

STAND. COM. REP. NO.

1146

Honolulu, Hawaii

MAR 24 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 Judiciary and Labor, to which was referred  
H.B. No. 4, H.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  
employers to provide a minimum level of paid sick leave, including  
time for family care, for certain employees.

Your Committee received testimony in support of this measure  
from the Hawaii State AFL-CIO; International Brotherhood of  
Electrical Workers Local 1260, AFL-CIO; ILWU Local 142; IOMM & P;  
LGBT Caucus of the Democratic Party of Hawaii; Hawaii Government  
Employees Association, AFSCME Local 152, AFL-CIO; Democratic Party  
of Hawaii; and eight individuals. Your Committee received  
testimony in opposition to this measure from the Department of  
Human Resources Development; City and County of Honolulu  
Department of Human Resources; Chamber of Commerce Hawaii; Hawaii  
Food Industry Association; Hawaii Restaurant Association; Retail  
Merchants of Hawaii; National Federation of Independent Business;  
Society for Human Resource Management-Hawaii Chapter; Motion  
Picture Association of America, Inc.; Maui Chamber of Commerce;  
Maui Hotel & Lodging Association; Duke's Kauai; Duke's Beach House  
Maui; Duke's Waikiki; Gray, Hong, Nojima, & Associates, Inc.; REI  
Food Service, LLC d.b.a. Gyotaku Japanese Restaurants; Hula Grill



Kaanapali; Hula Grill Waikiki; Kalaheo Coffee Co., Inc.; Keoki's Paradise; Kimo's; Koa Pancake House and Koa Cafe LLC; Leilani's on the Beach; PacRim Marketing Group, Inc.; PRTech, LLC; PVT Land Company Ltd.; Tiki's Grill & Bar; Yogi Kwong Engineers, LLC; YK Drilling, LLC; Egg 'n Things; Fair Wind, Inc.; and one individual. Your Committee received comments on this measure from the Department of Labor and Industrial Relations, Department of Health, Hawaii State Commission on the Status of Women, Policy Advisory Board for Elder Affairs, Hawaii Appleseed Center for Law and Economic Justice, Hawaii Children's Action Network, and Il Gelato Hawaii.

Your Committee finds that employees who presently lack sick leave benefits may work while sick for purposes of diminishing any potential financial hardships or to avoid disciplinary action by an employer, which may exacerbate their illness or place co-workers and the public at risk if their illness is contagious. Your Committee finds that it is in the interest of the health and safety of employees and the public that employees be allotted paid sick leave to care for themselves or family members to promote recovery and mitigate the spread of illnesses.

Your Committee recognizes that, unlike the situation of employees without representation, bargaining between an employer and a labor organization balances wages, benefits, including paid leave provisions, and other items within the scope of negotiations in the employee package covered and made available under a collective bargaining agreement. Therefore, your Committee finds it appropriate that parties who are subject to collective bargaining agreements may waive the paid leave requirements proposed in this measure under terms negotiated under such agreements.

Your Committee has amended this measure by:

- (1) As recommended by the Department of Labor and Industrial Relations:
  - (A) Specifying that paid sick leave is not payable for the period in which the employee is entitled to temporary total disability or temporary partial disability benefits under chapter 386, Hawaii Revised Statutes, or temporary disability insurance



benefits under chapter 392, Hawaii Revised Statutes; and

- (B) Deleting the requirement for the Director of Labor and Industrial Relations to create and make posters available;
- (2) Inserting language to allow parties subject to a collective bargaining agreement to waive the paid sick leave under the terms and conditions of the collective bargaining agreement;
- (3) Inserting an effective date of January 7, 2059, to encourage further discussion; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

Your Committee notes that the Department of Labor and Industrial Relations raised concerns regarding the definition of "employer" and included the December 2015 employment report on reporting units and employment by size of firm in its testimony. Your Committee recommends that consideration be given to the Department's concerns and that the employment report be referenced when considering the scope of the number of employees to fill in the blanks in this measure as it progresses through the legislative process. Additionally, your Committee recommends that consideration be given to whether the payment of some amount over minimum wage should be the point at which paid sick leave is not required and whether paid sick leave should be considered part of an employee's compensation.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4, H.D. 1, S.D. 1, and be referred to your Committee on Ways and Means.



Respectfully submitted on  
behalf of the members of the  
Committee on Judiciary and  
Labor,

  
GILBERT S.C. KEITH-AGARAN, Chair



The Senate  
 Twenty-Ninth Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Judiciary and Labor**  
**JDL**

Bill / Resolution No.:* <b>HBA, HD1</b>	Committee Referral: <b>JDL, WAM</b>	Date: <b>3/21/17</b>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KEITH-AGARAN, Gilbert S.C. (C)	✓			
RHOADS, Karl (VC)	✓			
GABBARD, Mike	✓			
KIM, Donna Mercado		✓		
THIELEN, Laura H.	✓			
<b>TOTAL</b>	<b>4</b>	<b>1</b>	<b>0</b>	<b>0</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Karl Rhoads</i>				
Distribution:             Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes