more compensation than they are currently getting has the choice to either improve their competitiveness or seek better employment. It is a logical and natural system of consequences; the results of personal choice.

Business, no matter what the unionists and socialist say, does not prey on the unfortunate. It does reward initiative and drive. If the state were really interested in improving the lot of the unfortunate – which it portends to do with the flawed thinking that brings forth bills like these – it would create better opportunities for education and skills training. Put the onus of improving the health of the work force where it belongs – on the workers themselves. Those with the drive to better their situation will do so. Those that do not, will not.

Like the old adage, "give a man a fish and he eats a meal, teach him to fish...."

Sincerely,

A handwritten signature in black ink, appearing to read "David G. Schell", with a long horizontal flourish extending to the right.

David G. Schell  
GM, Island Princess Kea'au Farm Operations



*Hawaii's Finest Macadamia Nuts ~ Chocolates ~ Confections*

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Testimony submitted in regard to HB 6 and HB 406: Rules pertaining to Paid Sick and Safe Leave in the state of Hawaii.

1/31/2013

House Labor Committee:

My name is Gwendolyn Purdy. I am the Vice President of Island Princess, a Hawaii-based company specializing in confectionaries, along with a Macadamia orchard on the Big Island. We have over 150 employees.

I am writing to urge the Committee to reject HB 6 and HB 406 when it is presented for consideration. Without overstating the issue, this legislation, should it become law, would be crippling to hundreds of small and medium Hawaii businesses already struggling to stay afloat in this troubled economy – businesses that have not only just recently absorbed a massive increase in their unemployment insurance premiums but are also contending daily with the highest costs for fuel, electricity, and shipping in the entire country.

### **Employee Absences**

Businesses in the US already absorb millions of dollars in annual revenue losses and increased expenses due to unscheduled employee absences. Those losses are factored into the business model and result in increased costs to the consumer for goods and services. This legislation would add millions more to the cost of doing business in Hawaii with the same predictable consequences to the consumers.

### **A State Mandated Pay Increase**

Beneath the façade of benevolence, this legislation is nothing more than a forced increase in wages for every private sector employee in Hawaii. The disallowance of mandated verification turns it into an entitlement – three paid days off, three times a year – simply by virtue of holding a job. For minimum wage employees, this amounts to a pay raise of \$522 per year or thirty cents per hour. And, only a few of our employees receive minimum wage so this is a much, much higher cost to our company

### **Concerns about the Bills**

1. It is unclear whether the 80 hour requirement applies to single or multiple employers. Therefore, an individual who works for 100 hours for one company, but just 40 for another company, might be eligible to take paid sick and safe leave from both companies.
2. Allowing employees to carry over sick and safe leave would be contrary to many employers' existing sick leave or paid time-off policies that contain a "use it or lose" it provision.

---

A Division of Purdyco Ltd.

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3. Prohibiting employers from obtaining documentation from employees who take 3 days (or less) of paid sick leave in a row could lead to abuse by employees. Essentially, an employee could periodically take one, two, or three days of sick and safe leave at a time, and we would not be permitted to ask the employee to substantiate the need for such leave. And, if a doctor's note is requested from the employee, the bill requires an employer to pay for out-of-pocket costs for doctor's note required to support the need for "sick and safe leave." Thus, if a part-time employee does not have health insurance, the employer is responsible for all out-of-pocket costs for the doctor's visit.

4. The rebuttable presumption of unlawful retaliation is particularly troublesome, because employees would be able to create immunity for themselves simply by telling another person about their paid sick and safe leave rights. Similarly, it would be difficult for an employer to impose legitimate discipline on an employee who takes sick and safe leave every 90 days, especially if the leave is for three days or less at a time, especially because the employer cannot require documentation to verify whether the leave is even legitimate.

