WOMEN'S CAUCUS
DEMOCRATIC PARTY OF HAWAIʻI

March 21, 2016

To: Representative Angus McKelvey, Chair
Representative Justin Woodson, Vice Chair and
Members of the Committee on Consumer Protection and Commerce

From: Jeanne Y. Ohta, Co-Chair

RE: SB 2961SD2 HD1 Relating to Family Leave
Hearing: Monday, March 21, 2016, 3:00 p.m., Room 325

POSITION: Strong Support with amendments

The Hawaiʻi State Democratic Women's Caucus writes in strong support of SB 2961 SD2 HD1 Relating to Family Leave which would establish a family leave insurance program from employee contributions into a trust fund. HSDW requests that this committee return the language of the bill to the original "one or more employees" for eligibility and restore the language to include 12 weeks of leave.

Paid leave makes fiscal sense for small and large businesses because employers are not responsible to pay for the leave time. Paid leave is funded by employees.

We have an economy where many mothers are in the workforce. Nearly 66% of all children in the U.S. have two parents who work or are supported by a single parent. In addition to childcare, by 2020, about 40 percent of the workforce will be providing care for older parents.

It is alarming that nearly 25% of adults in the U.S. have lost or job or been threatened by job loss for leave due to illness and 11% of U.S. workers have access to paid family leave through their employers.

Women, as primary caregivers of infants, children and elderly parents, are affected disproportionately by the unavailability of paid family and medical leave. Women are the primary or co-breadwinners for almost two-thirds of families in the U.S., so women's income lost during maternity leave has significant economic impact on her entire family. Many grandmothers are also caring for grandchildren.

Women in Hawaiʻi can apply for TDI after giving birth, but it is time-limited. Fathers are not eligible to apply. In Hawaiʻi the majority of families are "working families" who cannot afford to take unpaid leave. Access to paid family leave alleviates economic instability for struggling families by ensuring job security.

We need legislation because in Hawaiʻi, only 88 businesses employ 100 or more employees within the state. Thus, only employees from these 88 business are eligible for 4 weeks unpaid leave guaranteed by state law.

The Hawaiʻi State Democratic Women's Caucus is a catalyst for progressive, social, economic, and political change through action on critical issues facing Hawaii's women and girls. It is because of this mission, the Women's Caucus supports this important measure.

We ask the committee to pass this measure and thank the committee for the opportunity to provide testimony.

Hawaiʻi State Democratic Women's Caucus, 404 Ward Avenue Suite 200, Honolulu, HI 96814
hidemwomen@gmail.com

HAWAII
STATE
COMMISSION
ON THE
STATUS
OF
WOMEN

Chair
LESLIE WILKINS

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CYD HOFFELD
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March 21, 2016

To: Representative Angus McKelvey, Chair
Representative Justin Woodson, Vice Chair
Members of the House Committee on Consumer Protection and Commerce

From: Cathy Betts, Executive Director, Hawaii State Commission on the Status of Women
Re: Testimony in Strong Support of SB 2961, SD2, HD1, Relating to Family Leave

On behalf of the Hawaii State Commission on the Status of Women, I would like to thank this Committee for hearing this bill and for the opportunity to testify in support of SB 2961, SD2, HD1, which would guarantee families' ability to provide care to their loved ones without fearing financial setbacks or potential job loss. Paid family leave has been identified as one of the major means to closing the gender wage gap, which is not set to close in Hawaii until 2058. Each year, Hawaii's women lose 1.4 billion dollars annually due to the wage gap. A lack of paid family leave ensures inequality for women, who still disproportionately serve as family caregivers while also serving as the sole or primary breadwinner in 2/3 of working families. In states with paid family leave, there has been an additional increase in men being able to take paid time off to become caregivers, thereby allowing more women to remain in the workforce if they so choose. The Commission urges this Committee *to include amended language regarding employee eligibility.* As like any social insurance program, universal eligibility is a necessity in order for a program to remain solvent. No other state or city has included an eligibility carve out. ***The Commission suggests including an employer definition of any employer employing one or more employees. The Commission further suggests revising the weeks of leave from four (4) to twelve (12).***

Current Access to Unpaid Family Leave

Currently, employees in Hawaii do not have any right to paid medical or family leave. While the federal Family Medical Leave Act (FMLA, which leaves out 40 percent of the workforce) allows for unpaid leave with job protection up to 12 weeks for employers with 50 or more employees, our own Hawaii Family Leave Law only applies to those with 100 or more employees and allows for 4 weeks of unpaid leave. Only 2% of employers in the State must comply with our Hawaii Family Leave Law, thereby applying to only 16% of the workforce.[1]

For employees at firms of less than 100 employees, the decision of whether one receives unpaid maternity leave, paternity leave, or leave to take care of an aging and ill parent or spouse is completely dependent on one's employer. Most people working in Hawaii cannot take unpaid leave and still maintain financial stability. It is clear that our current law needs to be revised and updated to provide true benefit to workers. Our labor laws should reflect our changing workplace demographics.

In Hawaii, the FMLA's coverage is narrow. As it is written, the FMLA excludes two-fifths of the workforce.[2] The only partial paid leave is our current Temporary Disability Insurance, or TDI program. However, TDI is time limited and semi-privatized. Further, it is not available for new fathers, nor is it available for family caregiving responsibilities. For most family caregivers, there is no expectation of unpaid or paid family leave. A lack of paid leave for employees hurts the state, hurts families' economic stability, and further hurts small businesses which are unable to compete with larger businesses:

- 42% of employees in Hawaii's private sector lack access to even a single day of paid leave.[3]
- Low-wage workers are the least likely to have access to family leave. Children in low income families are more likely to miss out on critical time with their parents during their first weeks of life.

