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**STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE**

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BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY

TESTIMONY BY LAUREL A. JOHNSTON
ACTING DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
ON
HOUSE BILL NO. 1867, HOUSE BILL NO. 2136 AND
HOUSE BILL NO. 2598, PROPOSED H.D. 1

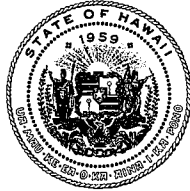
**February 6, 2018
8:30 a.m.
Room 309**

HOUSE BILL NO. 1867, RELATING TO FAMILY AND MEDICAL LEAVE
HOUSE BILL NO. 2136, RELATING TO FAMILY LEAVE
HOUSE BILL NO. 2598, PROPOSED H.D. 1, RELATING TO FAMILY LEAVE

House Bill No. 1867, House Bill No. 2136, and House Bill No. 2598, Proposed H.D. 1, propose different approaches to implement a paid family leave system in the State.

Because of the impact to employers and employees in the State, the Department of Budget and Finance strongly recommends before any statutory measures are enacted that the State have a clear understanding of the issues and costs related to implementing a mandated paid leave system. For this reason, we urge the Legislature to have the Office of the Auditor or the Legislative Reference Bureau conduct a thorough study on the paid family leave system proposed in these bills to identify issues and costs.

Thank you for your consideration of our comments.



**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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February 6, 2018

To: The Honorable Aaron Ling Johanson, Chair,
The Honorable Daniel Holt, Vice-Chair, and
Members of the House Committee on Labor

Date: Tuesday, February 6, 2018
Time: 8:30 a.m.
Place: Conference Room 309, State Capitol

From: Leonard Hoshijo, Acting Director
Department of Labor and Industrial Relations (DLIR)

Re: Proposed HD1 H.B. 2598 RELATING TO FAMILY LEAVE

I. OVERVIEW OF PROPOSED LEGISLATION

This proposal amends Chapter 398, Hawaii Revised Statutes (HRS), by establishing the paid family leave special fund. The moneys from the fund are for the permanent and temporary staff positions, administration, and operational costs to establish paid family leave for all workers in the State.

The bill requires DLIR to adopt rules pursuant to Chapter 91, HRS, to establish paid family leave for all workers in the state by January 1, 2023, and interim rules exempt from chapter 91 prior to January 1, 2023.

The measure also establishes a paid family leave implementation board within DLIR for administrative purposes, to assist the Department in establishing paid family leave for all workers in the State.

DLIR supports the intent of this proposal to provide access to paid family leave for all the state's workers and offers comments, including concerns about adequate resources for this complex and important venture. This proposal does not address the cost effects of assessments on employees and employers, perhaps tasking the Board—DLIR does not have a current analysis of that function.

II. CURRENT LAW

HFLL provides four weeks of protected, unpaid leave for employees of employers with 100 or more employees, on the birth or adoption of a child or to care for the employee's child, spouse, reciprocal beneficiary, sibling, or parent with a serious health condition.

FAQs for the HFLL are attached, which include sections on the interrelationship of the HFLL, the federal Family and Medical Leave Act (FMLA) and Temporary Disability Insurance (TDI) as well as a chart comparing HFLL and FMLA.

III. COMMENTS ON THE HOUSE BILL

FISCAL

DLIR appreciates that this measure recognizes the complicated nature of the request to implement a paid family leave law by creating the paid family leave implementation board. The Department has established dialogue with all the other states with paid sick leave laws to understand how the other states implemented their programs.

The request to report back to the 2019 Legislature may be ambitious considering hiring a program manager to support the implementation of the board. It is likely that establishing the position, recruiting and filling may take up to six months, or about time the first report is due. Similarly, implementing a program by January 1, 2023, considering other states' experiences who either had existing infrastructure to work from or substantial resources, may prove quite challenging, as Washington State is at this time.

DLIR is unsure of what would constitute an adequate appropriation for FY2018-2019, the \$1.5 million amount may need downward adjustment considering the onboarding issues mentioned above. However, to implement a paid family leave program with the assistance of the implementation board may require significant appropriation amounts depending on the range of various methods potentially suggested by the board. Washington State's program, which is a social insurance model and being developed from the ground up, is being implemented with an \$82 million general fund loan, has twenty-five staff, plans to increase to fifty soon, and projects a total of 150 staff to run the program eventually.

DLIR obtained an estimate of \$25-\$30 for the IT portion of the project from a local vendor to develop the required hardware and software over an initial five-year period. Washington projects spending between \$30 – \$50 million to develop its IT infrastructure over eight years, intending it for use across multiple programs.

MODELS

1. Employer Mandate—the employer provides the benefit as in Hawaii's Temporary

Disability Insurance, Prepaid Healthcare, and Workers' Compensation laws.

2. Private Insurance—employers, whether funded partially by employees or not, procure coverage. New York implemented this model, requiring employers to have Paid Family Leave (PFL) insurance by January 2018. Employers either obtain a rider to their existing disability benefits insurance coverage or self-insure.
3. Social Insurance—a percentage of earnings are deducted from workers' paychecks and deposited into a fund used to provide family leave benefits. California, New Jersey, and Rhode Island operate their programs in this fashion and had pre-existing TDI collections systems in place.
4. Non-Contributory—financed through general funds or other taxes, which is common in Europe and Central Asia. The New Mexico Legislature has deliberated on providing family leave benefits in this manner.

186 countries have laws mandating family leave and the model used falls into three basic categories according to the International Labor Organization¹:

1. Social Security
2. Employer Mandate
3. Mixture of Social Security or Employer Mandate

OTHER OPTIONS

- Tax credit—the state or federal government incentivizes employers to provide family leave benefits, the tax bill recently passed by Congress includes such a provision. Numerous states have deliberated on proposals that involve using a tax credit.

NEW PROGRAM IMPLEMENTATION

In addition to the fiscal considerations mentioned above, discussions with Washington State have provided DLIR with some understanding of the scope and complexities of developing a paid family and medical leave program. The following are some general points of interest:

- Washington State had no preexisting infrastructure for family or medical leave.
- Washington State first passed an unfunded family and medical leave law in 2007, but took over 10 years to begin implementation.
- A working group of employers, under threat of a ballot initiative, and advocates developed the components of what eventually became the law.
- A shared employee-employer premium will begin on January 1, 2019 to fund the program with the first benefit payment to begin on January 1, 2020.

- Hawaii currently has an existing medical leave law, the Temporary Disability Insurance law (TDI), chapter 392, Hawaii Revised Statutes. The TDI law provides partial wage replacement for an eligible employee's own disability. TDI coverage and benefit payments are primarily processed through private insurance companies.
- When the Legislature has considered adopted major workers' compensation reform or the adoption of TDI or Prepaid Healthcare Laws, it has instructed the Legislative Reference Bureau (LRB) to commission a study, including a detailed actuarial component, before enacting those labor benefits and protections that form part the bedrock of Hawaii's labor protections². DLIR suggests the Committee consider instructing LRB to conduct a study, to include both appropriate program placement and a serious actuarial component, to inform the work of the board during the next fiscal year.

Lastly, the Department seeks clarity in the appropriation, i.e. does the moneys included also support the activities of the Board, or just the FTE and DLIR?

1 http://ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_242615.pdf

2 <http://lrbhawaii.info/lrbrpts/63/63workcomp.pdf>

<http://lrbhawaii.info/lrbrpts/67/tdi.pdf>

<http://lrbhawaii.info/lrbrpts/67/prepaid.pdf>



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HAWAII FAMILY LEAVE

Frequently Asked Questions on the Hawaii Family Leave Law (HFLL) Chapter 398, Hawaii Revised Statutes

Guide to Acronyms

DLIR – Department of Labor and Industrial Relations

FMLA – Family and Medical Leave Act (Federal law)

HFLL – Hawaii Family Leave Law (State law)

TDI – Temporary Disability Insurance

SECTIONS:

1. Coverage
2. Benefits/Entitlement
3. Relationship to Federal Family and Medical Leave Act (FMLA)
4. Family Leave Questions Relating to the Temporary Disability Insurance Law (TDI)

Coverage

1. Q: How does an employer count employees in order to determine coverage under the HFLL?

A: The law applies to an employer who employs **one hundred or more** employees for each working day during each of twenty or more calendar weeks in the current or preceding calendar year.

- The employee count to determine “one hundred or more” includes all workers or employees on the payroll who work within the State of Hawaii, including:
 - (1) Employees at all locations of an employer within the State of Hawaii;
 - (2) All employees maintained on the payroll, including part-time, temporary or intermittent employees, regardless of their months of service or eligibility for the employer’s benefit plan;
 - (3) Employees on paid or unpaid leaves of absence, including family leave or disciplinary suspension.
- The count does not include:
 - (1) Employees who are laid off, whether temporarily, indefinite or long-term; or
 - (2) Employees at mainland or international locations who do not work in the State of Hawaii.
- Employers include any individual or organization, including any instrumentality of the State or its political subdivisions, any partnership, association, trust, estate, joint stock company,

insurance company, domestic or foreign corporation, receiver or trustee in a bankruptcy, or the legal representative of a deceased person.

2. Q: What employees are eligible for HFLL?

A: An employee is a person who performs services for at least six consecutive months for wages under any contract of hire, written or oral, expressed or implied, with an employer, including a full-time, part-time, temporary, casual, on-call or intermittent worker. Unlike the federal FMLA, there is no requirement in the HFLL that an employee work a minimum number of hours within the six-month period.

Consecutive employment means continuous employment with no break in service, such as by resignation, termination or layoff. Paid periods of leave or authorized unpaid leaves of absence are not considered breaks in service.

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Benefits/Entitlement

3. Q: Can an employer require an employee to designate a portion or all of the family leave period to be paid using the employee's vacation even if the employee wanted to use their sick leave?

A: It is the employee who may elect to substitute any of the employee's accrued paid leaves, including but not limited to vacation, personal, or family leave for any part of the four-week period of family leave. The employer cannot require an employee to use a specific leave for family leave purposes unless required by policy (see answers to questions 11 & 12).

4. Q: Is an employer who does not provide sick leave now required to have a sick leave policy?

A: HFLL does not require employers to create a sick leave plan if they do not currently provide sick leave to employees. Further, if an employer does not provide paid sick leave to certain employees, such as on-call or part-time workers, the employer is not required to extend paid sick leave to those employees.

5. Q: If an employer's sick leave plan provides less than 10 days of paid benefits, is the employer required to add additional sick leave days for employees to use for family leave purposes?

A: No. Only the amount of sick leave benefits that are accrued and available for employees to use for their own sickness must be allowed to be used for paid family leave.

6. Q: If an employee is eligible under the HFLL (six months of employment), but not under TDI or the employer's sick leave plan, are paid family leave benefits required?

A: If the employee has no accrued and available sick leave, and the employer provides no other paid leave, such as vacation, then the family leave would be unpaid leave.

7. Q: If an employee uses all of his/her sick leave for his/her own disability, must an employer later provide additional days for him/her to use for family leave purposes?

A: No. There is no requirement to provide more sick leave than what the employee is entitled to under the employer's sick leave plan.

8. Q: If the employee uses up all of his/her sick leave for family leave purposes, and then the employee later becomes sick, must the employer provide additional sick days for the employee's illness?

A: No, unless the employer has an "equivalent sick leave plan" under the TDI Law.

9. Q: If an employer's sick leave plan allows an employee to receive paid sick leave benefits for the employee's own illness without a doctor's certificate, can the employer require medical certification for the employee to use paid sick leave for family leave purposes?

A: Yes, the HFLL allows employers to require certification from the employee for the employee's request for family leave to care for a family member with serious health condition.

10. Q: If the employer's sick leave policy includes an unpaid waiting period before sick leave benefits are payable for an employee's illness, can the employer use the same waiting period for sick leave benefits to be payable for family leave purposes?

A: If the employer's policy or collective bargaining agreement provides for a waiting period, HFLL does not alter this arrangement.

11. Q: If an employer's sick leave policy provides that employees must exhaust any accrued vacation before using their sick leave, would this practice be allowed for an employee taking family leave?

A: If this is the employer's sick leave policy, HFLL does not alter this arrangement. See #12 also.

12. Q: An employer's family leave policy requires that an employee first exhaust his/her vacation before using accrued and available sick leave for family leave. However, the employer's sick leave policy does not require an employee to exhaust his/her vacation or other paid leave before using sick leave for his/her own illness. Is this employer practice allowed?

A: No. HFLL specifies that an employer must permit an employee to use up to 10 days of accrued and available sick leave for family leave purposes. If the employer's policy has no similar requirement for the use of sick leave for the employee's own illness, the sick leave is considered "accrued and available", and the employer must permit the employee to use the sick leave for family leave. The HFLL also provides that, except for the ten days provided at the election of the employee, the employee may substitute other paid leaves, such as vacation, for any part of the four-week period of family leave.

13. Q: If a company has a paid time-off plan (PTO), which can be used for any purpose including sick leave, and which must be used before an extended sick leave bank becomes available, what is the employer obligated to provide to the employee?

A: If the PTO can be used for any purpose, it would fall within the definition of sick leave under HFLL, and the employer would be required to permit an employee to use up to 10 days of PTO for family leave. The employer's requirement to use PTO before an extended sick leave bank becomes available would not be a violation of the HFLL.

14. Q: If a collective bargaining agreement states that sick leave is to be used only for the employee's own illness, does HFLL supersede the agreement?

A: In general, HFLL will prevail.

15. Q: Is paid sick leave under HFLL available to an employee for the birth of the employee's child who does not have a serious health condition?

A: Yes. The new law specifies that the use of accrued and available sick leave is "for family leave purposes," which includes the birth or adoption of a child.

16. Q: If an employee does not request paid sick leave for family leave, does an employer have to notify the employee of the right to use sick leave for family leave?

A: DLIR believes that an employer who provides paid sick leave should notify its employees of their right to use up to 10 days of sick leave for family leave so that employees are aware of that option.

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Relationship to Federal Family and Medical Leave Act (FMLA)

17. Q: Can a parent take family leave to care for a child over the age of 18 with a serious health condition?

A: Yes. Employees may take family leave to care for a child of any age, not just a minor.

18. Q: Does the HFLL allow for intermittent leave?

A: Yes, HFLL [Section 398-3(b), HRS] allows family leave to be taken intermittently, including for birth or adoption.

19. Q: If a husband and wife work for the same employer, are both permitted to use accrued and available sick leave for the same family leave purpose at the same time?

A: Yes. Unlike the FMLA, the HFLL does not restrict either a husband or wife from using family leave, and does not require that they share the four-week period of family leave. HFLL further requires an employer who provides sick leave for employees to permit any qualifying employee,

including husbands and wives, to use their own accrued and available sick leave for family leave purposes.

20. Q: If an employee uses 10 days of accrued and available sick leave under the HFLL to care for a grandparent-in-law with a serious health condition, is the employee entitled to an additional 12 weeks of FMLA for the serious health condition of a spouse?

A: For interpretation of the FMLA, we recommend contacting the USDOL, Wage and Hour Division at (808) 541-1361 or at <http://www.dol.gov/dol/compliance/comp-fmla.htm> (<http://www.dol.gov/dol/compliance/comp-fmla.htm>) . Because the definition of “parent” under the Hawaii law may be broader than under the FMLA, the family leave taken for a grandparent-in-law may not offset the 12-week FMLA entitlement (similar response for grandparents, parents-in-law, and reciprocal beneficiaries who may not be eligible under FMLA).

To view a handy comparison chart on the HFLL and FMLA, see [Family Leave Comparison Chart](#)

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Family Leave Questions Relating to the Temporary Disability Insurance Law (TDI)

21. Q: The employer currently provides TDI coverage for employees through an authorized TDI carrier. Additionally, the employer provides sick leave benefits to these employees. Are the sick leave benefits subject to HFLL?

A: Yes, the employer must permit an employee to use the employee’s accrued and available sick leave benefits for the purposes of the Hawaii Family Leave Law, not to exceed 10 days, if the sick leave amount is above the TDI requirement.

22. Q: The employer has an approved self-insured TDI plan that provides increasing benefits based on years of service. Benefits range from three weeks to a maximum of 26 weeks of benefits, based on the number of years that the employee worked. Can the employee use these benefits under HFLL?

A: No . Employers who are self-insured must pay TDI benefits to a disabled employee in accordance with the actual plan that was filed and approved by DLIR. HFLL does not provide that an employer diminish an employee’s accrued and available sick leave below the amount required under its TDI plan.

23. Q: The employer has an approved self-insured TDI plan that provides benefits at 100% for three weeks (15 days) with no waiting period per benefit year. For each year of service this employer gives their employees 15 days of sick leave. However, only 5 days can be carried over to the next year to a maximum accumulation of 35 days. Can the employees use these sick leave benefits under HFLL?

A: Yes, any accrued and available sick leave benefits in excess of the 15 days that are provided in the employer’s approved TDI self-insured plan can be used for family leave purposes, not to exceed 10 days unless the employer’s plan provides for greater benefits.

24. Q: The employer's TDI plan provides for a combined sick leave and statutory TDI policy that provides benefits through an authorized TDI carrier upon exhaustion of the employee's sick leave benefits. The employer has filed this TDI plan with the DLIR and received approval of this partially self-insured plan. Can the employee utilize his/her sick leave benefits for his/her family members?

A: No, the employer filed and received approval for the employer's combined self-insured and insured statutory TDI policy. Thus, the benefits provided are used to comply with the TDI law and are not available for family leave purposes.

25. Q: An employer only has an approved self-insured plan that provides statutory TDI benefits. Can an employee apply for family leave utilizing the statutory TDI benefits?

A: No, benefits under a statutory TDI plan can only be used for the employee's own illness.