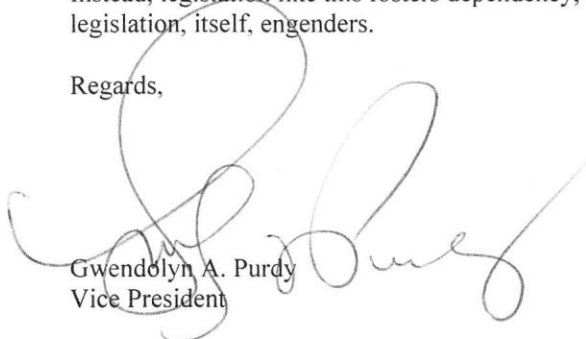
**Reasons to Not Pass These Bills...**

1. Lost business productivity resulting from mandated paid leave.
2. Loss of jobs and income tax revenues resulting from the closure of marginal businesses that cannot afford this mandate.
3. Loss of jobs and income tax revenues due to employers reducing payrolls in an effort to mitigate the impact of this mandate on their profitability.
4. Loss of jobs and income tax revenues and loss of potential employment opportunities resulting from the inarguably unfavorable business climate this mandate would create. Established businesses would be encouraged to leave and new employers would likely locate elsewhere.
5. Loss of collateral jobs (retail, food service, etc.) and income tax revenues from within communities where closed marginal, relocated and downsized businesses were once substantial employers.
6. Loss of vibrancy and vigor within the business community already worn by the tremendous pressures the current economic climate is presenting. Flight by innovators and entrepreneurs to regions where the jobs they make are appreciated.
7. The increases in the costs of goods and services this mandate would necessitate.
8. The negative impact on housing values and increases in foreclosure actions stemming from the increased unemployment (see above) this mandate would create.
9. The increase in government services required by the unemployed and the consequential need to raise revenues by further increasing taxation.
10. And, finally, ironically, the damage this legislation would do to the employees this bill portends to aid. Virtually all of the jobs lost to this mandate would be on the low end; jobs filled by the most vulnerable and neediest people in our community. Those same people who, when misfortune strikes, are least able to afford lost time from work. So, instead of getting paid days off, many of them will lose their jobs entirely.

**How Can Anyone Consider These bills a Solution?**

They are not. Indeed, it is exactly the opposite. The state should be looking for ways to assist workers in bettering themselves; to become more valuable to employers and, thus, to be able to *demand* better wages and compensation. Instead, legislation like this fosters dependency, destroys competitive spirit and rewards the inevitable abuse the legislation, itself, engenders.

Regards,



Gwendolyn A. Purdy  
Vice President

---

A Division of Purdyco Ltd.

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**ITO EN**

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To: Committee on Labor & Public Employment  
Rep. Mark M. Nakashima, Chair  
Rep. Mark J. Hashem, Vice Chair

From: ITO EN (USA) Inc.  
Wendy Chuck, Human Resources Manager

Date: Tuesday, February 5, 2013

Time: 9:00 a.m.

Place: Conference Room 309

Re: HB6, HB406 Relating to Health

ITO EN (USA) Inc.'s sick leave policy is designed to provide a continuation of wages during limited periods when an employee is unable to work due to illness or injury. ITO EN also provides employees an opportunity to rest and relax through the vacation program. We provide paid holidays, floating holidays, 100% company paid temporary disability insurance (TDI) benefits, victims leave as mandated by the State of Hawaii, Family and Medical Leave, and other unpaid leaves of absence under certain conditions.

ITO EN's management understands and recognizes that from time to time employees will require time off for legitimate purposes sometimes, unforeseen, and provides benefits to *balance* the needs of the workers with the needs of our business.

While we understand the intent of HB6 and HB406, we **oppose** this measure because of the consequences it will bring to our workforce as noted in the examples below:

- 1) This measure will allow workers to use sick leave like an unscheduled vacation day, and therefore allow them to do the following:
  - a) Call in absent on the day after the Super Bowl, on the day after Thanksgiving, on any Friday and/or Monday, or any days before or after a holiday, and get a full days pay for those days not worked. Those days are also among the heaviest work days for us due to the ads that coincide with the weekends and holidays. We already have established company black out periods to disallow vacations during these peak periods. A sick and safe leave mandate will give employees who want to take vacation during the black out period a means to use up to three consecutive days of sick leave without being required to validate that their reasons actually do qualify for this leave. Even if there is a long standing or wide-spread pattern of such absences, the company will not be able to take disciplinary action.
  - b) Leave work *early* or come to work *late* on a Monday, Friday, day before or after a holiday. Hung over from a long night? Call in sick and get paid!



Woke up late and too tired to go to work today? Call in sick and get paid!  
Surf's up? Call in sick and get paid!

- c) Since the measure allows for small increments of sick leave to be taken, the worker can shorten his Fridays by one hour (or more) each week for as long as he has enough paid sick leave. And since he will accrue sick and safe leave each pay period, this can become his long term work schedule.

No matter how obvious the patterns of absence, as employers we have no recourse to stop the abuse. **The honest workers who do not abuse the system will be the victims of always having to pick up the slack of their absent co-workers.**

- 2) If management needs to address work-related issues that will result in disciplinary action or any negative employment action, they will have to check first to see if the employee has requested and/or taken sick and safe leave within the past 90 days in order to avoid being automatically presumed guilty of unlawful retaliation. As a result, an employee could use the sick / safe leave benefit sporadically to "reset" the 90 day period and thus shield him from adverse employment action.
- 3) Who will interpret the "grey areas" of this measure if it becomes law? For example, even though our sick leave policy is very detailed, there are circumstances unique to individuals that require careful consideration and weighing against the needs of the business. When such circumstances in the workplace occur, will I be required to call the Department of Labor to make a decision as to how to apply the generalities of the sick leave law to very specific circumstances? Will the DLIR be familiar with the intricacies of our business and how decisions relating to worker absenteeism impact us? Will the DLIR have someone readily available to help me at a moments notice? Will I have to call an attorney or risk making a judgment call on my own that may end up getting the company in legal hot water? Examples of "grey areas" in this bill:
- a) The measure reads "*When possible, the request shall include the expected duration of the absence.*" (HB6, page 16, line 10). What if the employee says he thinks he will need to be off Monday through Tuesday, but he does not come back to work on Wednesday, and does not call. He comes to work Thursday, and says, "Oh, sorry, I thought I said "I'll be off Monday through Wednesday". What if this same employee has a pattern of calling in absent on Monday mornings?
- b) What is meant by making a "*reasonable effort to schedule the use of sick and safe leave in a manner that does not unduly disrupt the operations of the employer?*" (HB6, page 16, line 15) Who decides what is the difference between a disruption and an *unduly* disruption? And what if

