

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 18, 2014

**TESTIMONY TO THE
HOUSE COMMITTEE ON FINANCE**

For Hearing on Wednesday, February 19, 2014
3:00 p.m., Conference Room 308

BY

BARBARA A. KRIEG
DIRECTOR

House Bill No. 1705, H.D. 1
Relating to Firefighters

WRITTEN COMMENTS ONLY

TO CHAIRPERSON SYLVIA LUKE AND MEMBERS OF THE COMMITTEE:

Thank you for the opportunity to provide testimony on H.B. 1705, H.D. 1.

The purpose of H.B. 1705, H.D. 1, is to provide firefighters with comprehensive medical coverage through workers compensation benefits by establishing a rebuttable presumption that a firefighter who suffers from cancer, blood-borne infectious disease, or exposure to biochemical substances contracted the condition in the course of employment; and require the Hawaii State Fire Council to develop standards and procedures to ensure health and safety of firefighters who may be exposed to hazardous materials in the course of their duties.

The Department of Human Resources Development (DHRD) has a fiduciary duty to administer the State's self-insured workers' compensation program and its expenditure of public funds.

DHRD submits the following comments on this bill.

First, the proposed new section in Chapter 386, HRS, is unnecessary because Section 386-85, HRS, already creates a presumption that a claim for workers' compensation benefits is for a covered work injury. Section 386-3, HRS, is broadly construed and includes personal injury either by accident arising out of and in the course of the employment or by disease proximately caused by or resulting from the nature of the employment. These provisions would also apply to a firefighter's claim for cancer, leukemia, blood-borne infectious disease, or methicillin-resistant staphylococcus aureus skin infection.

Second, we are concerned that this bill appears to create a different standard for an employer to overcome the presumption of compensability if there are non-industrial causes for the injury. Section 386-85, HRS, already provides that the presumption can only be rebutted by "substantial evidence to the contrary." As demonstrated in legions of Disability Compensation Division, Labor and Industrial Relations Appeals Board, Hawaii Intermediate Court of Appeals decisions, and the recent Hawaii Supreme Court case involving a vog-related claim for workers' compensation benefits, this "substantial evidence" standard is a very high standard for employers to overcome.

Finally, we note that Section 386-82, HRS, exempts certain exposure-type claims from the normal two-year statute of limitations for filing a workers' compensation claim. This exemption applies to claims for injury caused by occupational exposure to minerals or substances with carcinogenic properties and exposure to radioactive substances. Claims for such injuries can be filed up to two years after knowledge that the injury was proximately caused by, or resulted from the nature of, the employment. This provides an added safeguard for injured employees or their families to file claims when the work-relatedness of such injuries is not readily apparent.

SHOPO



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Tenari R. Ma'afala

VICE PRESIDENT
Malcolm Lutu

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James "Kimo" Smith

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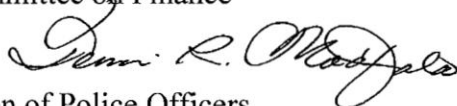
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TO: The Honorable Sylvia Luke, Chair
House Committee on Finance

The Honorable Aaron Ling Johanson, Vice Chair
House Committee on Finance

The Honorable Scott Y. Nishimoto, Vice Chair
House Committee on Finance

Members of the House Committee on Finance

FROM: Tenari Ma'afala, President 
State of Hawaii Organization of Police Officers

DATE: February 18, 2014

SUBJECT: Testimony on H.B. No. 1705 HD1, Relating to Firefighters

HEARING DATE: Wednesday, February 19, 2014
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This bill creates a rebuttable presumption for workers compensation benefits for firefighters in regards to certain diseases and exposure to biochemical substances. The State of Hawaii Organization of Police Officers ("SHOPO") supports this bill with amendments to extend its applicability to county police officers.

Workers compensation claims for Hawaii's county police officers demonstrate exposure to biochemical hazards when arriving as first responders at fires and other hazardous materials events. Police have been known many times to search burning buildings and to bring injured victims to safety, at the same time being exposed to hazardous fumes.