26. Q: The employer and union have entered into a collectively bargained agreement whereby an employee must exhaust sick leave benefits before statutory TDI benefits commences with an authorized TDI carrier. However, no union agreement was filed with DLIR. Only a statutory TDI policy is filed with DLIR covering all employees. Can the union employee file under HFLL?

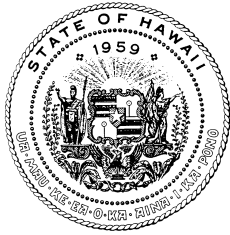
A: In general, the employee should be able to use his/her accrued and available sick leave because DLIR files reflect that employer is covered under a statutory TDI policy.

27. Q: The employer and union have entered into a collectively bargained agreement whereby the agreement states that an employee is entitled to statutory TDI benefits upon exhaustion of sick leave benefits. The agreement does not specify the number of sick leave days to which an employee is entitled. Agreements were filed and approved by DLIR. Can the union employee use his/her sick leave benefits for family leave under HFLL?

A: In general, the employee can utilize accrued and available sick leave benefits for family leave purposes since this employee is entitled to statutory TDI benefits.

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The foregoing information is provided for reference purposes only, by the Hawaii Department of Labor and Industrial Relations, Wage Standards Division. A determination on the applicability of the statute to a particular situation will be based on the actual facts of the case.



Department of Labor and Industrial Relations
Wage Standards Division

**HAWAII FAMILY LEAVE LAW (HFLL)
and the
FAMILY AND MEDICAL LEAVE ACT (FMLA)
COMPARISON CHART**

OCTOBER 2013

*The attached is intended for reference purposes only.
It is not intended as a substitute for the actual law, and is subject to revision.*

FAMILY LEAVE COMPARISON CHART

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FAMILY LEAVE COMPARISON CHART

PROVISION	CHAPTER 398, HAWAII REVISED STATUTES	FAMILY AND MEDICAL LEAVE ACT OF 1993
Effective Dates	<p>1/1/92 Chapter effective for public sector (L1991 Act 328) 7/1/94 Chapter effective for private sector (L1993 Act 157)</p> <p>7/1/93 Director's rule making authority (L1993 Act 152)</p> <p>7/1/95 Various amendments(*) (L1995 Act 154) 7/1/96 Appeal and hearings provisions (L1995 Act 154) 7/1/97 Reciprocal beneficiary qualifying reason for leave (L1997 Act 383) 7/1/03 Sick leave definition, allow use of up to 10 days (L2003 Act 44) 7/1/07 Only employee may elect to substitute accrued paid leaves (L2007 Act 265)</p> <p>5/6/09 Posting notice required (L2009 Act 48)</p>	<p>8/5/93 Public and private sectors</p> <p>2/5/94 For employers under collective bargaining agreements</p> <p>2008 H.R. 4986, eff. 1/16/09: the National Defense Authorization Act; "spouse, son, daughter, parent, or next of kin" to take up to 26 workweeks of leave to care for a "member of the Armed Forces, including a member of the National Guard or Reserves</p>
Covered Employer	Employs 100 or more employees within the state for each working day during 20 or more calendar weeks in the current or preceding calendar year	Employs 50 or more employees for each working day during 20 or more calendar workweeks in the current or preceding calendar year
Eligible Employee	<p>Employee must have at least six months of consecutive employment</p> <p>No restrictions based on number of hours worked</p> <p>The Hawaii law does not cover federal employees</p>	<p>Employee must have worked at least 12 months (not necessarily consecutive), and 1,250 hours in the preceding 12 months. Must also be employed at a worksite by an employer with 50 or more employees within 75 miles of that worksite.</p> <p>Private, state, local, and certain federal government employees</p>
Definition of Child	<p>Biological, adopted, or foster son or daughter of an employee; a stepchild; a legal ward of an employee</p> <p>No limitation on age of child under the Hawaii law</p>	<p>Biological, adopted, foster, step son or daughter; legal ward; or child of a person standing in loco parentis</p> <p>Must be under 18 years of age, or an adult child incapable of self-care due to mental or physical disability</p>
Definition of Parent	Biological, foster, adoptive parent; a parent-in-law; a stepparent; a legal guardian; a grandparent; or a grandparent-in-law	Biological parent or an individual who stood in loco parentis to an employee when the employee was a son or daughter; but not a parent-in-law

FAMILY LEAVE COMPARISON CHART

PROVISION	CHAPTER 398, HAWAII REVISED STATUTES	FAMILY AND MEDICAL LEAVE ACT OF 1993
Health Care Provider	Person qualified by the director to render health care and service, and with a license to practice medicine, dentistry, chiropractic, osteopathy, naturopathy, optometry, podiatry, and psychology	Doctor of medicine or osteopathy authorized to practice in the State; podiatrists, dentists, clinical psychologists, optometrists, chiropractors (for manual manipulation of spine to correct subluxation demonstrated by X-ray); nurse-practitioners and nurse-midwives if authorized to practice under State law; or Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts
Serious Health Condition	A physical or mental condition that warrants the participation of the employee to provide care during the period of treatment or supervision by a health care provider, and: 1. Involves inpatient care in a hospital, hospice, or residential health care facility; or 2. Requires continuing treatment or continuing supervision by a health care provider	Illness, injury, impairment, or physical or mental condition involving incapacity or treatment connected with inpatient care in a hospital, hospice, or residential medical-care facility; or, continuing treatment by a health care provider involving (1) incapacity or absence of more than 3 days from work, school, or other activities; (2) chronic or long-term condition incurable or so serious if not treated would result in incapacity of more than 3 days; or (3) prenatal care
Twelve-Month Period	The four-week entitlement is based on a <u>calendar year</u> (§§ 398-3, HRS, & 12-27-1 & 6(d), HAR). The limitation to the entitlement can be based on a <u>twelve-month period</u> (§§ 398-3(d), HRS, & 12-27-6(c)), which might not be measured as a calendar year. The employer cannot change from one twelve-month method to another if the transition results in the reduction or loss of any family leave benefit, or is intended to avoid the requirements of the law.	Family leave entitlement and use for birth or adoption is based on a twelve-month period, which may not necessarily be a calendar year.
Unpaid or Paid Leave	The intent of the law is to entitle an eligible employee to four weeks of job protected unpaid leave for qualifying reasons. Effective July 1, 2003, an employee may elect to substitute accrued sick leave for family leave purposes, provided that an employee shall not use more than ten days per year for this purpose, unless a collective bargaining agreement provides for the use of more than ten days (§ 398-4(c), HRS, and 12-27-9, HAR). Effective July 10, 2007, the employee chooses whether to use vacation or sick leave for a paid family leave. The "employer" was deleted from § 386-4(b), leaving only the "employee" as having a choice.	Allows "eligible" employees of a covered employer to take up to a total of 12 workweeks in any 12 months (see Sec. 825.200(b)) job-protected, unpaid leave for qualifying reasons. Permits an eligible employee to choose to substitute accrued paid leave for FMLA leave. An employee's ability to substitute accrued paid leave is determined by the terms and conditions of the employer's normal leave policy. When an employee chooses, or an employer requires, substitution of accrued paid leave, the employer must inform the employee that the employee must satisfy any procedural requirements of the paid leave policy only in connection with the receipt of such payment. See Sec. 825.300(c).

FAMILY LEAVE COMPARISON CHART

PROVISION	CHAPTER 398, HAWAII REVISED STATUTES	FAMILY AND MEDICAL LEAVE ACT OF 1993
	<p>However, when an employer has a self insured TDI plan, using the company's sick leave policy, an employee may not use more than the statutorily required minimum that the employer is required to reserve for each employee.</p> <p>Unless the employer agrees, the shortest allowable incremental period of accrued leave that may be substituted for any part of the HFL is the shortest period of time that the employer's payroll system uses to account for the use of leave, provided that the shortest incremental period is one hour or less (§ 12-27-7(c), HAR). Therefore, the employer can designate fifteen minutes, or thirty minutes depending on the payroll system, but not one hour and a half, or half a day as the shortest increment to take leave.</p>	<p>The employer must account for the leave using an increment no greater than the shortest period of time that the employer uses to account for use of other forms of leave provided that it is not greater than one hour</p>
Qualifying Reasons for Leave	<p>Birth of the employee's child, or the adoption of a child, or to care for an employee's child, spouse or reciprocal beneficiary, or parent with a serious health condition</p> <p>Leave for the employee's own serious health condition is not covered</p>	<p>Birth, placement of child for adoption or foster care, to provide care for parent, child, or spouse with a serious health condition, or for the employee's own serious health condition</p> <p>Military family leave: spouse, son, daughter, parent, or next of kin permitted to take up to 26 workweeks of leave to care for a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness (eff. 1/16/2009)</p>
Amount of Leave Entitlement	<p>A total of four weeks during any calendar year</p> <p>Employee is not entitled to more than four weeks of leave in any twelve-month period</p> <p>Leave is not cumulative from year to year</p>	<p>A total of 12 workweeks during any twelve-month period</p> <p>For births or adoptions, the entitlement expires at the end of the 12-month period beginning on the birth or adoption date</p>
Intermittent Leave	<p>Allowable for all qualifying reasons</p> <p>Need not be taken immediately upon births or adoptions, but limited to four weeks within a twelve-month period</p>	<p>Intermittent or reduced leave schedule permitted for serious health condition when medically necessary</p> <p>Not permitted for birth or adoption unless employer agrees</p>