the worker's absence *is* an unduly disruption, such as wanting to take leave that does not qualify for Family & Medical Leave during a company established black out period. What does this measure allow us as employers to do about it? If our warehouse has 7 workers and one is already on vacation and one wants to take a sick and safe leave during the heaviest day of the week, what are we to do? Can we refuse such a request, or is it similar to protected Family & Medical Leave even if the employee is not eligible for Family & Medical Leave or any other mandated leave? Will we be accused of unlawful practices?

- 4) The measure proposes that for the employee without health insurance, the employer foot the bill for all out of pocket expenses the employee incurs in obtaining a doctor's note. Employees in our company who do not have health insurance are almost always new employees who are serving their "waiting period". During this time, if the employee seeks medical attention, he would pay for it out of his pocket anyway. What if extensive and expensive medical tests are ordered to determine the duration of the employee's time off from work in order to write the medical note? Will employees be able to freely go to any doctor or specialist and have tests done, and we as employers know nothing about this expense until after such tests are already done and the bill is on our desk?

The biggest concern I have with this measure is the incentive it will provide for some workers to become chronically late and absent workers. This measure does not afford our business the ability to balance worker sick leave benefits with reasonable controls to meet our business needs. Nor does it give me the assurance I will have the support of the DLIR to provide guidance in interpreting the laws on a day-to-day basis as new and unique circumstances arise. The unintended costs to our company, for obtaining medical notes and for labor shortages is inevitable, yet incalculable. Many employers may feel forced to resort to eliminating vacation benefits and replacing both sick and vacation benefits with a paid time off policy with only minimal benefits to offset the impact of this measure.

Thank you,  
Wendy Chuck  
Human Resources Manager

**hashem1 - Kenneth**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 04, 2013 3:53 PM  
**To:** LABtestimony  
**Cc:** dbicoy@molokairanch.com  
**Subject:** \*Submitted testimony for HB406 on Feb 5, 2013 09:00AM\*

**HB406**

Submitted on: 2/4/2013

Testimony for LAB on Feb 5, 2013 09:00AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dathan Bicoy	Individual	Oppose	No

Comments:

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**HB406**

Submitted on: 2/2/2013

Testimony for LAB on Feb 5, 2013 09:00AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kathleen Campbell	Individual	Oppose	No

Comments:

Part of the attraction to our islands is the entrepreneurial spirit of our islands. Tourists love small business; however, Hawaii is noted as the LEAST small business friendly state in the nation. We must find ways to free small business not enslave it. HB 6 and HB406 are both another nail in small business coffins. We must find ways to address situations and create a culture of aloha within individual ohanas, when sickness or safety is an issue, not make the employer pay to treat symptoms. I oppose HB6 & HB406

**hashem1 - Kenneth**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 04, 2013 3:55 PM  
**To:** LABtestimony  
**Cc:** dad@mauirealestate.net  
**Subject:** Submitted testimony for HB406 on Feb 5, 2013 09:00AM

**HB406**

Submitted on: 2/4/2013

Testimony for LAB on Feb 5, 2013 09:00AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
bob hansen	Individual	Oppose	No

Comments: Stop the assault on business. It is fair enough for employees as it is.

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**hashem1 - Kenneth**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 04, 2013 11:40 AM  
**To:** LABtestimony  
**Cc:** vlee@westhawaii.com  
**Subject:** \*Submitted testimony for HB406 on Feb 5, 2013 09:00AM\*

**HB406**

Submitted on: 2/4/2013

Testimony for LAB on Feb 5, 2013 09:00AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Verna Lee	Individual	Oppose	No

Comments:

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**hashem1 - Kenneth**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 04, 2013 2:33 PM  
**To:** LABtestimony  
**Cc:** sallen@allensplumbinghi.com  
**Subject:** Submitted testimony for HB6 on Feb 5, 2013 09:00AM

**HB6**

Submitted on: 2/4/2013

Testimony for LAB on Feb 5, 2013 09:00AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
steve allen	Individual	Oppose	No