While the University of Cincinnati study focuses on the meta-analysis of 32 studies regarding firefighter exposure to "various mixtures of particulates, gases, mists, fumes of an organic and/or inorganic nature and the resultant pyrolysis products" at fire scenes (Cancer Risk Among Firefighters: A Review and Meta-analysis of 32 Studies, Grace K. LeMasters, Ph.D. et al., 2005), it must be remembered that police officers are also present at these scenes.

Additionally, county police officers are exposed to infectious diseases on a regular basis when making arrests and other situations where officers have to come into physical contact with various members of the public, who may be contagious and/or infected.

The Honorable Sylvia Luke, Chair
The Honorable Aaron Ling Johanson, Vice Chair
The Honorable Scott Y. Nishimoto, Vice Chair
Members of the House Committee on Finance
Testimony on H.B. 1705 HD1, Relating to Firefighters
February 18, 2014
Page 2

SHOPO proposes amendments as follows:

§386- Injuries covered; firefighters, county police officers. (a) In addition to the injuries covered pursuant to section 386-3, if a firefighter or county police officer develops cancer or leukemia

We strongly ask your support for our proposed amendments which would include county police officers in the coverage of this bill, and for passage of this bill.



STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

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February 18, 2014

The Honorable Sylvia Luke, Chair
Committee on Finance
House of Representatives
State Capitol, Room 306
Honolulu, Hawaii 96813

Dear Chair Luke:

Subject: H.B. 1705, H.D. 1 Relating to Firefighters

I am Manuel P. Neves, Chair of the Hawaii State Fire Council (SFC) and Fire Chief of the Honolulu Fire Department (HFD). The SFC and the HFD support H.B. 1705, H.D. 1, which proposes to provide fire fighters with comprehensive medical coverage through workers compensation benefits by establishing a rebuttable presumption that a fire fighter who suffers from cancer, blood-borne infectious disease, or exposure to biochemical substance contracted the condition in the course of their employment. However well intended, we respectfully request that Section 3 of the bill be deleted.

The minimum standards and procedures to ensure the health and safety of fire fighters and first responders, who are or may be exposed to hazardous materials or situations in the course of their duties, are the responsibility of and accomplished by each county fire department. The health and safety of their employees are the highest priorities and reflected by several methods and processes. The latest editions of the nationally recognized safety standards are incorporated into the fire department's policies and procedures. Purchasing of the most up-to-date protective equipment, apparatus, and tools, keeps pace with technological advances in these areas. Continuous training and different levels of supervisory oversight ensure that policies and procedures are adhered to. The Hawaii Occupational Safety and Health inspections provide additional oversight in the best practices for personnel and fire stations. The SFC, whose administrative staff is comprised of two part-time employees, believes the requirements in Section 3 of this bill are duplicative.

The Honorable Sylvia Luke, Chair
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Thirty-three states and eight Canadian provinces currently have cancer presumptive laws that provide fire fighters with workers compensation, medical, and service-connected disability benefits. Numerous studies have proven that the risk of being diagnosed with cancer is higher among fire fighters than the general population. A study of male firefighters in Massachusetts from 1987 to 2003 found an increased risk for numerous cancers, including colon and brain cancer. The University of Cincinnati's 2006 study found that on-the-job exposure to soot and toxins creates an increased risk of various cancers among fire fighters. A federal government study conducted during the development of an Occupational Safety and Health Administration Bloodborne Pathogen Standard showed that 98 percent of emergency medical technicians and 80 percent of fire fighters are exposed to blood-borne infectious diseases on the job. Fire fighters are exposed to many compounds designated as carcinogens by the International Agency for Research on Cancer, including benzene, diesel engine exhaust, chloroform, soot, styrene, and formaldehyde. These substances can be inhaled or absorbed through the skin, and the fire fighter's protective equipment does not always prevent exposures.