Other States Have Successfully Implemented Paid Family Leave Policies with No Economic Disadvantage to Businesses

California, New Jersey, and Rhode Island have all passed strong state policies providing partial wage replacement for family and medical leave purposes. Washington State passed a strong paid family leave policy and multiple other municipalities with strong economies across the nation have also passed paid family leave legislation (Philadelphia, Portland and Oakland are recent cities offering paid leave). California passed the nation's first comprehensive paid family leave program in September 2002, allowing six weeks of wage replacement leave at 55 percent of a worker's usual weekly earnings when a worker needs to take time off of work to bond with a new child or to care for a seriously ill family member. In the more than ten years that this law has been in effect, California has seen economic, public health, and business savings because of this measure. In "Leaves That Pay: Employer and Worker Experiences with Paid Family Leave in California", key findings from California's experience were as follows:

- The business community's concerns, that it (paid family leave) would impose extensive new costs on employers and have serious detriment to small businesses, were unfounded. After five years of this policy in place, employers reported that it had minimal impact on their business operations. [4]
- Small businesses were less likely than larger establishments to report any negative effects.
- The vast majority of respondents to the survey reported that they were not aware of any instances in which employees abused the state Paid Family Leave program.
- The use of paid family leave increased retention of workers in low quality jobs.
- Paid family leave doubled the median duration of breastfeeding for all new mothers who used it.

How SB 2961, SD2, HD1 would work in Hawaii:

SB 2961, SD2, HD1 should apply to all employees in the state. All employees would pay in to a fund through a small payroll deduction; employers would not. Individual contractors would have the ability to opt in to the program, and could likewise, opt out. When an employee needs to provide care to a family member, spouse or child, the employee would provide medical certification and would then be allowed to "take out" of the partial wage replacement fund that they originally paid into. All contributions to the fund would be 100% employee funded, so businesses in Hawaii would not incur a fiscal note. Employers would not be paying employees during their leave. By allowing for universal eligibility, the program becomes self sustaining, thereby not relying on any state funds to continue operating. **The Institute for Women's Policy Research determined the average weekly deduction from a worker's wages to be 43 cents**. For less than 2 dollars a month, employees would be able to fund their own leave from work to provide care to family members. This is win-win for businesses and employees.

While other states with TDI have successfully used TDI as a foundation for paid family leave programs, Hawaii's TDI functions differently and would require some updating in order to meet the demands of a paid family leave program. We can look to other states (Colorado, Washington) and municipalities (District of Columbia, Portland, Oakland, Seattle) to examine how they're building out a paid family leave program as a stand alone program vs. building one upon TDI. The Commission respectfully urges you to pass this bill in order to continue the ongoing discussions of how this can be feasible.

History and Background of Act 204- Joint Legislative Committee on Family Caregiving:

In 2007, the Joint Legislative Committee on Family Caregiving was created to develop a "comprehensive public policy to strengthen support for family caregivers" via Act 204. The committee's mandate included exploring the establishment of a paid family leave program under the state temporary disability insurance law, similar to the program established in California. The preliminary needs assessment data identified "*wage* *replacement benefits as an appropriate and effective means of supporting family caregivers*." Other findings included: 55% of family caregivers are employed and 77% had to take off time from work to deal with caregiving responsibilities.

In 2008, Act 243 required the Joint Legislative Committee on Aging in Place to explore the provision of wage replacement benefits to employees who needed to take time off from work to care for a family member with a serious health condition. From that point, the Family Leave Working Group was established as part of the Joint Legislative Committee on Aging in Place to explore wage replacement benefits. The Working Group endorsed short and long term concepts incuding: the "*establishment of a state sponsored long term care insurance program through employee payroll deductions*."[5]

Hawaii has the opportunity to join the rest of the world with this legislation, by passing paid family leave and ensuring a commitment to `ohana. Thank you for this opportunity to provide strong testimony in support.

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[1] Research & Economic Analysis Division, DBEDT

[2] Family Values at Work, Updated FMLA Survey Results

[3] National Partnership for Women and Families Fact Sheet, available at:

[4] Eileen Applebaum and Ruth Milkman, *Leaves That Pay: Employer and Worker Experiences with Paid Family Leave in California* (2011).

[5] Paid Family Leave Working Group of the Joint Legislative Committee on Aging in Place, Report to the Legislature, pursuant to HB 2520 (Act 243), Regular Session of 2008.

FAMILY PROGRAMS HAWAII

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TO: Rep. Angus L.K. McKelvey, Chair
Rep. Justin H. Woodson, Vice Chair
COMMITTEE ON CONSUMER PROTECTION & COMMERCE

HEARING: Monday, March 21, 2016,3:00 PM, Conference Room 325

FROM: Judith Wilhoite
Family Advocate
Family Programs Hawaii, It Takes An Ohana

RE: SB 2961 – Relating to Family Leave

Thank you for the opportunity to testify. I am the Family Advocate for Family Program Hawaii's *It Takes An Ohana* (ITAO) program and a resource caregiver. We strongly support SB 2961.

"While we have known for a long time about the maternal and infant health benefits of leave policies, we can now link paid family leave to greater labor force attachment and increased wages for women, as well as to reduced spending by businesses in the form of employee replacement costs, and by governments in the form of public assistance," says Linda Houser, an affiliate fellow of the Center for Women and Work an assistant professor at Widener University. She authored a Rutgers study commissioned by the National Partnership for Women and Families.

This same study found, in the year after giving birth, women who take paid leave have been *about 40 percent less likely to receive public aid or food stamps*. That is a huge benefit to everyone!

I am happy that this bill includes allowing caregivers to stay home with new foster and adopted children. What is even more important is that this bill may help reduce child abuse and the number of children who entry into foster care at all by allowing mothers who otherwise would not be able to stay home with their new babies to do so. Transition from being "one" with the mother to being out in the cold, harsh world is a hard transition for all babies. When bonding between baby and mother occurs, science shows a decrease in harsh and ineffective discipline and parent control tactics. This is a positive for ALL.