Comments: Regarding the H.B. 406, As an employer with 30-years of success staying in business once again I face the word "Mandatory." My customer retention comes from company and employee performance. My employee retention comes from creating the proper working environment with benefits that prove consideration and respect of their services to the Company. This bill forces instead of fosters employer - employee understanding. Allowing 3-days of work leave without verifying the need for leave is creating an environment of employee control rather than employer control. A slang term for that is "Letting the insane run the asylum?" Adding to the insult is the employer is forced to pay an arbitrary cost derived from "Who" for requirng or asking for any supporting documents clarifying the need to not come to work? I find no reason for this bill to be shoved onto my operating company. There's another layer of overhead being passed to the employer to pass on to the consumer. Steve Allen Allens Plumbing Inc. President 36-employees and counting

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**HB406**

Submitted on: 2/1/2013

Testimony for LAB on Feb 5, 2013 09:00AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Larry Quimby	Individual	Oppose	No

**Comments:**

Dear Members of the Labor and Public Employment Committee;

I have 30 years of experience as a community pharmacist. I know my patients and their habits. I have seen how the issue of working sick has affected both businesses and communities.

I believe that the benefits and supposed needs of HB 406 are highly exaggerated while the negative impact on small and medium businesses lacks adequate consideration.

I cannot provide documented numbers as the text of the bill claims it does with unreferenced studies and dollar amounts. What I can provide is my real life observations and experience on this issue.

I know many people with paid sick leave benefits. The vast majority has admitted to me that, on more than one occasion, they will take a sick day without suffering from an actual illness. They refer to it as a "mental health day". In order to combat this, many large companies have instituted personally invasive and complicated procedures for the worker to take the sick leave, making it extraordinarily burdensome to use this sick time.

Though it seems unfair, I feel these personal leave times should remain uncompensated. The burden of those that abuse this issue place upon their employers and fellow workers goes beyond my ability to calculate. When a fine tuned machine loses the function of even a small part of its operational efficiency, great stresses are placed on the other parts. The increase of wear and tear on the remaining parts adds up to be greater than the benefit of the affected part by its recuperation. HB 406 will only increase abuses of the "mental health day" and render an overall negative effect on the productivity of affected entities.

Vote NO on HB 406.



**From:** Tracy Norling-Babbitt [localstore@me.com]  
**Sent:** Monday, February 04, 2013 10:53 AM  
**To:** LABtestimony  
**Subject:** Labor Committee & My Legislator: Please vote against HB 6 and 406 Mandatory Sick & Safe Leave

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Dear Chair Nakashima & Committee Members,

Please hold HB 6 and 406, bills that propose to mandate businesses to provide paid sick and safe leave not just for my employee's illness, but illness of the employee's family members. These bills will add huge costs and a large administrative burden on my business.

Our company priority is the employees. Therefore, we do everything we can to create a positive work environment and provide benefits that we can afford.

I also have concerns with the following of these bills:

. Accrual rate of 1 hour of leave for every 30 hours worked and it can be carried over to the following year.

. Employers may ask for documentation that the employee is sick only if they take more than three consecutive days and the employer is responsible for paying the cost of the physician visit. This may lead to employee abuse and also provides a disincentive for employers to ask for documentation from a health professional or other documentation from a professional (i.e. attorney's fees).

. The language of rebuttable presumption of unlawful retaliation. This means that if an employer reprimands an employee the employer is, under the eyes of the law, considered guilty of retaliation unless the employer can prove otherwise.

. Employees are eligible to leave after working 80 hours in the state. It does not specify if they work for more than one employer if they are eligible for the same benefit from each employer.

Additional costs, direct and indirect, include: employment, bookkeeping, compliance, economic and business, etc. Please also keep in mind that we have prepaid healthcare as a mandated cost that other states do not.

I respectfully ask that HB 6 and 406 be held in committee.

Thank you for the opportunity to submit testimony.

Sincerely,

Tracy Norling-Babbitt  
PO Box 482140  
Kaunakakai, HI 96748

## Testimony in Opposition to HB 6 and HB 406 (form letter)

- 1 Tracy Norling-Babbitt
- 2 William Smith
- 3 Bernie Coleman
- 4 Mark Rodden
- 5 Kelly Zeek
- 6 Patty Omai
- 7 Bob Stout
- 8 Emanuel Richard
- 9 Janice Dawson
- 10 Melvin Kam
- 11 Jacqueline Watanabe
- 12 Gloria Faulkner
- 13 Carolyn Matsutani
- 14 Kenneth Yamamoto
- 15 Stephanie Suzuki
- 16 Charles Ota
- 17 Robert Wilkinson
- 18 Wesley Uemoto
- 19 Jorma Winkler
- 20 Antya Miller
- 21 Jean Hagi
- 22 Deborah Halcro
- 23 John Squires
- 24 Debra Finkiewicz
- 25 Craig Fujikawa
- 26 Dean Kapoi
- 27 Keith Robbins
- 28 Grace Ko
- 29 Darryl Grace
- 30 Joshua Aliifua
- 31 Marian Neth - Mokulele Airlines
- 32 Greg Jones
- 33 Aaron Lau
- 34 David Bateman
- 35 Bruce Banick
- 36 Salvatore Bruno
- 37 Heather Bailey - Audio Visual Services Hawaii, Corp.
- 38 Carol Ai May
- 39 Nadine Stollenmaier
- 40 Byron Goo
- 41 Gary Asato
- 42 Michael Hruby
- 43 Linda Morabito
- 44 Clarence Murata