Treatment may take years and costs may exceed the financial resources of fire fighters and their families. In the unfortunate event that a fire fighter cannot return to duty, this bill will provide much needed benefits.

The SFC and the HFD strongly urge your support and passage of H.B. 1705, H.D 1, with the recommended revision.

Should you have questions, please contact SFC Administrator Socrates Bratakos at 723-7105 or sbratakos@honolulu.gov.

Sincerely,



MANUEL P. NEVES
Chair

MPN/LR:clc



Bernard P. Carvalho, Jr.
Mayor



Robert F. Westerman
Fire Chief

Nadine K. Nakamura
Managing Director

John T. Blalock
Deputy Fire Chief

KAUA'I FIRE DEPARTMENT
County of Kaua'i, State of Hawai'i
4444 Rice Street, Suite 315, Līhu'e, Hawai'i 96766
TEL (808) 241-4980 FAX (808) 241-6508

February 18, 2014

The Honorable Sylvia Luke, Chair
Committee on Finance
House of Representatives
State Capitol, Room 306
Honolulu, Hawaii 96813

Dear Chair Luke:

Subject: H.B. 1705, H.D. 1 Relating to Firefighters

I am Robert F. Westerman, Fire Chief of the Kauai Fire Department (KFD) and Vice-Chair of the Hawaii State Fire Council (SFC). The KFD and the SFC support H.B. 1705, H.D. 1, which proposes to provide fire fighters with comprehensive medical coverage through workers compensation benefits by establishing a rebuttable presumption that a fire fighter who suffers from cancer, blood-borne infectious disease, or exposure to biochemical substance contracted the condition in the course of their employment. However, well intended, we respectfully request that Section 3 of the bill be deleted.

The minimum standards and procedures to ensure the health and safety of fire fighters and first responders, who are or may be exposed to hazardous materials or situations in the course of their duties, is the responsibility of and is accomplished by each county fire department. The safety and health of their employees is the highest priority and is reflected by several methods and processes. The latest editions of the nationally recognized safety standards are incorporated into the fire department's policies and procedures. Purchasing of the most up-to-date protective equipment, apparatus, and tools, keeps pace with technological advances in these areas. Continuous training and different levels of supervisory oversight ensure that policies and procedures are adhered to. The Hawaii Occupational Safety and Health inspections provide additional oversight in the best practices for personnel and fire stations. The SFC, whose administrative staff are two part-time employees, believes the requirements in Section 3 of this bill are duplicative.

Thirty-three states and eight Canadian provinces currently have cancer presumptive laws

AN EQUAL OPPORTUNITY EMPLOYER



The Honorable Sylvia Luke, Chair
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Treatment may take years and costs may exceed the financial resources of fire fighters and their families. In the unfortunate event that a fire fighter cannot return to duty, this bill will provide much needed benefits.

The KFD and the SFC urge your committee's passage of H.B. 1705, H.D. 1, with the recommended revision.

Please call me at (808) 241-4975 should you have any questions regarding this matter.

Sincerely,

Robert Westerman
Fire Chief, County of Kaua'i

RFW/eld



HAWAII FIRE FIGHTERS ASSOCIATION

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS LOCAL 1463, AFL-CIO
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HOUSE OF REPRESENTATIVES
THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2014
February 19, 2014

LATE

Committee on Finance

Testimony by
Hawaii Fire Fighters Association

H.B. No. 1705, H.D. 1 Relating to Fire Fighters

My name is Robert H. Lee and I am the President of the Hawaii Fire Fighters Association (HFFA), Local 1463, IAFF, AFL-CIO. The HFFA represents approximately 2,100 active-duty professional fire fighters throughout the State. We support H.B. No. 1705, H.D. 1 which establishes a presumptive eligibility for fire fighters in cases of service-connected disability due to cancer, blood-borne infectious diseases and exposure to biochemical substances

In 2013, a study was published in the Occupational and Environmental Medicine which is one of the largest studies undertaken among a population of 30,000 fire fighters in Philadelphia, Chicago and San Francisco. The study identified higher incident rates of cancer compared to the general U.S. population. These findings are consistent with previous studies assessing the cancer risk in fire fighters and supports HFFA and the International Association of Fire Fighters' position that fire fighters are at increased risk of cancer as well as blood and airborne transmissible diseases due to occupational exposure.