President Obama said "It's time we stop treating child care as a side issue or a women's issue, and treat it like the national economic priority that it is," We agree wholeheartedly and are thankful for this opportunity to express strong support for SB2961.

Please see the next page for a quick look at how America compares to the rest of the world in supporting our families.

FAMILY PROGRAMS HAWAII

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TABLE 1

The United States—the paid leave outlier

International comparisons of parental leave—weeks of full-time equivalent paid and unpaid leave

	Parental leave		
	Weeks of paid leave, in full-time equivalents	Weeks of unpaid leave	Total weeks of leave (paid and unpaid)
France	22	296	318
Spain	18	294	312
Germany	47	123	170
Sweden	47	116	163
Norway	44	106	150
Austria	16	100	116
United Kingdom	13	67	80
Ireland	21	49	70
Italy	25	44	69
Australia	9	52	61
Greece	34	26	60
Japan	26	32	58
New Zealand	14	40	54
Canada	28	25	53
Denmark	20	32	52
Finland	32	16	48
Belgium	18	25	43
Netherlands	16	26	42
Portugal	18	13	31
United States	0	24	24
Switzerland	11	3	14

Sources: Rebecca Ray, Janet C. Gornick, and John Schmitt, "Parental Leave Policies in 21 Countries: Assessing Generosity and Gender Equality" (Washington, D.C.: Center for Economic and Policy Research, 2008); Commonwealth of Australia, "Australia's Paid Parental Leave Scheme: Supporting Working Australian Families" (2009).

woodson2-Shingai

From:	mailinglist@capitol.hawaii.gov
Sent:	Saturday, March 19, 2016 11:48 AM
To:	CPCtestimony
Cc:	laurie.field@ppvnh.org
Subject:	*Submitted testimony for SB2961 on Mar 21, 2016 15:00PM*

SB2961
Submitted on: 3/19/2016
Testimony for CPC on Mar 21, 2016 15:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Laurie Field	Planned Parenthood Votes Northwest and Hawaii	Support	No

Comments:

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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hiphi.org • 850 Richards Street, suite 201 • Honolulu, Hawai`i 96813

Date: March 20, 2016

To: The Honorable Angus L.K. McKelvey, Chair
The Honorable Justin H. Woodson, Vice Chair
Members of the House Committee on Consumer Protection & Commerce

From: Jessica Yamauchi, Executive Director, Hawaiʻi Public Health Institute

Re: **Strong Support for SB 2961, SD2, HD1 Relating to Family Leave**

DM: March 15, 2016 at 10:30 am at Capitol Room 309

Thank you for the opportunity to offer testimony in strong support of SB 2961, SD2, HD1 Relating to Family Leave.

The Hawaiʻi Public Health Institute (HIPHI) supports and promotes policy efforts to create a healthy Hawaiʻi. HIPHI weaves silos into working relationships as an effective network, ensuring that we come together across sectors to advance collaboration and innovation in public health and work towards making Hawaiʻi the healthiest place on earth.

HIPHI strongly supports SB 2961, SD2, HD1 which will establish a family leave insurance program, requiring employees to make contributions into a trust fund to be used to provide employees with family leave insurance benefits in order to care for a designated person. Paid time off for families to care for a newborn also helps to establish a foundation in breastfeeding. Infant feeding practices can greatly affect later growth and development and can be a protective factor against obesity.[1] The American Academy of Pediatrics and the World Health Organization recommend exclusive breastfeeding for the first six months of life and continued breastfeeding with the addition of other foods until a child is at least twelve months of age.[2]

"A robust body of evidence suggests that breastfeeding has multiple health benefits for infants, and that paid family leave (and other forms of maternity leave) significantly increases the length of time that mothers breastfeed. In a review and analysis of studies of breastfeeding in developed countries, the U.S. Agency for Healthcare Research and Quality found that full-term infants fed formula are at substantially greater risk than breastfed infants for acute ear infection, eczema, gastrointestinal infection, hospitalization for lower respiratory tract diseases in the first year of

[1] S. Arenz et al., *Breast-feeding and childhood obesity - a systematic review*, 28(10) International Journal of Obesity and Related Metabolic Disorders 1247-56 (2004).
[2] American Academy of Pediatrics, *AAP Reaffirms Breastfeeding Guidelines*, https://www.aap.org/en-us/about-the-aap/aap-press-room/pages/AAP-Reaffirms-Breastfeeding-Guidelines.aspx (last updated February 27, 2012).

life, asthma, childhood obesity, Type 2 diabetes, leukemia, and sudden infant death syndrome (SIDS)."[3]

California, New Jersey, and Rhode Island have passed similar legislation providing partial wage replacement for family and medical leave purposes. A 2011 study of California's family and medical leave insurance program estimated that it would save employers $89 million per year.

Paid family leave is beneficial for everyone. HIPHI prefers the original bill allowing up to twelve weeks of paid leave. The HD1 version reduces the leave to four weeks. We ask that you amend SB 2961, SD2, HD1 to twelve weeks of paid leave and pass this measure out of committee.

Thank you for the opportunity to provide testimony.

Jessica Yamauchi, MA
Executive Director

[3] http://www.nccp.org/publications/pdf/text_1059.pdf

AAUW of Hawaii

March 19, 2016

To:	Hawaii State House Committee on Consumer Protection and Commerce
Hearing Date/Time:	Monday, March 21, 2016 (3:00 p.m.)
Place:	Hawaii State Capitol, Rm. 325
Re:	Testimony of American Association of University Women – Hawaii in **support of S.B. 2961 S.D. 2 H.D. 1**, relating to family leave

Dear Representative Angus L.K. McKelvey (Chair), and Representative Justin H. Woodson (Vice Chair), and Members of the Committee,

I am grateful for this opportunity to testify in **strong support of S.B. 2961 S.D. 2 H.D. 1** supporting family leave for family members needing to spend time in family caretaking (ideally restored to 12 weeks of leave, and with employee eligibility in businesses with 1 or more employees).