FAMILY LEAVE COMPARISON CHART

PROVISION	CHAPTER 398, HAWAII REVISED STATUTES	FAMILY AND MEDICAL LEAVE ACT OF 1993
<p>Converting a "Week" to Equivalent Hours</p>	<p>An employer is allowed to convert the four week entitlement to an equivalent number of hours based on the <u>current</u> regular work week of the employee.</p> <p>As in the FMLA, if an employee's work schedule varies, the average weekly hours worked during the four weeks prior to the start of the HFL will be used to calculate the employee's 'normal' work schedule for this purpose.</p>	<p>Employers must grant intermittent FMLA leave or leave on a reduced schedule when</p> <ul style="list-style-type: none"> - the employee's own "serious health condition" renders him unable to do his job; - to employees who need to care for a spouse, son, daughter or parent with a serious health condition; - to employees, under the FMLA's military leave provisions, for qualifying exigencies and to care for a covered servicemember with a serious illness or injury. <p>The care needed can encompass both physical and psychological care and can even include driving the family member to the doctor.</p>
<p>Relationship to Paid Leave</p>	<p>Leave shall consist of unpaid or paid leave, or a combination of paid and unpaid leave</p> <p>Leave in addition to employer-paid family leave which is needed to attain the four weeks may be unpaid</p> <p>An employee may elect to substitute any accrued paid vacation, personal, or family leave for any part of the four-week period</p> <p>An employee shall be permitted to use up to 10 days of accrued and available sick leave, unless an express provision of a valid collective bargaining agreement authorizes the use of more than 10 days. Employer is not required to diminish an employee's accrued and available sick leave below the amount required by Section 392-41 (TDI law)</p>	<p>Unpaid leave for the 12 weeks</p> <p>Leave in addition to employer-paid family and medical leave to attain the 12 weeks may be unpaid</p> <p>No limits on substituting paid vacation or personal leave. Employee may not substitute paid sick, medical, or family leave for any situation not covered by employer's leave plan</p>
<p>Leave Sharing Required for Spouses Employed by the Same Employer</p>	<p>No limitation under the Hawaii law. Each spouse is entitled to four weeks of family leave.</p>	<p>Number of leave workweeks for both may be limited to 12 weeks within a twelve-month period for birth, adoption, foster care, or to care for a parent with a serious health condition</p>

FAMILY LEAVE COMPARISON CHART

PROVISION	CHAPTER 398, HAWAII REVISED STATUTES	FAMILY AND MEDICAL LEAVE ACT OF 1993
Employment and Benefits Protection	<p>Except for workforce reduction situations, the employee must be restored to the same or equivalent position held prior to the leave, or restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment</p> <p>No loss of accrued employment benefits except paid leave expended for the family leave</p>	<p>Restoration</p> <p>Limited denial of restoration is allowed if employee is salaried and in highest paid 10 per cent of employees within 75 miles of facility where employed, and if such denial is necessary to prevent "substantial and grievous economic injury" to operations</p>
Unreduced Compensation for FLSA Exempt Employees	<p>An employer can deduct unpaid family leave time off within a work week without jeopardizing the employee's FLSA exempt status. Employers are cautioned, however, that the exemption could be affected by the deduction of non-HFLL leaves (i.e., leaves for non-family leave reasons) from a work week, depending on the circumstances.</p>	<p>If an employee is otherwise exempt from minimum wage and overtime requirements of the Fair Labor Standards Act (FLSA) as a salaried executive, administrative, professional, or computer employee providing unpaid FMLA-qualifying leave to such an employee will not cause the employee to lose the FLSA exemption. See 29 CFR 541.602(b)(7).</p>
Maintenance of Health Benefits During Leave	<p>None under the Hawaii law</p>	<p>Health insurance and benefits must be maintained under the same conditions as prior to taking leave, subject to recapture of costs for employee's failure to return to work without cause</p>
Record keeping	<p>In accordance with 12-27-13, HAR, pertaining to investigation of employer records.</p>	<p>In accordance with 11(c) of the Fair Labor Standards Act and related regulations</p>
Notice of Foreseeable Leave	<p>Notice in a manner that is reasonable and practicable</p>	<p>Not less than 30 days notice, or if less than 30 days is available, such notice as is practicable</p>
Notification to Employees	<p>Written notice setting forth employees' rights and responsibilities under the statute is required at the time of hire (12-27-10, HAR)</p>	<p>Notices setting forth pertinent provisions of the Act and complaint filing must be posted conspicuously at the place of employment</p> <p>Civil penalty for wilful violation of above: Up to \$100 for each separate offense</p>
Certification of Serious Health Condition	<p>An employer may require written certification by a health care provider of the individual requiring care. Certification shall be considered sufficient if it provides information as required by the director</p> <p>Optional form HFLL-1 Hawaii Family Leave Certification of Serious Health Condition</p>	<p>With limitations, employer may require up to three opinions and certifications for a serious health condition</p> <p>Separate forms for different reasons for leave</p>
Educational employee	<p>No restriction under the Hawaii law</p>	<p>Limitations may apply to teachers and instructional employees of local educational agencies</p>

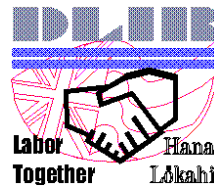
FAMILY LEAVE COMPARISON CHART

PROVISION	CHAPTER 398, HAWAII REVISED STATUTES	FAMILY AND MEDICAL LEAVE ACT OF 1993
Key Employee Exemption	None under the Hawaii law	Exempts salaried employee if among the highest paid 10% and restoration would lead to grievous economic harm to the employer
Filing of Complaint	Must be filed within 90 days after the 1) date of the alleged unlawful act; or 2) date of discovery by the employee of the alleged unlawful act; however, in no event shall such a complaint be filed after the expiration of 180 days of the alleged unlawful act.	Should be filed within a reasonable time of when the employee discovers that his or her FMLA rights have been violated. In no event may a complaint be filed more than two years after the action which is alleged to be a violation of FMLA occurred, or three years in the case of a willful violation
Appeal and Hearing	Effective 7/1/96, provisions for: (1) Employer appeal of orders issued; and (2) Administrative hearings	None
Remedies and Penalties	Civil: Damages in the amount of wages, employment benefits, or other compensation; equal amount as liquidated damages; reasonable legal fees and costs Criminal: Petty misdemeanor (fined not more than \$1,000 and imprisoned not more than 30 days)	Damages in the amount of wages, employment benefits, or other compensation; equal amount as liquidated damages; reasonable legal fees and costs

REMINDERS:

- The intent of the Hawaii Family Leave Law, as stated in Section 398-10, is to establish a minimum standard which is not intended to replace family leave policies which provide equal or greater benefits than under the Hawaii Family Leave Law.
- An employer cannot offset TDI (covering the employee's own disability) against an employee's Hawaii family leave (covering only for the care of the employee's child, spouse, reciprocal beneficiary, or parent).

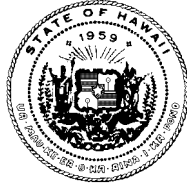
FAMILY LEAVE COMPARISON CHART



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STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

February 5, 2018

TO: The Honorable Representative Aaron Ling Johanson, Chair
House Committee on Labor & Public Employment

FROM: Pankaj Bhanot, Director

SUBJECT: **HB 2598 Proposed HD 1 – RELATING TO FAMILY LEAVE**

Hearing: Tuesday, February 6, 8:30 a.m.
Conference Room 309, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports the intent of this measure and the underlying policy of establishing and implementing a robust family leave insurance program for all employees in Hawaii, so long as the priorities outlined in the administration's budget are not adversely affected.

PURPOSE: The purpose of the bill is to establish a paid family leave program within the Department of Labor and Industrial Relations (DLIR); lay the groundwork to implement a paid family leave framework of laws and policies; establish a paid family leave implementation board.

Currently, 42% of employees in Hawaii's private sector lack access to even a single day of paid leave. Low wage workers are the least likely to have access to family leave, and hence, are more likely to miss out on critical time with newborns during their first weeks of life. DHS works with the most vulnerable and marginalized populations in our state and we have a vested interest in ensuring individuals are healthy, thriving, and economically secure.

