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February 9, 2017

To: The Honorable Gilbert S.C. Keith-Agaran, Chair,  
The Honorable Karl Rhoads, Vice Chair, and  
Members of the Senate Committee on Judiciary and Labor

Date: Tuesday, February 9, 2017  
Time: 9:05 a.m.  
Place: Conference Room 016 State Capitol

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

**Re: S.B. No. 207 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 12 lines 13-16:

"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 is 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 SENATE 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.