My testimony is on behalf of the 442 members of the American Association of University Women (AAUW) in Hawaii, who list equal pay (in which family leave plays a strong role) as an important current concern.

AAUW has long advocated for equal pay (e.g., http://www.aauw.org/resource/the-simple-truth-about-the-gender-pay-gap/), and members of AAUW in Hawaii are aware of the performance of our state in equal pay. (Native Hawaiian women and Pacific Islands' women are particularly negatively affected in this matter.) Women (because typically women are the family caregivers of infants or the elderly) have their wages negatively impacted by "personal" decisions to look after family members, and it is time for state legislators to implement bills to help these women and their families.

In my examination of testimony already submitted about this bill, I note that social welfare groups point to academic research showing the positive impacts of this law for families, and ultimately businesses (because businesses benefit from a robust economy with healthy, financially-stable families). In contrast business leaders' testimony on this act often promotes scare mongering about the possible effects on businesses, without providing real data demonstrating that these purportedly negative outcomes have occurred in other jurisdictions with similar family leave policies.

Please, legislators, look to the states and nations beyond Hawaii with similar family leave policies, and note the better health and financial wellbeing of families and businesses. Health, social science, and economic data demonstrate that family leave is an important benefit in a healthy society, and please pass S.B. 2961 S.D. 2 H.D. 1.

Thank you for the opportunity to testify.

Sincerely
Susan J. Wurtzburg, Ph.D.
Policy Chair

The Twenty-Eighth Legislature
Regular Session of 2016

HOUSE OF REPRESENTATIVES
Committee on Consumer Protection and Commerce
Rep. Angus L.K. McKelvey, Chair
Rep. Justin H. Woodson, Vice Chair
State Capitol, Conference Room 325
Monday, March 21, 2016; 3:00 p.m.

STATEMENT OF THE ILWU LOCAL 142 ON S.B. 2961, SD2, HD1
RELATING TO FAMILY LEAVE

The ILWU Local 142 **opposes** S.B. 2961, SD2, HD1, which establishes a family leave insurance program, which allows [actually requires] employees to make contributions into a trust fund to be used to provide employees with family leave insurance benefits to care for a designated person, expands the number of weeks of paid leave from four to twelve weeks of leave under the family leave law, appropriates funds to the Department of Labor and Industrial Relations to implement the program, and requires a study to be performed by the Department of Labor and Industrial relations and an actuarial study to be performed by the Department of Budget and Finance.

We wish to make it abundantly clear that we do NOT oppose paid family leave. In fact, we strongly support employees being provided paid leave to care for a newborn child or a seriously ill family member. Caring for *ohana* is a value that is nurtured and promoted among Hawaii residents.

What we DO OPPOSE is the proposal to require employees to pay into a fund to pay for their own leave. Paid leave should be provided by the employer as a cost of doing business. The employer will reap benefits that come from retaining experienced and skilled employees who need not contemplate leaving a job in order to tend to an ill family member, thus freeing the employer from the burden of having to hire and train replacement employees. Furthermore, when an employee is relieved of the stress of making the choice between caring for an ill family member and performing his job, the employee is likely to be more loyal and productive, another benefit to the employer.

In addition, expecting the Department of Labor and Industrial Relations to assume the tasks of administering an insurance program, collecting taxes, and paying benefits is highly unrealistic due to the cost and staffing required.

We also have numerous questions about whether the proposal is actuarially sound, what the employee contribution will be, the impact on other employee benefits, how the benefit will be calculated, and more.

Although it is commendable that S.B. 2961, SD2, HD1 seeks to address the need for paid family leave, we do not believe this bill is the proper vehicle. The ILWU respectfully requests that this measure be HELD.

Thank you for the opportunity to share our views and concerns.

Testimony to the House Committee on
Consumer Protection and Health
March 21, 2016 at 3:00 p.m.
State Capitol - Conference Room 325

RE: SB 2961, HD1, Relating to Family Leave

Aloha members of the committees:

I am John Knorek, the Legislative Committee chair for the Society for Human Resource Management – Hawaii Chapter ("SHRM Hawaii"). SHRM Hawaii represents more than 800 human resource professionals in the State of Hawaii.

We are writing to respectfully oppose SB 2961, HD1, which establishes a family leave insurance program, requires employees to make contributions into a trust fund to be used to provide employees with family leave insurance benefits in order to care for a designated person and appropriates funds to DLIR to implement the program.

Human resource professionals are attuned to the needs of employers and employees. We are the frontline professionals responsible for businesses' most valuable asset: human capital. We truly have our employers' and employees' interests at heart. We respectfully oppose this measure because of the implementation challenges and administrative burden it would impose, and for the potential of unintended conflict with other leave laws. We recognize that some of the changes made to it have been a step toward addressing our concerns about expanding existing leave laws to smaller employers. We will continue to review this bill and, if it advances, request to be a part of the dialogue concerning it.

Thank you for the opportunity to testify.

SHRM Hawaii, P. O. Box 3175, Honolulu, Hawaii (808) 447-1840

HAWAII STATE TEACHERS ASSOCIATION
Teaching Today for Hawaii's Tomorrow

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Executive Director

TESTIMONY BEFORE THE HOUSE COMMITTEE ON
CONSUMER PROTECTION & COMMERCE

RE: SB 2961 SD2 HD1 - RELATING TO FAMILY LEAVE

MONDAY, MARCH 21, 2016

COREY ROSENLEE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair McKelvey and Members of the Committee:

The Hawaii State Teachers Association **supports SB 2961 SD2 HD1, with suggested amendment**.

