

Honolulu, Hawaii

APR 07 2017

RE: H.B. No. 4
H.D. 1
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sir:

Your Committee on Ways and Means, to which was referred H.B. No. 4, H.D. 1, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO HEALTH,"

begs leave to report as follows:

The purpose and intent of this measure is to require certain employers to provide a minimum amount of paid sick leave to employees.

Your Committee received written comments in support of this measure from the Hawaii Government Employees Association; Hawaii State AFL-CIO; Democratic Party of Hawaii; International Organization of Masters, Mates, and Pilots; Seafarers International Union; ILWU Local 142; LGBT Caucus of the Democratic Party of Hawaii; Motion Picture Association of America; and five individuals.

Your Committee received written comments in opposition to this measure from the Department of Human Resources Development; Hawaii State Commission on the Status of Women; Condominium Rentals Hawaii; Maui Chamber of Commerce; General Contractors Association of Hawaii; Hawaii Restaurant Association; Kimo's Restaurant; Keoki's Paradise; Ralph S. Inouye Co., Ltd.; Duke's Beach House Maui; Hula Grill Waikiki; Kilauea Lodge and Restaurant; Duke's Canoe Club Kauai; Il Gelato Hawaii; PVT Land



Company; Hula Grill Kaanapali; Gyotaku Japanese Restaurants; Tiki's Grill and Bar; Hawaii Food Industry Association; Healy Tibbitts Builders, Inc.; Hawaii Credit Union League; Koa Pancake House; S and M Sakamoto, Inc.; Leilani's on the Beach; Hawaii Dredging Construction Company, Inc.; Highway Inn; Duke's Waikiki; Kahala Nui; Hawaii Children's Action Network; John Mullen and Company; Chamber of Commerce Hawaii; Society for Human Resource Management - Hawaii Chapter; National Federation of Independent Business; Hukilau Lanai Restaurant; Triple F Hawaii; Fair Wind Cruises; Island Princess; and eleven individuals.

Your Committee received written comments on this measure from the Department of Health; Department of Labor and Industrial Relations; Hawaii Pacific Health; The Queen's Heath Systems; Healthy Mothers Healthy Babies Coalition of Hawaii; and Policy Advisory Board for Elder Affairs.

Your Committee finds that most workers in the State take some time off work to attend to their personal healthcare needs or the healthcare needs of a family member under their care. However, approximately thirty-six per cent of private industry workers in the United States do not have paid sick leave. In Hawaii, sixty-nine per cent of accommodation and food service workers lack paid sick leave.

Your Committee also finds that a person who is not provided paid sick leave by their employer is one and a half times more likely to work while sick, which can cause coworkers to become ill. A parent whose employer does not provide paid sick leave is twice as likely to send a sick child to school or daycare, which can cause other children to become ill.

Your Committee believes that requiring certain employers to provide paid sick leave will encourage employees to focus on their healthcare needs, and improve the overall health of workplaces, schools, and the community in general.

Nevertheless, your Committee recognizes that various concerns have been raised regarding this measure. The Department of Labor and Industrial Relations notes that:



- (1) The measure does not address how the proposed paid sick leave would affect employers that already have paid time off policies;
- (2) As defined in the measure, "employer" has the same meaning as defined in the Fair Labor Standards Act, title 29 United States Code section 203(d). This definition is very broad, including both private and public employers;
- (3) The relationship between the paid sick leave required by this measure and the benefits provided under various other laws should be clarified; and
- (4) The measure does not provide any mechanism for enforcing its provisions.

Additionally, the Department of Human Resources Development notes that it is unnecessary to include public employees within the scope of the measure because most public sector employees are already afforded generous vacation and sick leave benefits that can be used to care for themselves or a family member who is ill or needs medical care.

Moreover, your Committee notes that, to protect employee privacy, the measure prohibits an employer from requiring an employee to disclose the details of the employee's medical condition as a condition of using paid sick leave. The measure also permits an employee to use paid sick leave for the care of people other than the employee and for preventative care, but does not extend the medical condition privacy protection to the person to whom the employee is providing care. If the privacy protection provision is intended to also apply to the medical conditions of people under the employee's care, or when an employee uses paid sick leave for reasons other than the employee's personal medical condition, your Committee believes that the nondisclosure language should be expanded to effectuate that intent.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4, H.D. 1, S.D. 1, and recommends that it pass Third Reading.



Respectfully submitted on
behalf of the members of the
Committee on Ways and Means,



JILL N. TOKUDA, Chair



