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February 28, 2017

To: The Honorable Scott Y. Nishimoto, Chair,
The Honorable Joy A. San Buenaventura, Vice Chair, and
Members of the House Judiciary Committee

Date: Tuesday, February 28, 2017
Time: 2:00 p.m.
Place: Conference Room 325, State Capitol

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

Re: H.B. No. 1402 HD1 Relating to Employees

I. OVERVIEW OF PROPOSED LEGISLATION

This proposal provides for a shared leave program for public employees, under the Public Service Law, chapter 78 Hawaii Revised Statutes (HRS). DLIR does not administer chapter 78, HRS.

DLIR strongly opposes this measure that would require the Department to create a program that covers all entities of State government, page 13 lines 12-15:

"State" or "state agency" means each department, office, commission, board, or other division of the executive, legislative, or judicial branch of state government and includes the office of Hawaiian affairs."

DLIR further notes that if it were required to administer these provisions it would require the provision of substantial staffing and resources at a time in which the Department has significant challenges performing its core, statutory responsibilities.

II. CURRENT LAW

The Department of Labor and Industrial Relations does not currently have authority over the shared leave programs administered under other Departments, Offices, Commissions, Boards, the Judiciary or Legislature. DLIR administers its own shared

leave program as authorized under Hawaii Administrative Rules 14-18.1.

III. COMMENTS ON THE HOUSE BILL

DLIR strongly opposes this measure.

DLIR notes that sick leave is part of an employee's Temporary Disability Insurance (TDI) benefit required by chapter 392, HRS, which provides the employee wage replacement while the employee is unable to work due to the employee's own nonindustrial illness or injury. If after donating sick leave, the donor employee has less sick leave than required for TDI purposes, the State may be responsible to pay TDI benefits to the donor employee. This issue could be avoided by prohibiting or limiting the donation of sick leave.

DLIR further notes that if it is required to administer these provisions that broaden its scope of authority, it would likely need additional staffing and resources.

For other substantive comments DLIR defers to DHRD.

DAVID Y. IGE
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STATE OF HAWAII
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February 27, 2017

TESTIMONY TO THE
HOUSE COMMITTEE ON JUDICIARY
For Hearing on Tuesday, February 28, 2017
2:00 p.m., Conference Room 325

By

JAMES K. NISHIMOTO
DIRECTOR

House Bill No. 1402 HD1
Relating to Employees

CHAIRPERSON NISHIMOTO, VICE-CHAIR SAN BUENAVENTURA AND MEMBERS
OF THE HOUSE COMMITTEE ON JUDICIARY:

H.B. No. 1402 HD1 establishes a shared leave program within the Department of Labor and Industrial Relations to allow State employees to donate accumulated sick leave and vacation leave credits to a shared leave bank or directly to another state employee who has a serious personal illness or injury or who has a family member who has a serious personal illness or injury.

The Department of Human Resources Development (DHRD) respectfully appreciates the intent of but **opposes H.B. No. 1402 HD1**. Section 78-26 HRS, Leave Sharing Program, allows for the establishment of leave sharing programs within jurisdictions to allow employees who earn vacation to donate accumulated vacation leave credits to another employee within the same jurisdiction who has a serious personal illness or injury. The program also allows employees who are not entitled to

vacation leave to donate accumulated sick leave credits. Therefore, we believe that this bill may be duplicative.

The scope of H.B. No. 1402 HD1, which includes all state jurisdictions, requires assessment of existing policies and programs, for integration into the centralized system, prior to design and implementation. This process needs to be coordinated and agreed upon across all State jurisdictions.

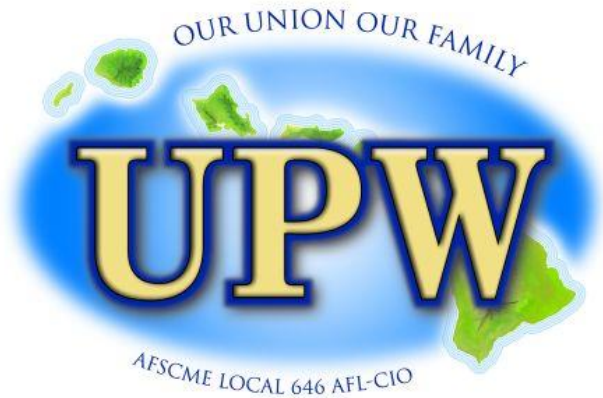
As the conditions for usage include limitations over the life of an employee's State employment, a comprehensive and sustainable tracking system is recommended. We also recommend that budget for staffing, software development and maintenance, security, and hosting be included for this program.

It is further recommended that the authority of the grant and appeals processes be formalized, to include a multi-jurisdictional board or referee, to insure fairness and transparency across the affected jurisdictions.

DHRD also notes that there may be fiscal implications associated with implementing a leave sharing program. Currently there is no information regarding who donates leave, who accesses leave and the associated monetary value of such. Depending on the actual usage of shared leave there may be costs accrued to the State.

Given the foregoing, we recommend that H.B. No. 1402 HD1 be held.

Thank you for the opportunity to provide testimony on H.B. No. 1402 HD1.