HFFA recognizes that there are concerns from the stakeholders and we look forward to working together to address the issues identified in H.B. No. 1705, H.D. 1.

DEPARTMENT OF HUMAN RESOURCES
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 10TH FLOOR • HONOLULU, HAWAII 96813
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KIRK CALDWELL
MAYOR



CAROLEE C. KUBO
DIRECTOR

NOEL T. ONO
ASSISTANT DIRECTOR

February 19, 2014

LATE

The Honorable Sylvia Luke, Chair
and Members of the
Committee on Finance
House of Representatives
State Capitol, Room 308
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Luke and Members of the Committee:

SUBJECT: House Bill No. 1705, HD1, Relating to Firefighters

The purpose of H.B. 1705, HD1, is to provide firefighters with comprehensive medical coverage by establishing a rebuttable presumption under workers' compensation for cancer, blood-borne infectious diseases, and staphylococcus aureus skin infections. The City and County of Honolulu offers the following comments with respect to the bill.

Hawaii Revised Statutes (HRS) Section 386-85 already provides that injuries sustained under the conditions set forth in the measure are presumed covered for workers' compensation purposes in the absence of substantial evidence to the contrary. As a result, the amendments set forth in Section 2 are duplicative and unnecessary.

We also question the need for including a specific standard for overcoming the presumption. There is a myriad of established caselaw indicating the requirements needed to meet the "substantial evidence" standard provided for in HRS Section 386-85. Adding a different standard for a limited set of injuries sustained by a finite group of individuals appears to be both needless and excessive. Section 2 of H.B. 1705, HD1, is simply unnecessary given the current framework of Hawaii's workers' compensation laws.

Finally, the City takes no position with respect to Section 3, which mandates that the State Fire Council develop minimum standards and procedures to ensure the health and safety of our firefighters and first responders.

Sincerely,

Handwritten signature of Carolee C. Kubo in black ink.

Carolee C. Kubo
Director

ALAN M. ARAKAWA
MAYOR



JEFFREY A. MURRAY
CHIEF

ROBERT M. SHIMADA
DEPUTY CHIEF

COUNTY OF MAUI
DEPARTMENT OF FIRE AND PUBLIC SAFETY

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KAHULUI, MAUI, HAWAII 96732
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EMAIL: fire.dept@mauicounty.gov

LATE

February 18, 2014

The Honorable Sylvia Luke, Chair
Committee on Finance
House of Representatives
State Capitol, Room 306
Honolulu, Hawaii 96813

Dear Chair Luke:

Subject: H.B. 1705, H.D. 1 Relating to Firefighters

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Treatment may take years and costs may exceed the financial resources of fire fighters and their families. In the unfortunate event that a fire fighter cannot return to duty, this bill will provide much needed benefits.

The SFC and the MFD strongly urge your support for the passage of H.B. 1705, H.D 1, with the recommended revision.

Should you have questions, please contact SFC Administrator Socrates Bratakos at 723-7105 or sbratakos@honolulu.gov.

Sincerely,



JEFFREY A. MURRAY
Chief



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Sincerely,

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Carolee C. Kubo
Director

ALAN M. ARAKAWA
MAYOR



JEFFREY A. MURRAY
CHIEF

ROBERT M. SHIMADA
DEPUTY CHIEF

COUNTY OF MAUI
DEPARTMENT OF FIRE AND PUBLIC SAFETY

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State Capitol, Room 306
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Should you have questions, please contact SFC Administrator Socrates Bratakos at 723-7105 or sbratakos@honolulu.gov.

Sincerely,



JEFFREY A. MURRAY
Chief