45 Margie Park  
46 Judith Jennet  
47 Warren Asing  
48 Calvin Dorn  
49 Gary Hanagami - GM/VP, Palama Holdings LLC  
50 Angela Rey - Jackie Rey's Ohana Grill  
51 Carol VanCamp  
52 Rev Libby Kelson-Fulcher, D.D., Owner, Weddings A La Heart  
53 Keith Robbins  
54 Lois Shimabukuro-Miyake  
55 Lori Sato  
56 Jeremy Dela Pena  
57 Fiona Bland  
58 Diane Swenson  
59 Kalei Inn  
60 Terry Johnson  
61 Carolyn Loeffler  
62 Daryle Kitamori  
63 Judy McDonald - Palama Holdings LLC  
64 Ochana Bringman-Conway  
65 Gordon Takaki  
66 Karen Kline - Karen Kline Home Loans, LLC  
67 Mary Drake  
68 Gail Miyashiro  
69 Phyllis Segawa  
70 Jerry Bangerter  
71 Vaughn Vasconcellos  
72 Ioana Agasa, CPA  
73 Thom Madro  
74 Dawn Kane  
75 Deborah Lockett  
76 Debora Driscoll  
77 Serena Chamberlain  
78 Michael Bliss  
79 John Muaina  
80 Andrew Chun  
81 Gail Uejo  
82 Jieyu Shepard  
83 Signe Godfrey  
84 Scott Higa  
85 Kirk Greenman  
86 Matthew Delaney - President and CEO of The Hawaii Group, Inc  
87 Scott Meichtry  
88 Tom Masterson  
89 Tammy L. Becker - Happy Trails Hawaii  
90 Mark Goldman - Communication Center of Hawaii  
91 Sandra Bangerter

- 92 Laura Valhuerdi
- 93 Jan Kaeo
- 94 Gay Porter
- 95 James Tyrin
- 96 Rebecca Ward - Ward Research, Inc.
- 97 Robert Miller - Business Mgr & Controller for Pizza Bob's, Haleiwa
- 98 Matt McKinney
- 99 Sandra Lee
- 100 Marco Mangelsdorf - President, ProVision Solar, Inc.
- 101 Brian Arkle
- 102 Larkin Hathaway - Real Estate Agent

# HB 406

**LATE TESTIMONY**

**LATE TESTIMONY**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 05, 2013 2:15 AM  
**To:** LABtestimony  
**Cc:** pamela@mauichamber.com  
**Subject:** Submitted testimony for HB406 on Feb 5, 2013 09:00AM

**HB406**

Submitted on: 2/5/2013

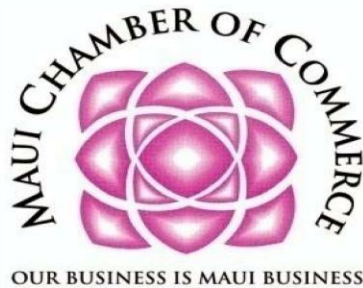
Testimony for LAB on Feb 5, 2013 09:00AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Pamela Tumpap	Maui Chamber of Commerce	Oppose	No

Comments: Aloha, We oppose this bill. Please see our testimony that was submitted with HB6 that also addresses this bill.

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Testimony to the Labor Committee  
State Capitol, Conference Room 309 at 9:00am  
February 5, 2013

**RE: OPPOSE HB6 & HB406 RELATING TO SICK & SAFE LEAVE**

Dear Chair Nakashima, Vice Chair Hashem, and Committee Members:

Aloha, my name is Pamela Tumpap and I am the President of the Maui Chamber of Commerce. I am writing on behalf of our organization to Oppose both HB6 and HB406 which require employers to provide a minimum amount of paid sick and safe leave to employees to be used to care for themselves or a family member who is ill, needs medical care, or is a victim of domestic violence, sexual assault, or stalking.

These bills, which greatly expand leave beyond an employee's illness will significantly increase the cost of doing business in Hawaii, hurting businesses, as well as consumers in our state as these costs will be passed on.

Businesses in Hawaii, who already have mandated prepaid healthcare costs that other states do not have, are heavily burdened already. Yet, this bill, which does not adequately address the impacts on employers, seeks to further saddle business owners with huge costs and administrative burdens when they are still trying to recuperate from the recession and slow economic recovery.

Measures in these bills that are of deep concern include:

- Requirement that all employers, regardless of size, provide a minimum amount of paid sick and safe leave to employees to be used to care for themselves or a family member, with broadly expanded purposes.
- Application to all full-time, part-time, or temporary basis and persons made available to work through a temporary staffing agency. Many businesses are floored to see temporary staff included in this.
- Accrual rate of 1 hour of leave for every 30 hours worked and it can be carried over to the following year. This carry over provision will cause significant challenges in covering shifts, particularly for small businesses.
- Employers may ask for documentation that the employee is sick only if they take more than three consecutive days and the employer is responsible for paying the cost of the physician visit. This may lead to employee abuse and also provides a disincentive for employers to ask for documentation from a health professional or other documentation from a professional (i.e. attorney's fees).