The Hawaii States Teachers Association is made of 13,500 educators, 80% of which are women. Currently these women have to take sick leave in order to give birth and to take care of their newborn children. If they do not have enough sick leave accrued, they lose pay.

The United States is one of only two countries, the other being Papua New Guinea that does not offer paid maternity leave. We are punishing women for being women, because what happens when these teachers use up all of their sick leave, they have no other sick days to use when they actually get sick. Giving birth is not an illness, and our female teachers are discriminated against because of our current practices.

While we support this bill we suggest that an amendment, **that the employer shall make 50% of the contribution to the family leave trust.**

In other countries around the world, and in some companies in the U.S. the entire leave is paid by the employer. To ask the employee, who maybe be earning the minimum wage, to pay the full share, and to let multi-millionaire companies off the hook completely, is not fair or equitable. As pointed out by the Hawaii State Commission on the Status of Women, The Institute for Women's Policy Research determined the average weekly deduction from a worker's wages to be 43 cents. For less than 2 dollars a month, employees would be able to fund their own leave from work to provide care to family members. This would be a small price to pay for businesses and employees to support them when they need to take family leave to care for a newborn, child, elderly parent, or a spouse.

HSTA is concerned not only for our teachers, but also for our students and their families, especially those who are living paycheck to paycheck, thus we **support** this bill.

From:	mailinglist@capitol.hawaii.gov
Sent:	Sunday, March 20, 2016 9:09 PM
To:	CPCtestimony
Cc:	lho@hawaiipublicpolicy.com
Subject:	Submitted testimony for SB2961 on Mar 21, 2016 15:00PM

SB2961
Submitted on: 3/20/2016
Testimony for CPC on Mar 21, 2016 15:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Melissa Pavlicek	NFIB Hawaii	Comments Only	Yes

Comments: NFIB respectfully opposes the provision in this measure that may expand required leave to small employers under 50 employees. Federal FMLA applies to larger companies for a reason: smaller companies would be unduly burdened if they have to keep a job open or fill it only temporarily) even if they are a small person business with fewer than 50 employees. We appreciate the opportunity to testify and look forward to being a part of the ongoing conversation regarding leave policies.

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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From:	mailinglist@capitol.hawaii.gov
Sent:	Monday, March 21, 2016 2:25 AM
To:	CPCtestimony
Cc:	annsfreed@gmail.com
Subject:	Submitted testimony for SB2961 on Mar 21, 2016 15:00PM

SB2961
Submitted on: 3/21/2016
Testimony for CPC on Mar 21, 2016 15:00PM in Conference Room 325

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

Comments: As in previous testimony, the Hawaii Women's Coalition is in strong support of this measure that is employee funded and costs less that 50cents a week to an average employee. Please pass this bill. Mahalo, Ann S. Freed, Hawaii Women's Coalition.

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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Hawaii
Children's Action Network
Building a unified voice for Hawaii's children

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March 21, 2016

To: Rep. Angus L.K. McKelvey, Chair
Rep. Justin H. Woodson, Vice Chair
House Committee on Consumer Protection and Commerce

From: Deborah Zysman, Executive Director
Hawaii Children's Action Network

Re: **SB2961, SD2 – Relating to Family Leave – Support with requested amendment**
Hawaii State Capitol, Conference Room 3325 – March 21, 2016 – 3 PM

On behalf of Hawaii Children's Action Network (HCAN), formerly Good Beginnings Alliance, we are writing in support of SB2961, SD2 – Relating to Family Leave and are <u>requesting an amendment to add in the original "1 or more employees" for eligibility and restoring 12 weeks as the maximum leave requirement.</u>

HCAN is committed to improving lives and being a strong voice advocating for Hawai'i's children. Last fall, HCAN convened input in person and online from more than 50 organizations and individuals that came forward to support or express interest for a number of issues affecting children and families in our state that resulted in the compilation of 2016 Hawai'i Children's Policy Agenda, which can be accessed at http://www.hawaii-can.org/2016policyagenda.

HCAN supports SB 2961, SD2, which would establish a Paid Family Leave Insurance Program that requires employees to make contributions into a trust fund to be used to provide employees with family leave insurance benefits to care for a designated person. This bill also creates and appropriation to the Department of Labor and Industrial Relations (DLIR) to implement this program.

Currently, Hawai'i employees do not have a right to paid medical or family leave. The federal Family Medical Leave Act (which leaves out 40 percent of the state's workforce) provides for unpaid leave with job protection up to 12 weeks for employers with 50 or more employees. The state Family Leave Act applies to employers with 100 or more employees and allows for job protection up to four weeks. This is also unpaid leave.

According to the U.S. Department of Labor, Bureau of Labor Statistics, about 13 percent U.S. workers had access to paid family leave through their employers in 2014. Women are often disproportionately affected, as they are the primary caregivers of infants, children and aging parents. The lack of paid family leave exacerbates the gender wage gap for women but affect the economic stability for both women and men who are caregivers.

Hawaiʻi has the fastest growing aging population in the nation. Our senior (age 65+) population is expected to grow 81 percent by 2030. Approximately, one in three workers report they need leave to care give for an ill spouse or parent but cannot take the time off.

It's a stark reality when employees face the dire choices of needing to be able to care for newborn children, or sick children, spouses or parents, but also needing to work to sustain their family's income. This bill will enable workers to take a small number of weeks out of the workforce and not have to face the impossible choice between their family member's health and their income or jobs.

The purpose of this bill is to ensure access to partial wage replacement for employees needing to provide care for family members. It establishes an employee-funded insurance program to provide partial wage replacement. It does not add another benefit cost to employers, rather, it helps provide an employee (self)-funded benefit which helps employers retain valuable employees.

Other states including California, New Jersey, Rhode Island and Washington and dozens of cities and counties have implemented paid family leave programs and momentum is building to establish similar programs in other states and jurisdictions.