DHS has undertaken a multi-generational approach through its implementation of 'Ohana Nui, recognizing that Hawaii has the highest percentage of multi-generational

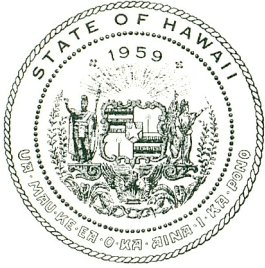
households, the highest cost of housing, one of the highest costs of living, and the fastest growing population of individuals aged 65 and older. Additionally, our economy is reliant on a female and older workforce, precipitating a need to ensure our work place policies are reflective of this demographic.

Paid family leave is associated with better health outcomes for children and mothers; an increase in children receiving well-baby check ups and vaccinations; increased bonding with children; and an increase in elderly individuals being able to age in place with family caregiver support.

In 2008, Act 143 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. Subsequently, the Family Leave Working Group was established as part of the Joint Legislative Committee on Aging to explore wage replacement benefits. This working group endorsed the establishment of a state sponsored long-term care insurance program through employee payroll deductions, similar to a social insurance program. The wealth of data on existing paid family leave programs reveal paid family leave programs function more effectively as social insurance programs. Privatization of such a program risks harming the program's integrity and fiscal solvency.

Thank you for the opportunity to provide comments on this measure.

HAWAII
STATE
COMMISSION
ON THE
STATUS
OF
WOMEN



Chair
LESLIE WILKINS

COMMISSIONERS:

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Phone: 808-586-5758
FAX: 808-586-5756

February 5, 2018

To: Chair Aaron Johanson, Chair
Vice Chair Daniel Holt, Vice Chair
Members of the House Committee on Labor

From: Hawaii State Commission on the Status of Women

Re: Testimony in Strong Support of HB 2598, Relating to Family Leave

The Commission on the Status of Women would like to thank the Committee for hearing this bill and for the opportunity to testify in support of HB 2598, 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 2059. 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. The Commission is cognizant of the various pressure points on this issue: Hawaii has the highest cost of living and highest cost of housing. Compounding this, Hawaii has the highest percentage of multi-generational households and the fastest growing aged 65 plus population in the nation.

The Commission respectfully requests to be added to the implementation task force composition. In addition, public health advocates, child health advocates, and advocates for our kupuna should also be added to the composition.

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.

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.

Nationally and locally, the FMLA's coverage is narrow. As it is written, the FMLA excludes two-fifths of the workforce.¹ The only partial paid leave is our current Temporary Disability Insurance, or TDI program. However, TDI is time limited and 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.

- 42% of employees in Hawaii's private sector lack access to even a single day of paid leave.²
- 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 Jurisdictions Have Successfully Implemented Paid Family Leave Policies with No Economic Disadvantage to Businesses

California, New Jersey, Rhode Island, Washington State, the District of Columbia, and New York State have all passed strong state policies providing partial wage replacement for family and medical leave purposes. 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. California recently amended its legislation to allow for progressive wage replacement for low income workers, understanding that our low income workers have the lowest rates of access to any type of leave, paid or unpaid. In the more than fifteen 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.³
- 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.

The Commission strongly supports legislation to enact a social insurance model for paid family leave. Thank you for this opportunity to provide testimony on this measure.

¹ Family Values at Work, Updated FMLA Survey Results

² National Partnership for Women and Families Fact Sheet, available at:

³ Eileen Applebaum and Ruth Milkman, *Leaves That Pay: Employer and Worker Experiences with Paid Family Leave in California* (2011).



AMERICANS FOR DEMOCRATIC ACTION

OFFICERS	DIRECTORS			MAILING ADDRESS
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Alan Burdick, Vice President	Juliet Begley	Jenny Nomura	George Simson	Honolulu
Marsha Schweitzer, Treasurer	Gloria Borland	Stephen O'Harrow		Hawai'i 96823
Karin Gill, Secretary	Chuck Huxel	Doug Pyle		

February 2, 2018

TO: Honorable Chair Johansson & Members of the Labor and Public Employment Committee

RE: HB 2598 HD1 Relating to Family Leave

Support for hearing on Feb. 6

Americans for Democratic Action is an organization founded in the 1950s by leading supporters of the New Deal and led by Patsy Mink in the 1970s. We are devoted to the promotion of progressive public policies.

We support HB 2598 (and by inference much of HB 1867 & HB2136) as it would establish a program for paid family leave insurance. Our organization had a high school intern a couple of years ago named Nick Chang. He spent the summer trying to find out what policy change would do the most to reduce the gap between the wages of men and women in Hawai'i. His answer was paid family leave insurance. This does not cover the other benefits of this program for children and other family members who need care. Although this program may ultimately have a small cost to workers and/or employers, it would have great benefits for families in need.

Thank you for your favorable consideration.

Sincerely,

John Bickel
President

HB-2598

Submitted on: 2/4/2018 8:26:18 PM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Susan J. Wurtzburg	American Association of University Women, Hawaii	Support	No

Comments:

AAUW-Hawaii supports, especially with the inclusion of (a) a shorter, 2-year timeline to implementation, (b) more family leave insurance advocates/experts on the task force, and (c) assurance of the program being launched with all of the necessary structural components included in SB2350/HB2136.



HAWAII APPLESEED

CENTER FOR LAW & ECONOMIC JUSTICE

Testimony of Hawai'i Appleseed Center for Law and Economic Justice
Supporting HB 2598 Proposed HD1 – Relating to Family Leave
House Committee on Labor & Public Employment
Scheduled for hearing at Tuesday, February 6, 2018, 8:30 AM, in Conference Room 309

Dear Chair Johanson, Vice Chair Holt, and members of the Committee:

Thank you for the opportunity to testify in SUPPORT of **HB 2598 Proposed HD1**, which would require the Department of Labor and Industrial Relations to establish paid family leave for all workers by 1/1/2023, authorize the department to adopt interim rules, as well as establish the paid family leave implementation task force and a paid family leave special fund.

Low-wage workers are the least likely to have access to paid leave, while they also need the financial support of paid leave the most. That is why Hawai'i Appleseed supports the intent of this bill. Especially with more and more of our kūpuna needing care, our state needs to create a safety net for families facing serious caregiving responsibilities.

In order for such a program to be truly effective in Hawai'i, we respectfully ask the Committee to amend the bill to define the basic structure of a paid family leave program. For example:

- A social insurance model, in order reduce premiums and administrative costs.
- All employees covered, regardless of employer size.
- Sixteen weeks of paid leave from work to care for a new child (biological, adopted, or foster) or a family member / designated person
- Job protection, to ensure that employees' positions will still be there when they return to work from leave
- Progressive wage replacement, to ensure that low-wage workers can actually afford to take leave.

We also request that the Committee add concrete implementation goals in addition to the existing reporting deadlines contained in the bill, in order to ensure that workers will actually be able to begin receiving benefits by the implementation deadline.

We appreciate your consideration of this testimony.

The Hawai'i Appleseed Center for Law and Economic Justice is committed to a more socially just Hawai'i, where everyone has genuine opportunities to achieve economic security and fulfill their potential. We change systems that perpetuate inequality and injustice through policy development, advocacy, and coalition building.

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Website: www.gcahawaii.org



GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

Uploaded via Capitol Website

TO: HONORABLE AARON JOHANSON, CHAIR, HONORABLE DANIEL HOLT, VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR

SUBJECT: **COMMENTS REGARDING H.B. 2598, HD1 PROPOSED, RELATING TO FAMILY LEAVE.** Proposed HD1: Requires the Department of Labor and Industrial Relations to establish paid family leave for all workers by 1/1/2023. Authorizes the department to adopt interim rules. Establishes the paid family leave implementation task force to assist the department and report to the Legislature. Establishes a paid family leave special fund. Appropriates moneys.

HEARING

DATE: February 6, 2018
TIME: 8:30 a.m.
PLACE: Conference Room 309

Dear Chair Johanson, Vice Chair Holt and Committee Members,

The General Contractors Association (GCA) is an organization comprised of over 500 general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is the largest construction association in the State of Hawaii. GCA's mission is to represent its members in all matters related to the construction industry, while improving the quality of construction and protecting the public interest.

H.B 2598, Proposed HD1 is proposing to require a public and privately funded Paid Family Leave Special Fund – which will be able to study the various issues surrounding Paid Family Leave before implementation or mandating such program – which is a better option than H.B. 1867. The bill also proposes to allow the department five years, by January 1, 2023 to adopt rules that codify paid family leave for all workers in the state, while also allowing temporary rules (exempt from Chapter 91, HRS) to be implemented. GCA would prefer that any interim rules not be exempt from Chapter 91 – to allow public input to any interim administrative rules that may directly impact employers. The proposed establishment of a Paid Family Leave Implementation Board and the proposed make up appears to be missing someone from the human resources community and those who may need to implement such requirements. Human resources professionals are on the front line with implementation of such requirements and are the key people who may be able to provide guidance on why such proposals may not work. GCA requests that two HR professionals be included in the Board.

It is evident that businesses, even in Hawaii, are turning more and more to technology to replace the traditional employee, part of it may be due to the increased costs associated with employee mandated benefits which make doing business more expensive and less

cost effective for the end consumer. GCA requests this Committee to take those instances into consideration before adding more employee mandated benefits.