Testimony to the Labor Committee  
from Maui Chamber of Commerce  
February 5, 2013  
Page 2.

- The language of rebuttable presumption of unlawful retaliation. This means that if an employer reprimands an employee the employer is, under the eyes of the law, considered guilty of retaliation unless the employer can prove otherwise.
- Employees are eligible to leave after working 80 hours in the state. It does not specify if they work for more than one employer if they are eligible for the same benefit from each
- Additional costs, direct and indirect, include: employment, bookkeeping, compliance, economic and business, etc.

Businesses care about their employees and provide benefits they can afford. Help us create healthy companies that can offer expanded benefits and generate new jobs by creating a pro-business environment and reducing the cost of doing business, not adding to it. Therefore, we ask that you hold HB6 & HB406 in committee and not allow these bills to advance further.

Thank you for the opportunity to submit testimony. If you have any questions regarding our testimony, please do not hesitate to give me a call.

Sincerely,

A handwritten signature in cursive script that reads "Pamela Tumpap". The signature is written in black ink and is positioned above the typed name and title.

Pamela Tumpap  
President



**LATE TESTIMONY**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 04, 2013 5:49 PM  
**To:** LABtestimony  
**Cc:** alinoue@hawaiiantel.net  
**Subject:** Submitted testimony for HB406 on Feb 5, 2013 09:00AM

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

**HB406**

Submitted on: 2/4/2013

Testimony for LAB on Feb 5, 2013 09:00AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Al Inoue	The Hilo Lagoon Centre Condominium	Oppose	No

Comments: Bill's passage will for us to cut staffing.

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**LATE TESTIMONY**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 04, 2013 10:52 PM  
**To:** LABtestimony  
**Cc:** annsfreed@gmail.com  
**Subject:** Submitted testimony for HB406 on Feb 5, 2013 09:00AM

**HB406**

Submitted on: 2/4/2013

Testimony for LAB on Feb 5, 2013 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Ann S Freed	Hawai`i Women's Coalition	Support	No

Comments: COMMITTEE ON LABOR & PUBLIC EMPLOYMENT Rep. Mark M. Nakashima, Chair Rep. Mark J. Hashem, Vice Chair Strong Support for HB406 Aloha Chair Nakashima, Vice Chair Hashem and committee members, This bill would set a standard practice for allowing sick and safe leave for all workers. Additionally, it would enable victims of domestic violence, sexual assault or stalking to participate in legal proceedings, receive medical treatment or counseling, or obtain other critical services, without fear that they may lose their job. A minimum of paid sick and/or safe leave would also allow victims to maintain some sense of safety and independence, without fear of retribution for asking for time off. Maintaining a job can be extremely difficult for victims of violent crime. In 2009, the Department of Justice found that of the 79% of stalking victims who had a job, one in eight lost time from work. More than half of the victims surveyed lost five or more days from work. In 2007, between 15.2% and 27.6% of those women surveyed lost a job due to abuse. Allowing a minimum amount of paid time off is crucial for victims to recover from abuse. In one study, 23% of adults say they have been threatened with termination or fired for taking time off to take care of a sick family member. A lack of paid sick and safe leave has a detrimental affect on low-income women. Minority women continue to be paid less on average, and close to 2/3 of low wage workers do not have access to paid sick days. While those who oppose this bill may argue that paid leave is bad for business, this is simply not true. Having a paid leave policy increases worker loyalty, decreases turnover and ensures a healthy workforce. Ensuring a minimum amount of paid sick and safe leave is a sound public policy that benefits the community and the workplace. Mahalo nui loa, Ann S. Freed Co-Chair Hawai`i Women's Coalition 808-623-5676

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Sheraton

February 5, 2013

**LATE TESTIMONY**

Honorable Mark Nakashima, Chair  
Honorable Mark Hashem, Vice Chair  
House Committee on Labor & Public Employment

**RE: HB6 & HB406 – Relating to Health - Oppose**  
Conference Room 309, 9:00 AM

Aloha Chair Nakashima, Vice Chair Hashem and members of the committee:

I am Fred Orr, General Manager, Sheraton Princess Kaiulani. I am testifying on behalf of the Sheraton Princess Kaiulani in opposition to both HB6 and HB406 - Relating to Health.

This bill requires employers to provide a minimum amount of paid sick and safe leave to employees to be used to care for themselves or a family member who is ill, needs medical care, or is a victim of domestic violence, sexual assault or stalking. It is a one-size-fits-all approach that impinges on employers' ability to provide this benefit and will result in additional costs and reporting requirements to businesses.