Hawaiʻi's working families need a paid family leave standard, especially with our growing aging population. Families should not have to risk their family's economic security to meet their care giving obligations.

For these reasons, HCAN respectfully requests that the committee restore language from the earlier version of SB 2961, allowing "1 or more employees" to qualify for eligibility and restoring 12 weeks as the maximum leave requirement, vote to pass this bill.

From:	mailinglist@capitol.hawaii.gov
Sent:	Sunday, March 20, 2016 8:47 AM
To:	CPCtestimony
Cc:	mikegolojuch808@gmail.com
Subject:	*Submitted testimony for SB2961 on Mar 21, 2016 15:00PM*

SB2961
Submitted on: 3/20/2016
Testimony for CPC on Mar 21, 2016 15:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Golojuch	Individual	Support	No

Comments:

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

TESTIMONY IN SUPPORT OF SB 2961 RELATING TO FAMILY LEAVE

COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

Rep. Angus L.K McKelvey, Chair
Justin H. Woodson, Vice Chair

Monday, March 21, 2016 at 3:00PM
Conference Room 325

Aloha Chair McKelvey and Vice Chair Woodson, and Members of the Committees:

My name is Shay Chan Hodges and I have been a Maui resident for twenty-four years. I have one son who is a graduate of King Kekaulike High School, and is in his first year of college in Pennsylvania and another who is a senior at King Kekaulike.

For the majority of my years as a working mother in Hawaii, I have written grants for nonprofits in the health and human services arenas. I also owned and operated **Maui Child Toys and Books** for six years in Makawao Town, and in November 2014, published ***Lean On and Lead, Mothering and Work in the 21st Century Economy*** about the economic impacts of the intersection of work and parenting.

In *Lean On and Lead*, I present a variety of first person narratives and interactive data that describe what parents and other caregivers need in order to significantly participate in the economy while raising children or caring for other family members. Individuals interviewed include working women, mothers, and fathers from around the world who represent a broad variety of occupations, as well as Hawaii residents, for example, ***Lieutenant Governor Shan Tsutsui, then Congresswoman Colleen Hanabusa, US Senator Brian Schatz, State Senator Jill Tokuda, State Representative Beth Fukumoto, and Maui District 2010 Teacher of the Year Emily Haines-Swatek,*** to name a few.

The stories told in the interviews make it very clear how important policies that support working parents are to our economy -- both in the short and long-term.

As you may recall, in July of 2015, U.S. Secretary of Labor Tom Perez came to Hawaii to convene a Roundtable on Paid Family Leave. I flew from Maui to attend the roundtable and participate in filming the event because I believe that paid family leave is critical to Hawaii's future. Mr. Perez spoke about the high numbers of qualified women who drop out of the workforce because the "childcare math" doesn't pencil out, and how this loss of talent impacts the health of the U.S. economy and our nation's ability to compete on a global scale. Furthermore, when women must make the false choice to care for families rather than work outside the home, their wages are reduced in both the short and long-terms, contributing to the gender wage gap. Conversely, when women are supported in the work force, and do not have to choose between economic livelihood and caregiving responsibilities, their earnings increase dramatically.

Currently, women in Hawaii who are employed full time lose a combined total of more than 1.4 billion dollars annually due to the prevailing wage gap, which exists regardless of industry, occupational choice, or educational attainment level. **For families, this wage gap can impact the ability to pay for childcare, medical bills, utilities, and even rent. And these losses are not only connected to the care of children -- nor do they only apply to women. Currently, 240,000 Hawaii employees serve as primary caregivers to a family member, and by 2020, an estimated 40% of the workforce will be providing care for older parents. At the Roundtable this summer, union representatives noted the impact of caregiving on Hawaii's multi-generational households.**

Our economy depends on all of the people of Hawaii having the ability to contribute both labor and intellectual capital, even if they have to take breaks to care for loved ones. **As Sec. Perez has often stated: "It's time we stop treating child care as a side issue or a women's issue, and treat it like the national economic priority that it is." The same is true for the care of any family member who requires care.**

In fact, throughout the nation, innovative employers are recognizing the financial value of providing this necessary benefit to their workers. 2015 saw tech companies like Amazon, Facebook, Yahoo, Microsoft, Netflix, Adobe, Zillow and Spotify institute groundbreaking paid leave policies for American employees. And at least twenty-five localities, including New York City and Boston, and jurisdictions in Minnesota, Oregon, and Pennsylvania, are instituting paid leave for municipal workers this year.

As you know, the proposed **SB 2961** would create a trust fund that employees contribute to, which would provide partial wage replacement for up to twelve weeks when needed. Because Hawaii's bill does not require businesses to contribute, nor does it rely on state funds to continue operating, it is a win-win for businesses and employees.

One concern I have, however, about the current draft of SB2961 is that the number of employees a business must have in order to comply with the law is blank. Please note that any eligibility threshold would make Hawaii's paid family leave program economically unsustainable, would be challenging to monitor, and would increase the cost to employees. That is why social insurance funds and paid family laws nationally do not premise eligibility on a certain number of employees. **Furthermore, such a carve-out would prevent small businesses from being able to offer competitive benefits to employees, providing further disincentives to work at or run a small business.**

I am also disturbed by the Labor Committee's amendment to reduce the number of weeks of paid leave from twelve to four. That is not enough time to recover from the delivery of a baby in the best of circumstances. But in the case of a C-section, or if the child has any health issues, parents will face a terrible choice when they have to return to work and the mother's or baby's health is at risk. Nor is it enough time to ensure that a mother will be able to breastfeed and pump long enough to ensure optimum health for the baby in the long run.

Please keep these concerns in mind as you move the bill forward.