While GCA understands the intent of this measure, any proposed mandate that could potentially impact the ability for a small business to operate and even hire employees should be studied very carefully before adoption. Particular attention should be considered of certain industries like the construction industry, who for the most part, provide their employees with a sufficient wage and benefits package including vacation, medical, health and welfare and other incentives for retention purposes. Pay for absences due to illness are required under the Temporary Disability Insurance law. Further many employers provide family and medical leave benefits over and above the statutory requirement as an additional benefit.

H.B. 2598, Proposed HD1 would allow both employers and employees to further study the matter and compare a medical or family leave program with other states and the federal government. Contractors that do business on federal projects are attempting to comply with the Federal mandates on family and medical leave and if anything request that the policies at the very minimum align with any federal mandates on this matter.

Thank you for the opportunity to share our comments.

IBEW1260

‘A‘OHE HANA NUI KE ALU ‘IA

February 6, 2018

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

HB2598 - RELATING TO FAMILY LEAVE

Chair Johanson, Vice Chair Holt and Members of the Committee,

The International Brotherhood of Electrical Workers Local Union 1260, AFL-CIO (IBEW1260), represents more than 3500 members, has advocated for all workers in the State of Hawaii for over seventy-five years and respectfully offers the following testimony in **STRONG SUPPORT** of House Bill 2598 (HB2598).

The majority of Hawaii's working families are not afforded adequate amounts of paid leave causing financial hardship and increased dependency on public assistance during times of illness or caregiving. Therefore, it is incumbent upon the Legislature to ensure a path towards paid family leave which will serve to improve the lives of Hawaii's working families and IBEW1260 respectfully ask the Committee **SUPPORT HB2598**.

Mahalo for the opportunity to testify on this issue.

Respectfully,



Michael M. Brittain
Asst. Business Manager
IBEW1260 / AFL-CIO



1050 Bishop St. PMB 235 | Honolulu, HI 96813
P: 808-533-1292 | e: info@hawaiiifood.com

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Barry Taniguchi, KTA Superstores, *Advisor*
Derek Kurisu, KTA Superstores, *Advisor*

TO:
Committee on Labor and Public Employment
Rep. Aaron Ling Johanson, Chair
Rep. Daniel Holt, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

DATE: Tuesday, February 6, 2018
TIME: 8:30am
PLACE: Conference Room 309

RE: HB 2598 Relating to Family Leave

Position: Comments

The Hawaii Food Industry Association is comprised of two hundred member companies representing retailers, suppliers, producers, and distributors of food and beverage related products in the State of Hawaii.

Hawaii is frequently ranked a one of the worst, if not the worst state for doing business. Our member businesses take great pride in feeding Hawaii, but there are many factors that make it a challenge for these companies to continue to serve our communities.

We appreciate that this bill seeks to take a thoughtful approach to this issue and is designed to get input from various stakeholders. We hope that when considering the feasibility and cost of providing paid family leave to all workers in Hawaii the legislature will consider how this will impact the business environment in our state, and bear in mind that drastic increases to labor costs have the potential to eliminate jobs and raise prices.

February 4, 2018

To: Representative Aaron Ling Johanson, Chair
Representative Daniel Holt, Vice Chair
House Committee on Labor & Public Employment

From: Mandy Finlay, Director of Public Policy
Hawaii Children's Action Network

Re: **HB 2598, Proposed HD1 – Relating to Family Leave – Support, with requested amendments**
Hawaii State Capitol, Room 309, February 6, 2018, 8:30 AM

Hawaii Children's Action Network (HCAN) writes in support of, with requested amendments to, HB 2598, Proposed HD1, which would require the Department of Labor and Industrial Relations to establish paid family leave for all workers for 2023, and would establish a paid family leave implementation task force to assist the Department.

Family leave insurance is a necessary and affordable benefit that promotes worker retention, economic stability for working families, gender equity in the workplace, and positive infant health outcomes.

Hawaii's workers need this benefit. In a 2017 public poll, 62% of Hawaii respondents reported that they had wanted to take leave in the past in order to care for a new child or family member. Currently, Hawaii employees do not have a right to paid family leave. The federal Family Medical Leave Act (which leaves out 40 percent of the state's workforce) provides for unpaid leave with up to 12 weeks for employers with 50 or more employees. The Hawaii Family Leave Law (HFLL) applies to employers with 100 or more employees and allows up to four weeks. This is also unpaid leave.

Hawaii has the fastest growing aging population in the nation. Our senior (age 65+) population is expected to grow 81 percent by 2030. Approximately 247,000 Hawaii workers serve as the primary caregiver for a family member.

This program if enacted, would help Hawaii's businesses. Family leave insurance helps increase worker retention and loyalty. Workers who have access to family leave benefits are more likely to return to work after their leave is over. In a 10-year study of the California family leave insurance, businesses reported family leave had either a positive or a neutral effect on their business. Small businesses were less likely to report any negative effects.

Providing paid time off for family caregiving strongly promotes gender equity. Women are often disproportionately impacted by the lack of paid leave, 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 affects the economic stability for both women and men who are caregivers.

Family leave insurance leads to increased financial stability and healthier babies. Mothers who receive paid leave after the birth of a child are 39% less likely to rely on public assistance and 40% less likely to rely on food stamps than women who do not take paid leave at all and return to work, a trend that is present in men as well. Additionally, babies whose parents are able to take leave from work are more likely to breastfeed and receive regular medical checkups and vaccinations.

We know this can work in Hawaii. Top experts in the area of family leave studied usage, cost, and feasibility of implementation of a family leave insurance program for Hawaii. These studies collectively found that family leave insurance is a necessary and cost-effective way for workers to take adequate time off of work to care for their families without facing financial ruin or jeopardizing their career.

The Institute for Women's Policy Research, which houses some of the nation's top experts on family leave, conducted an actuarial analysis using a simulation model to study the use and cost of family leave insurance for Hawaii. The study found that the annual cost to cover sixteen weeks of leave for a worker making \$48,000 would be around \$58. That's only a little over one dollar per week.

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 provides a smart, affordable solution to 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.

In addition the above, HCAN respectfully requests the Committee to amend this bill to provide the following:

- A shorter timeline for implementation. It should not take five years to stand up a program, and Hawaii's workers need this benefit now.
- Clarification that the Department will have "implemented" a paid family leave program pursuant to the Act when Hawaii's workers are able to claim and receive benefits.
- A more specific timeline for deliverables in addition to reporting.
- Criteria for any paid family leave program proposed and/or developed by the Department, including 16 weeks of leave, progressive wage replacement, and job protection.
- A more balanced task force composition to include experts in the areas of social insurance, elder care, medicine/public health, and children's policy.
- An enforcement mechanism, should the task force fail to meet its deadlines outlined in the Act.

For the above reasons, HCAN respectfully requests the Committee to pass this measure.

HCAN is committed to building a unified voice advocating for Hawaii's children by improving their safety, health, and education.

HB-2598

Submitted on: 2/5/2018 9:09:01 AM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Zachary LaPrade	Quicksilver Charters	Oppose	Yes

Comments:



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February 6, 2018

House Committee on Labor & Public Employment

Hearing Date: Tuesday, February 6, 2018 at 8:30 a.m., Conference Room 309

Subject: Comments to HB 2598, Relating to Family Leave

Dear Chair Johanson, Vice Chair Holt, and Committee Members:

The American Council of Engineering Companies of Hawaii (ACECH) represents more than 65 engineering consulting firms with over 1,500 employees throughout Hawaii. ACECH member firms work directly for government agencies on a variety of building and infrastructure projects.

The purpose of HB 2598 is to establish paid family leave and lay the groundwork to implement a paid family leave framework of laws and policies so that all employees can access leave benefits during times when they need to provide care for a family member.

All of our member firms already provide paid time off (PTO) to their full-time staff and most extend paid leave benefit to their half-time staff, as part of a competitive compensation package.

Unlike many other employers, most of our member firms cannot pass these higher costs onto their customers because most of their work comes from State and County agencies that put a cap on our rates and historically do not recognize legislatively-imposed employment cost increases as a valid reason to increase our billing rates.

We also note that employers are already required by State law to pay for temporary disability insurance for workers with more than 14 weeks of Hawai'i employment.

For these reasons, we request to be included as a stakeholder in any discussion on this issue as it moves through the legislative and administrative process.