Sheraton Princess Kaiulani diligently works to foster a nurturing environment for our employees and one of the ways we accomplish this is to provide a benefits program that is competitive and takes care of our employee's needs. We have a good assistance program in place and provide our employees with an array of benefits. Our current sick leave plan for both bargaining and non-bargaining employees is generous and in most cases is greater than what is being proposed.

Furthermore, the Federal FMLA and the Hawaii Family Leave Act (HFLA) for employees already provides appropriate safeguards and a safety net for employees to take additional leave to care for loved ones. So, this bill is not necessary.

At a time when the state and our nation are focused on restoring the economy and jobs, this bill will hinder economic progress and only make the cost and regulations of doing business in Hawaii higher and more burdensome.

For these reasons, we respectfully urge members of the committee to hold this bill.

SHERATON PRINCESS KAIULANI  
120 Kaiulani Avenue  
Honolulu, Hawaii 96815

t — 808 922 5811  
f — 808 931 4577

sheraton.com

February 5, 2013

Honorable Mark Nakashima, Chair  
Honorable Mark Hashem, Vice Chair  
House Committee on Labor & Public Employment

**RE: HB6/HB406 – Relating to Health - Oppose**  
Conference Room 309, 9:00 AM

Aloha Chair Nakashima, Vice Chair Hashem and members of the committee:

My name is Nona Tamanaha, Regional Director of Human Resources Starwood Hotel & Resorts, Hawaii & French Polynesia (“Starwood”). I am testifying on behalf of Starwood in opposition to both HB6 and HB406 - Relating to Health.

Starwood diligently works to foster a nurturing environment for our employees and one of the ways we accomplish this is to provide a benefits program that is competitive and takes care of our employee’s needs. We have a good assistance program in place and provide our employees with an array of benefits. Our current sick leave plan for both bargaining and non-bargaining employees is generous and in most cases is greater than what is being proposed.

Our greatest concerns about the proposal are as follows:

- It would add burdensome requirements on employers to track and maintain records in keeping with the mandates of the bill.
- The expanded list of qualified reasons for utilizing sick and safe leave benefits will increase expenses because we would not normally pay sick leave in many of the instances. For example, under the proposed bill, “sick” leave shall include additional kinds of paid leave not currently available at most employers, such as time spent caring for a family member. Currently, this type of absence would constitute unpaid Family Medical Leave Act (FMLA) leave (unless the person in question used accrued paid leave benefits such as PTO or vacation) and the leave would be subject to the FMLA’s reasonable qualification requirements.
- The bill prohibits an employer from requiring documentation of the need for leave if the employee takes the leave in blocks of less than three consecutive days. This would severely limit an employer’s ability to address abuse of leave situations.

Furthermore, the Federal FMLA and the Hawaii Family Leave Act (HFLA) for employees already provides appropriate safeguards and a safety net for employees to take additional leave to care for loved ones. So, this bill is not necessary.



In closing, this bill proposes to add more costs and another layer of administration to our industry which are overly burdensome.

For these reasons, we respectfully urge members of the committee to hold this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Nona Tamanaha". The signature is written in a cursive, flowing style.

Nona Tamanaha  
Regional Director of Human Resources  
Starwood Hotel & Resorts – Hawaii & French Polynesia

**LATE TESTIMONY**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 04, 2013 5:46 PM  
**To:** LABtestimony  
**Cc:** tleong@kualoa.com  
**Subject:** \*Submitted testimony for HB406 on Feb 5, 2013 09:00AM\*

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

**HB406**

Submitted on: 2/4/2013

Testimony for LAB on Feb 5, 2013 09:00AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Timon Leong	Kualoa Ranch Hawaii	Oppose	No

**Comments:**

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**LATE TESTIMONY**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 05, 2013 4:52 AM  
**To:** LABtestimony  
**Cc:** kayak@southpacifickayaks.com  
**Subject:** Submitted testimony for HB406 on Feb 5, 2013 09:00AM

**HB406**

Submitted on: 2/5/2013

Testimony for LAB on Feb 5, 2013 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
roger simonot	South Pacific Kayaks & Outfitters / Tiki Team Adve	Oppose	No

Comments: please hold hb406. The burden to employers is excessive in Hawaii and this bill only increases the burden on already struggling employers in Hawaii.

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**LATE TESTIMONY**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 05, 2013 6:15 AM  
**To:** LABtestimony  
**Cc:** gwen@bikevolcano.com  
**Subject:** Submitted testimony for HB406 on Feb 5, 2013 09:00AM

**HB406**

Submitted on: 2/5/2013

Testimony for LAB on Feb 5, 2013 09:00AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Gwendolyn Hill	BikeVolcano.com, Inc.	Oppose	No

Comments: Obviously none of the representatives who proposed this legislation own a small business. If you are a small business owner you would know that this measure is completely ludicrous. This law would add an extreme hardship on a business not only to pay for the sick leave but to pay for another worker to cover for the person who is out sick. Double the cost, including the payroll burden already associated with providing employment for a worker. If the state wants employers to pay employees sick leave, I suggest that the state pays for it. According to the legislature it is affordable so I suggest that you set up a fund to do just that. Small business are the backbone of the economy instead of looking for ways to add more expenses to our businesses look for ways to support us.