In closing, I was very gratified to see so many legislators and business leaders in attendance at the Roundtable with Secretary Perez this summer, many of whom asked crucial questions about implementation of paid leave policies in Hawaii. It is clear that now more than ever, Hawaii's lawmakers, many of whom are caregivers themselves, understand that a thriving economy is only as strong as the families that participate in it.

Given the fact that we work and live in one of the country's most expensive states for families with one of the lowest unemployment rates, I urge you to pass SB 2961 this session.

Mahalo,

Shay Chan Hodges
Haiku, Maui, Hawaii

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 20, 2016 11:49 AM
To: CPCtestimony
Cc: pc70@cornell.edu
Subject: Submitted testimony for SB2961 on Mar 21, 2016 15:00PM

SB2961

Submitted on: 3/20/2016
Testimony for CPC on Mar 21, 2016 15:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Patrick Callahan	Individual	Support	No

Comments: Restore the leave to 12 weeks and leave the employee eligibility as 1 or more employees.

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.

From: Anthony Lenzer <tlenzer@hawaii.rr.com>
Sent: Sunday, March 20, 2016 1:46 PM
To: CPCtestimony
Subject: SB 2961 SD 2 HD i

TO: Committee on Consumer Protection & Commerce
Rep. Angus L. K. McKelvey, Chair, Rep. Justin H. Woodson, Vice Chair

FROM: Anthony Lenzer, PhD

RE: SB 2961 SD 2 HD 1

HEARING: Monday, March 21, 2016, 3:00 p.m.
Conference Room 325

Chair McKelvey and Committee members:

I am testifying in strong support of Senate Bill 2961 SD 2 HD 1 on behalf of the policy advisory board for elder affairs, also known as PABEA. PABEA is an advisory board to the executive office on aging, and also advocates on behalf of Hawaii's older people. My testimony only reflects the views of PABEA and not necessarily those of the executive office on aging.

Senate Bill 2961 SD 2 HD 1 creates a state-mandated system of paid family leave for both public and private workers. PABEA believes that paid family leave is an issue which impacts every part of our population, from young mothers caring for infants, to disabled persons, to family members helping frail parents or grandparents. This is a nationwide issue, but of special relevance in Hawaii, where the cost of living is so high. Given this situation, many in Hawaii are forced to work more than one job, and it is typical for both husband and wife to be employed. What happens when a family member becomes ill and requires care? The working family member faces a situation in which he or she must take unpaid leave in order to provide such care, and thereby suffer a serious loss of income. This is because neither federal law nor Hawaii statutes require paid family leave. The Federal and Medical Leave act of 1993 allows 12 weeks of unpaid leave for employees of businesses which employ 50 or more people. About 5% of Hawaii's employers have to comply with the federal law. Our own Hawaii Family Leave Law allows 4 weeks of unpaid leave to employees of businesses that have 100 or more workers. Only about 2% of Hawaii businesses have to comply with this law. The only type of paid leave in Hawaii is partial wage replacement through the TDI system. However, TDI only applies to very limited situations in which home care is needed.

Senate Bill 2961 SD 2 HD 1 would amend our family leave law to include a wage replacement program for caregivers. Wage replacement would be capped at 66% of wages. Employees would pay for this program, and it would not require contributions from the state or from employers. The law would cover all employees; self-employed persons can opt in. It would allow workers to designate a wide range of persons for whom care might be needed when leaves are taken. Leave provisions include a number of situations in which military personnel and their families are involved. The bill also includes a complaint/grievance procedure for applicants who have been denied family leave benefits.

There are many reasons why paid family leave is necessary, including the following: Hawaii has over 150,000 workers who also served as primary caregivers for a family member; by 2020, about 40% of the workforce will be providing care for older parents; and about 40% of Hawaii's workers do not have access to a single day of leave from work. Paid leave also gives new mothers an opportunity to bond with their infants, which is so important for child growth and development. Finally, paid leave will help families obtain economic security, which in turn results in a more stable and productive workforce. Thus paid leave is a win-win for employees, businesses both large and small, and ultimately the economy of our state.

Finally, I respectfully urge this Committee to restore the wording that would allow all workers to receive PFL benefits, and provide funding for both administrative design of the system, and the actuarial study required by the current version of the bill. Thank you for the opportunity to testify on this important legislation.

DAVID Y. IGE
GOVERNOR

SHAN S. TSUTSUI
LIEUTENANT GOVERNOR

LINDA CHU TAKAYAMA
DIRECTOR

LEONARD HOSHIJO
DEPUTY DIRECTOR

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LATE

March 21, 2016

To: The Honorable Angus L.K. McKelvey, Chair,
The Honorable Justin H. Woodson, Vice Chair, and
Members of the House Committee on Consumer Protection & Commerce

Date: Monday, March 21, 2016
Time: 3:00 p.m.
Place: Conference Room 325, State Capitol

From: Linda Chu Takayama, Director
Department of Labor and Industrial Relations (DLIR

Re: S.B. No. 2961 SD2 HD1 Relating to Family Leave

I. OVERVIEW OF PROPOSED LEGISLATION

SB2961 SD2 proposes to amend the Hawaii Family Leave Law, chapter 398, Hawaii Revised Statutes (HRS), to provide for partial wage replacement via an employee-funded family leave trust fund for up to four weeks a year. Eligibility for family leave benefits is for employees who have worked at least six months.

The proposal specifies that the amount of family leave benefit contributions by employees equals that of the Temporary Disability Insurance (TDI) law. The benefits also match TDI, which is generally 58% of the average weekly wage, but not more than the limits set by the workers compensation law, generally 66 2/3% of an employee's average weekly wage.

The measure also expands eligibility for care of siblings, military deployments and exigencies. The measure allows for use of TDI then four weeks of family leave to bond with a child.

The department believes the measure is not viable and contains numerous problematic provisions.