Respectfully submitted,
AMERICAN COUNCIL OF ENGINEERING COMPANIES OF HAWAII



Randy Perreira
President

HAWAII STATE AFL-CIO

345 Queen Street, Suite 500 • Honolulu, Hawaii 96813

Telephone: (808) 597-1441
Fax: (808) 593-2149

The Twenty-Ninth Legislature, State of Hawaii
Hawaii State House of Representatives
Committee on Labor and Public Employment

Testimony by
Hawaii State AFL-CIO

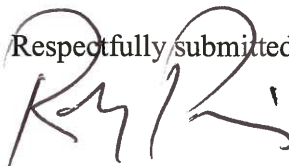
February 6, 2018

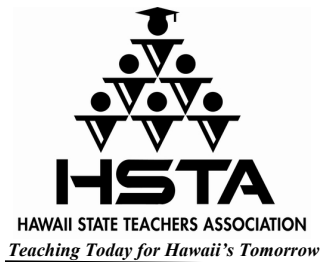
H.B. 2598 – RELATING TO
FAMILY LEAVE

The Hawaii State AFL-CIO strongly supports H.B. 2598 which requires the Department of Labor and Industrial Relations to establish paid family leave for all workers by 1/1/2023, authorizes the department to adopt interim rules, establishes the paid family leave implementation task force to assist the department and report to the Legislature and establishes a paid family leave special fund.

The United States is the only industrialized country on the planet that does not provide paid family leave to workers, mothers, fathers, single parents and those who desperately need it. We get to claim that honor with Papua New Guinea – an honor we actually shouldn't be bragging about. It is actually an embarrassment that we have to be discussing the importance of why paid family leave matters. But we do. Fortunately, a number of states and counties are moving forward with their own paid family leave measures and hopefully Hawaii moves forward with them. State such as California, Washington, New York and others have adopted paid family leave sending a strong message to the rest of the country that they care about working families. Hawaii can do the same. Passage of H.B. 2598 will show we care about working families and hopefully one day help pave the way towards a nationwide paid family leave measure. Let's help remove the United States from the same list as Papua New Guinea.

Thank you for the opportunity to testify.

Respectfully submitted,

Randy Perreira
President



1200 Ala Kapuna Street ♦ Honolulu, Hawaii 96819
Tel: (808) 833-2711 ♦ Fax: (808) 839-7106 ♦ Web: www.hsta.org

Corey Rosenlee
President
Justin Hughey
Vice President
Amy Perruso
Secretary-Treasurer
Wilbert Holck
Executive Director

TESTIMONY BEFORE THE HOUSE COMMITTEE ON
LABOR

RE: HB 2598 - RELATING TO FAMILY LEAVE

TUESDAY, FEBRUARY 6, 2018

COREY ROSENLEE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Johanson and Members of the Committee:

The Hawaii State Teachers Association **supports and suggests amendments for HB 2598**, relating to family leave.

Teachers are fortunate to be covered by a collective bargaining agreement that provides paid sick leave. Over 40 percent of Hawai'i's workforce, however, is not afforded the same benefit. As a result, workers are often required to choose between providing for their families by working while sick or enduring a loss of income to recuperate. Families also must decide whether or not to send sick children to school or stay home and lose a day of pay. For low-income families, this financial bind can mean the difference between providing food or going hungry. When children are forced to attend class while ill, moreover, contagions may spread to other students.

It's a chain reaction. Multiple families may be become infected. Entire classes may see their health and learning suffer. Providing paid sick leave that may be extended to family members will break the cycle of illness by allowing families to care for themselves and their children without loss of pay. If this measure moves forward, however, we urge you to mandate establishment of family leave by 2020, rather than 2023. Working families should not have to wait five years for the financial insurance needed to cover medical emergencies and kupuna care.

Sickness should not become a debt sentence. To better care for families living paycheck to paycheck, the Hawaii State Teachers Association asks your committee to **support** this bill.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Twenty-Ninth Legislature
House of Representatives
Committee on Labor and Public Employment

Testimony by
Hawaii Government Employees Association

February 6, 2018

H.B. 2598, Proposed H.D. 1 – RELATING TO FAMILY LEAVE

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO supports the purpose and intent of the proposed H.D. 1 to H.B. 2598, which requires the Department of Labor and Industrial Relations to establish paid family leave for all workers by 2023, establishes a Paid Family Leave Implementation Task Force, and creates a paid family leave special fund.

It is commonly accepted knowledge that most workers in Hawaii will utilize family leave, at some point in their careers, to provide much needed care for a loved one. While we have historically supported the passage of a paid family leave program and recognize that it is long overdue, we must prioritize a thoughtful and systematic approach in the program's creation and implementation. No two state paid family leave models are identical and we must collectively consider existing structures and systems to best formulate a plan for Hawaii. The creation of a Paid Family Leave Implementation Task Force, as outlined in the proposed draft of H.B. 2598, offers a steadfast solution that ensures all of the stakeholders have a seat at the table to consider the intricacies and long term effects, while at the same time sets firm deadlines to guarantee that the paid family leave program is created no later than 2023.

Thank you for the opportunity to testify in strong support of H.B. 2598.

Respectfully submitted,

Randy Perreira
Executive Director

HB-2598

Submitted on: 2/5/2018 2:46:08 PM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Chris Kasper	Calypso Charters	Oppose	No

Comments:



**Testimony to the House Committee on Labor & Public Employment
Tuesday, February 6, 2018 at 8:30 A.M.
Conference Room 309, State Capitol**

RE: HOUSE BILL 2598 PROPOSED HD1 RELATING TO FAMILY LEAVE

Chair Johanson, Vice Chair Holt, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **opposes** HB 2598 Proposed HD1, which Requires the Department of Labor and Industrial Relations to establish paid family leave for all workers by 1/1/2023. Authorizes the department to adopt interim rules. Establishes the paid family leave implementation task force to assist the department and report to the Legislature. Establishes a paid family leave special fund. Appropriates moneys.

The Chamber is Hawaii's leading statewide business advocacy organization, representing 2,000+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

We understand the intent of this bill to allow for paid leave in the workplace and agree that citizens need to balance the needs of work and family. Also, we appreciate the effort to bring different stakeholders together to come up with a paid family leave program. However, we do not support this bill.

As many national rankings have shown, the cost of doing and running a business is extremely high. With every additional workplace mandate, the competitive distance is increased, which in turn, affects the ability for employers to sustain and create jobs, as well as provide benefits to employees. While we do not know yet what the program will entail and who will pay for the benefit until the task force meets, we do know that the business community will ultimately be responsible to execute and shoulder at a minimum, some costs.

We need policies that will help Hawaii bring new businesses and support those in existence. Many employers offer paid leave programs as a means for attracting and retaining their workforce especially with our low unemployment rate. Rather than mandating, we suggest encouraging businesses to adopt their own innovative paid leave programs.

The Chamber respectfully asks that this bill be deferred. Thank you for the opportunity to testify.



46-063 Emepela Pl. #U101 Kaneohe, HI 96744 · (808) 679-7454 · Kris Coffield · Co-founder/Executive Director

TESTIMONY FOR HOUSE BILL 2598, RELATING TO FAMILY LEAVE

House Committee on Labor
Hon. Aaron Ling Johanson, Chair
Hon. Daniel Holt, Vice Chair

Tuesday, February 6, 2018, 8:30 AM
State Capitol, Conference Room 309

Honorable Chair Johanson and committee members:

I am Kris Coffield, representing IMUAlliance, a nonpartisan political advocacy organization that currently boasts over 400 members. On behalf of our members, we offer this testimony in support of, with proposed amendments for House Bill 2598, relating to family leave.

This measure would *finally* establish a family leave insurance program for Hawai'i's workers, with up to 16 weeks of paid time off to address family needs, including keiki and kupuna care. Once effectuated, family leave insurance should also provide progressive wage replacement, allowing low-income workers to receive a higher percentage of their weekly wages (ideally, up to 90 percent) to make the benefit accessible to everyone.

Hawaii's workers need this benefit. In a 2017 public poll, 62 percent of Hawaii respondents reported that they had wanted to take leave in the past in order to care for a new child or family member. Currently, Hawaii employees do not have a right to paid family leave. The federal Family Medical Leave Act (which leaves out 40 percent of the state's workforce) provides for unpaid leave with up to 12 weeks for employers with 50 or more employees. The Hawai'i Family Leave Law (HFLL) applies to employers with 100 or more employees and allows up to four weeks. This is also unpaid leave. Moreover, Hawai'i has the fastest growing aging population in the nation. Our senior (age 65+) population is expected to grow 81 percent by 2030. Approximately 247,000 Hawaii workers are caregivers for a family member.

This program would help Hawaii's businesses. Family leave insurance increases worker retention and loyalty. Workers who have access to family leave benefits are more likely to return to work after their leave is over. In a 10-year study of the California family leave insurance

program, businesses reported that family leave had either a positive or a neutral effect on their business. Small businesses were less likely than large businesses to report any negative effects.

Providing paid time off for family caregiving strongly promotes gender equity.

Women are often disproportionately impacted by the lack of paid leave, 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 and adversely impacts the economic stability of both male and female caregivers.

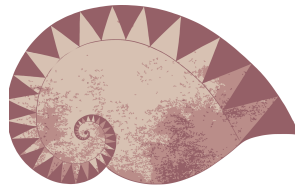
We know this can work in Hawai'i. Top experts in the area of family leave have studied the usage, cost, and feasibility of implementing a family leave insurance program for the islands. These studies collectively found that family leave insurance is a necessary and cost-effective way for workers to take adequate time off of work to care for their families without facing financial ruin or jeopardizing their careers.