THE HAWAII STATE HOUSE OF REPRESENTATIVES
The Twenty-Ninth Legislature
Regular Session of 2017

COMMITTEE ON JUDICIARY

Representative Scott Y. Nishimoto, Chair
Representative Joy A. San Buenaventura, Vice Chair

DATE OF HEARING: Tuesday, February 28, 2017
TIME OF HEARING: 2:00 p.m.
PLACE OF HEARING: State Capitol, Rm. 325
415 South Beretania Street

TESTIMONY ON HOUSE BILL 1402 HD1 RELATING TO EMPLOYEES

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

My name is Dayton M. Nakanelua, State Director of the United Public Workers, AFSCME, Local 646, AFL-CIO (UPW). The UPW is the exclusive bargaining representative for approximately 14,000 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.

HB1402 HD1 Relating to Employees, establishes within the department of labor and industrial relations, a shared leave program to allow state employees to donate accumulated sick leave and vacation leave credits to a shared leave bank or to another state employee who has a serious personal illness or injury or who has a family member who has a serious personal illness or injury.

The UPW supports this measure.

HB1402, HD1
Relating to Employees
House Committee on Judiciary
February 28, 2017

My name is Malia Espinda. I am a state employee. However, I do not represent my department with this testimony.

Currently if a state employee is seriously ill or injured and has used up all accumulated sick *and* vacation leave, the employee may be able to seek donated vacation leave from fellow employees within the same department that the employee works in.

The state employee is not permitted to seek donated leave from fellow state employees across other departments or agencies.

This measure would address the following:

- A life-long Department of Health employee may have an established relationship with a fellow-state employee who works in the Department of the Attorney General. Over the years these state employees are more than respectful colleagues, they have become caring friends. However, if one of those employees should become seriously ill or injured, the other is prohibited from helping with donated vacation leave. This is simply not representative of the Aloha we share as state employees with our larger state employee Ohana.
- In the Capitol alone, there are 5 different departments/budgets that interface every day. If he/she ever needed the support, the Governor's, LG's, PSD Sheriff's, or Legislative staff could not assist the DAGS Janitor who has dutifully cleared out office trash for decades.
- State employees who work in a comparatively small department to that of the State's much larger departments are at an extreme disadvantage simply because the smaller number of staff presents limitations to the pool of potentially available donated leave. This is not fair.

- Currently, when an employee is seriously sick or injured and in need of donated leave, a common practice across departments is a department-wide e-mail blast soliciting donations. While this is an understandable means to garner donations, it may impact employee's desire for personal privacy during a difficult time. A broader pool may allow the employee to more comfortably seek support from close colleagues he or she work more directly with.
- When a state employee transfers from one state department to another, the employee's sick and vacation time transfers, as well. This suggests that there is a potential mechanism for departments to manage cross-department donated leave within their budgets. Alternatively, in the era of Go Funds accounts, perhaps an innovative solution could be considered and developed.

Finally, determining the cost differential impact of different levels employees should not hinder the passage of this measure. Indeed, if there were a substantial loss realized, state departments would likely not maintain their current internal shared-leave programs. In fact, there may be overall state budget cost-savings to establishing a shared-leave program across all departments as employees opt to donate accumulated leave that might otherwise be paid out in retirement.

Thank you for considering this measure.

Aloha,
Malia Espinda

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 27, 2017 3:00 PM
To: JUDtestimony
Cc: begoniabarry@gmail.com
Subject: *Submitted testimony for HB1402 on Feb 28, 2017 14:00PM*

HB1402

Submitted on: 2/27/2017

Testimony for JUD on Feb 28, 2017 14:00PM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Barbara Barry | 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.

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HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.092

LATE

The Twenty-Ninth Legislature, State of Hawaii
House of Representatives
Committee on Judiciary

Testimony by
Hawaii Government Employees Association

February 28, 2017

H.B. 1402, H.D. 1 - RELATING TO EMPLOYEES

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly supports the purpose and intent of H.B. 1402, H.D. 1 which establishes a leave share program to allow state employees to donate accumulated sick or vacation leave credits to a shared leave bank or to another state employee who has a serious personal illness or injury, with suggested amendments.

Currently, many state departments offer a shared leave program for their employees; however each program is run independently from each other, governed by different policies, and without the ability to participate in cross-departmental sharing. The shared leave program as proposed in H.B. 1402 will allow employees not only to donate into a shared leave bank which employees in need can utilize, but also lends the ability to directly assist another state employee. Creating a statewide shared leave program not only significantly expands the pool of eligible leave donors and allows for more employees to participate, but will also ensure consistency and fairness in implementation.

We respectfully request the Committee's consideration in appropriately housing and administering the leave share program. As currently drafted, H.B. 1402, H.D. 1 establishes the program within the Department of Labor and Industrial Relations; however, because this legislation is a newly created section in Ch. 78, Hawaii Revised Statutes, it may be more appropriate to place the program within the Department of Human Resources and Development. Additionally, we respectfully request that should this measure become law that the Employer consult with the Exclusive Representatives on its implementation.

Thank you for the opportunity to testify in strong support of H.B. 1402, H.D. 1.

Respectfully submitted,

Randy Perreira
Executive Director