II. CURRENT LAW

The current Hawaii Family Leave Law (HFLL) allows qualifying employees working for employers with 100 or more employees with four (4) weeks of job-protected, unpaid leave to care for a sick family member or for the birth or adoption of a child. Except in certain situations, the law also requires an employer who provides sick leave to employees to permit an employee to choose to use up to ten days of accrued and available sick leave for family leave purposes.

There is an exception to the use of sick leave when the employer utilizes sick leave as its TDI plan. In this situation, the employee can only elect to use sick leave that is in excess of the minimum required by TDI. It is possible that the employee has sick leave but cannot use any of it for family leave purposes because the employee has no administratively determined excess sick leave. The law also permits the use of other kinds of leaves as well.

III. COMMENTS ON THE SENATE BILL

The department believes the measure is not viable and contains numerous problematic provisions.

- Assuming that the benefit equaled 58% of the weekly wage and the employee earned at the State average weekly wage (currently $812), the employee would have to contribute 4.46%* of their salary before taxes to totally fund the leave provided for in the measure. However, there are no qualifiers in the draft, therefore, any employee or designee could take the four weeks of benefits upon the effective date of the Act.

  * $812 x .58 x 4 = $1,884 (wage replacement)

  $812 x 52 = 42,224 (annual salary) $1,884/$42,224 = 4.46%

- DLIR estimates that it would require at least 200 additional staff to administer the program. The Unemployment Insurance Division has approximately one-third of 140 staff dedicated to administering the Unemployment Compensation Trust Fund contributions for approximately 30,000 employers. This measure would require the administration of 600,000 family leave accounts, which is a 1900% increase in the number of administered accounts compared to the unemployment account function.

- Further, Hawaii's Family Leave Law currently allows taking the leave in hourly increments, so in addition to the 1900% increase in accounts, those accounts would be much more complicated to administer. Every time any of 600,000 employees took an hour off the department would have to process the use of that leave. In contrast, the unemployment program processes contributions from employers on a quarterly basis.

- There are no provisions in the measure for employees with more than one job, as is the case in Workers' Compensation law.

- The proposal would necessitate the creation of an information technology system to administer the proposed program. The Unemployment Program estimates that creating a new information program would cost $40 million to develop. By extrapolation, an information technology program for the purposes of this measure would be more complex and possibly cost $80 million or more to develop.

- The administrative complexities entailed in operating and managing a program as outlined in the proposal would create an extreme administrative burden as explained above. DLIR notes such a system would require the following sections and functions in addition to one dedicated to the management of the trust fund:

  Employee Contribution Section:

  - Account Registration
  - Report Intake and Processing
  - Cashiering, Delinquency, Collection, Monitoring and Compliance
  - Trust Fund Monitoring and Compliance
  - Appeals

  Benefit Section

  - Intake of claims
  - Claims processing
  - In-house adjudication
  - Monitoring and compliance
  - Processing and disbursement of benefits

- The dispute process outlined in section 7 and 8 potentially involve hundreds of thousands of disputes on an annual basis—any of the approximately 600,000 people in the workforce could complain about any time requested under this proposal and it would require a de novo review by a hearings officer.

- The proposed 398-G Wage withholding requires a redetermination by "the referee" although referee is not defined.

- The proposed 398-A Designation of a designated person would allow an employee to designate anybody as a person for whom care would be provided. This would add to the already onerous administrative burden. As would the proposed 398-C(3) which permits individuals who are no longer employed to obtain benefits as long as otherwise qualified.

- The bill also proposes that employee contributions to the fund are to be the same as the employee contributions to the TDI fund, however, employees never contribute to a TDI fund. Employers are able to withhold up to one-half the cost but no more than .5% of weekly wages to provide TDI benefits. Many employers choose not to withhold contributions from employees, but instead pay 100% of the cost. Utilizing the TDI thresholds, one half percent of the maximum weekly wage base, currently $982.36, amounts to a maximum weekly deduction of $4.91 per employee. This amounts to $255.32 yearly. At this rate yearly contributions by approximately 9 employees making the $982.36 weekly rate would be needed to fund the 4 weeks of maximum weekly benefits for this one employee.

Deductions are only allowed when an employee is eligible for TDI benefits. When the TDI law, which covers only disabled employees, was enacted in 1969, 10% of disability cases were estimated to last more than seven days. The proposed family leave insurance program vastly increases the population of those entitled to benefits while reducing the contribution amount, therefore, the financial solvency of the family leave law does not appear to be viable.

- Section 398-A allows an employer to establish a process for the covered individual to designate a designated person. However, since unemployed individuals can claim benefits and since the department, not the employer, will administer claims, it may be prudent for the department to establish the process and for the individual to notify the department of the individual's designated person.

- Section 398-D(c) requires the sharing of information with the TDI program. The TDI program has little to no information to share because TDI claims are processed and paid by private insurers and by self-insured employers.

- Duplication of benefits:
    - To clarify that Hawaii TDI benefits cannot be duplicated, change Section 398-I(1), page 8 line 7, to add "benefits law of this state or of any other state."
    - Section 398-I(3), page 8 line 15, remove all text after "previously incurred." The additional text relates to TDI subrogation rights.
    - Section 398-I(4), page 9 line 11-13, change "any insurer or employer or the trust fund for disability benefits providing such benefits" to the Family Leave Insurance trust fund.

- DLIR notes that any individual covered under the proposal would have the incentive to use the benefits after exhausting unemployment benefits, whether or not they have paid for those benefits through contributions.

- Section 398-23(d), page 16 line 17, change "order" to make as the department pays all benefits due.

- Employees may currently have sick leave in excess of the administratively determined minimum of fifteen days of leave from the first day of illness to use for the purpose of family leave, as drafted, and those employees would still be required to pay into the trust fund.
- The report required by Section 11 to the 2017 Legislature would be after about six months after the effective date. DLIR is also unsure of how to pursue the feasibility of extending family leave benefits to self-employed persons.