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**LATE TESTIMONY**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 05, 2013 6:28 AM  
**To:** LABtestimony  
**Cc:** fcommend@yahoo.com  
**Subject:** Submitted testimony for HB406 on Feb 5, 2013 09:00AM

**HB406**

Submitted on: 2/5/2013

Testimony for LAB on Feb 5, 2013 09:00AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
FRANK COMMENDADOR	JAN-GUARD HAWAII INC.	Oppose	No

Comments: AS A SMALL BUSINESS OWNER I STRONGLY OPPOSE HB406. THE HAWAII STATE LEGISLATURE CANNOT CONTINUE TO TRY AND SPEND OUR LIMITED INCOME . THE NEEDS OF THE WORKER ARE REAL BUT THE ECONOMICS ARE ALSO REAL. YOU WILL FORCE SMALL BUSINESS TO DOWN SIZE AND LAY OFF WORKERS. YOU WILL LEAVE US NO CHOICE. FRANK COMMENDADOR OWNER JAN-GUARD HAWAII INC.

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**LATE TESTIMONY**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 04, 2013 7:53 PM  
**To:** LABtestimony  
**Cc:** bkadachi@bkabuilders.com  
**Subject:** \*Submitted testimony for HB406 on Feb 5, 2013 09:00AM\*

**HB406**

Submitted on: 2/4/2013

Testimony for LAB on Feb 5, 2013 09:00AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Brian K. Adachi	Individual	Oppose	No

Comments:

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**LATE TESTIMONY**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 04, 2013 7:24 PM  
**To:** LABtestimony  
**Cc:** markhubbard@hawaiiintel.net  
**Subject:** \*Submitted testimony for HB406 on Feb 5, 2013 09:00AM\*

**HB406**

Submitted on: 2/4/2013

Testimony for LAB on Feb 5, 2013 09:00AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
mark hubbard	Individual	Oppose	No

Comments:

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**LATE TESTIMONY**

**From:** Fred Brooks [fred@pacificpanelcleaners.com]  
**Sent:** Monday, February 04, 2013 5:19 PM  
**To:** LABtestimony  
**Subject:** Labor Committee & My Legislator: Please vote against HB 6 and 406 Mandatory Sick & Safe Leave

Dear Chair Nakashima & Committee Members,

Aloha,

My name is Fred Brooks and I am the owner of Pacific Panel Cleaners LLC Hawaii's first solar panel cleaning company, and I am very small and slowly growing company. I have been in business 4 years and am just making it. I have mostly part time employees and on call employees because of the nature of starting a new business in Hawaii. If this bill passes it could really break my company and I am sure hold off newer companies trying to start since the payroll in the beginning is coming directly out of our initial investment in the companies that is from our savings and our other retirement funds.

Please hold HB 6 and 406, bills that propose to mandate businesses to provide paid sick and safe leave not just for my employee's illness, but illness of the employee's family members. These bills will add huge costs and a large administrative burden on my business.

Our company priority is the employees. Therefore, we do everything we can to create a positive work environment and provide benefits that we can afford.

I also have concerns with the following of these bills:

. Accrual rate of 1 hour of leave for every 30 hours worked and it can be carried over to the following year.

. Employers may ask for documentation that the employee is sick only if they take more than three consecutive days and the employer is responsible for paying the cost of the physician visit. This may lead to employee abuse and also provides a disincentive for employers to ask for documentation from a health professional or other documentation from a professional (i.e. attorney's fees).

. The language of rebuttable presumption of unlawful retaliation. This means that if an employer reprimands an employee the employer is, under the eyes of the law, considered guilty of retaliation unless the employer can prove otherwise.

. Employees are eligible to leave after working 80 hours in the state. It does not specify if they work for more than one employer if they are eligible for the same benefit from each employer.

Additional costs, direct and indirect, include: employment, bookkeeping, compliance, economic and business, etc. Please also keep in mind that we have prepaid healthcare as a mandated cost that other states do not.

I respectfully ask that HB 6 and 406 be held in committee.

Thank you for the opportunity to submit testimony.

Sincerely,

Fred Brooks

3852 Noeau St  
Honol ul u, HI 96816

FORM LETTER IN OPPOSITION TO HB 6 AND HB 406

- 1 Fred Brooks
- 2 Noreen Toledo
- 3 Tammy Berger
- 4 Joe Lazar
- 5 Darrel Tajima
- 6 Robert Hastings
- 7 Nancy Miller
- 8 Mark Udoff
- 9 David Molenaar
- 10 Jacob Head
- 11 Evelyn Pacheco
- 12 Jeanne Vana
- 13 Jolene Head
- 14 Sean Knox
- 15 Darlene Ashley
- 16 Gillian Boss
- 17 Ayche McClung

**LATE TESTIMONY**