We need a program that is affordable and designed to be revenue-neutral. The Institute for Women's Policy Research, which houses some of the nation's top experts on family leave, conducted an actuarial analysis using a simulation model to study the use and cost of family leave insurance for our state, which found that the annual cost to cover sixteen weeks of leave for a worker making \$48,000 would be roughly \$58—a little over one dollar per week to pay for invaluable financial security.

That said, **we encourage you to amend this measure to specify that family leave insurance shall be instituted no later than 2020, rather than 2023, to provide a more timely benefit to Hawai'i's workforce.** Prior to implementing its own family leave insurance program, New York completed an analysis of how to do so in less than two years. There is no reason that Hawai'i should take more time than New York, given our significantly smaller population size.

It's a stark reality when employees face the dire choices of needing to be able to care for newborn or sick children, spouses, or parents, while also needing to work to sustain their family's income. We must offer a smart, affordable solution that enables workers to take a small number of weeks out of the workforce and not have to choose between caring for their families or saving their jobs.

Sincerely,
Kris Coffield
Executive Director
IMUAlliance



Pono Hawai'i Initiative

Josh Frost - President • Kau'i Pratt-Aquino - Secretary • Patrick Shea - Treasurer
Kristin Hamada • Nelson Ho • Summer Starr

Tuesday, February 6, 2018

Relating to House Bill 2598 Proposed House Draft 1
Testifying in Support

Aloha, Chair Johanson, Vice-Chair Holt, and Members of the House Committee on Labor and Public Employment,

The Pono Hawai'i Initiative (PHI) **supports the intent of HB2598 Proposed HD1 Relating to Family Leave**, which requires the Department of Labor and Industrial Relations to establish paid family leave for all workers by January 1, 2023. It also authorizes the Department to adopt interim rules and establishes the Paid Family Leave Implementation Task Force to assist the Department and report to the Legislature. Finally, the bill establishes a paid family leave special fund and appropriates money.

Low-wage workers are the least likely to have access to, and the most likely to need, the financial support of paid family leave. That is why we support the intent of this bill. With more and more of our kūpuna needing care, our state needs to create a safety net for families facing serious caregiving responsibilities.

In order for such a program to be truly effective in Hawai'i, we respectfully ask the Committee to amend the bill to define the basic structure of a paid family leave program. For example:

- A social insurance model, in order reduce premiums and administrative costs.
- All employees covered, regardless of employer size.
- Sixteen weeks of paid leave from work to care for a new child (biological, adopted, or foster) or a family member / designated person
- Job protection, to ensure that employees' positions will still be there when they return to work from leave
- Progressive wage replacement, to ensure that low-wage workers can actually afford to take leave.

PHI also requests that the Committee add concrete implementation goals in addition to the existing reporting deadlines contained in the bill. Such goals will ensure that workers will actually be able to begin receiving benefits by the implementation deadline.

Please support this bill with our suggested edits.

Mahalo for the opportunity,

Gary Hooser

Executive Director

Pono Hawai'i Initiative, an organization member of the Common Good Coalition



Testimony to the
House Committee on Labor & Public Employment
February 6, 2018
8:30 a.m.
State Capitol - Conference Room 309

RE: HB 2598 Relating to Family Leave

Aloha Chair Johanson, Vice Chair Holt and members of the committee:

On behalf of the Society for Human Resource Management – Hawaii Chapter (“SHRM Hawaii”), we are writing in opposition to HB 2598, relating to family leave. This bill requires the Department of Labor and Industrial Relations to establish paid family leave for all workers by 1/1/2023. SHRM Hawaii has a longstanding position of support for initiatives that promote flexibility between employer and employee, rather than requirements that do not take into account unique circumstances. This measure also has the potential to create a conflicting patchwork of leave requirements.

Human resource management professionals are responsible for the alignment of employees and employers to achieve organizational goals. HR professionals seek to balance the interests of employers and employees with the understanding that the success of each is mutually dependent. SHRM Hawaii represents more than 800 human resource professionals in the State of Hawaii. We look forward to contributing positively to the development of sound public policy and continuing to serve as a resource to the legislature on matters related to labor and employment laws.

Mahalo for the opportunity to testify.



HB-2598

Submitted on: 2/4/2018 6:42:03 PM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Nicole A Velasco		Support	No

Comments:

To: Hawaii State House Committee on Labor & Public Employment

Hearing Date/Time: Tuesday, February 6, 2018, 8:30 AM

Place: Hawaii State Capitol, Rm. 309

Re: Testimony in support of H.B 2598, relating to family leave insurance

Chair Johanson, Vice Chair Holt, and members of the committee, thank you for the opportunity to share my testimony in support of HB 2598, relating to family leave insurance. Hawaii’s workers and businesses need family leave insurance. A family leave insurance program enables workers to take time off during major life events and helps businesses retain key employees and remain competitive.

Top experts in the area of family leave studied usage, cost, and feasibility of implementation of a family leave insurance program for Hawaii. These studies collectively found that family leave insurance is a necessary and cost-effective way for workers to take adequate time off of work to care for their families without facing financial ruin or jeopardizing their career.

Many of Hawaii’s workers are already taking unpaid time off to care for a child or family member. This benefit helps ensure that workers who need to take leave are able to remain economically secure during their leave and that they can return to their jobs. The actuarial measured both unpaid and paid leave-taking behavior, and found that the availability of family leave insurance would not dramatically increase the portion of Hawaii’s workforce taking leave each year. Qualifying life events for which leave can be taken are rare occurrences in one’s life.

Family leave insurance promotes gender equity in the workplace and economic stability for women. Access to paid family leave makes mothers more likely to return to work after the birth of a child, makes women return to work more quickly, and makes women more likely to return to the same or higher wages than they were earning before they gave birth.

We need to support our working families in our state. I strongly support HB 2598 and respectfully request you pass the measure. Thank you for your consideration and for the opportunity to provide testimony on this matter.

HB-2598

Submitted on: 2/4/2018 6:32:09 PM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lea Minton		Support	No

Comments:

HB-2598

Submitted on: 2/5/2018 11:28:03 AM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jeannine		Support	No

Comments:

Aloha Chair Johanson, Vice Chair Holt and members of the committee,

As the chair of the YWCA Advocacy Committee a member of its board, I am writing in strong support of this bill to establish a paid family leave insurance policy in Hawaii.

This year the Hawaii State Legislature has great opportunity to make a colossal impact on our economic future. Establishing a family leave insurance program in the state will help stabilize Hawaii's workers and businesses by helping to meet basic needs to allow workers to take time off during major life events and continue to receive a portion of their compensation and helps businesses retain key staff and remain competitive.

The extraordinary demands placed on our workforce puts families in jeopardy. Workers often must choose between providing care to a newborn or incapacitated parent and making a living. With Hawaii as the highest per capita aging population, paid family leave insurance is good investment for the economic stability for workers as they care for their parents or grandparents and also prepare for their own future retirement.

Family leave insurance will provide up to 16 weeks of paid leave for the care of a family member and ensure their job is protected when they return to work. Progressive wage replacement will scale wage replacement higher up to 90% for those earning less than half the average weekly wage and middle and higher income workers will see between 75% to 50% of their weekly earnings with a weekly cap.

Americans put in more hours than workers in other industrialized countries, and have less time off. What's more, the U.S. is the only developed nation that does not provide paid time away to care for family members. Women provide the majority of unpaid care at home, despite also being the primary breadwinner in 40 percent of families. Paid family leave is, first and foremost, about equal opportunity for all. And for that reason, lawmakers must recognize that paid family leave is a civil rights issue.

Once again, the state legislature has the opportunity to pass a strong paid-family-leave insurance policy this session. California is a good example of what we could bring to Hawaii. Their statewide paid-leave program provided support for new families, and led to 83 percent of workers using the program returning to their previous job. *The Washington Post* reported that 87 percent of California businesses had no increased

cost, and nine percent said the program saved money by reducing employee turnover and saving them from paying their own benefit costs. Similar programs have also been working in Rhode Island, New Jersey, Washington, and Washington D.C.

If Hawaii's future is dependent on a reliable and well trained workforce, we are destined for a longstanding failure if we continue to not support programs that benefit the well-being of our youngest vulnerable children, our kupuna and their families.

Thank you for your consideration.

Sincerely,

Jeannine Souki

HB-2598

Submitted on: 2/5/2018 8:28:19 AM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	OCC Legislative Priorities	Support	No

Comments:

HB 2598

**LATE
TESTIMONY**

eliminating racism
empowering women

ywca

O'ahu

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ywcaoahu.org

LATE

Hawaii State House Committee on Labor & Public Employment
Hearing Date/Time: Tuesday, February 6, 2018, 8:30AM
Hawaii State Capitol, Rm. 309

Position Statement Supporting House Bill 2598

Thank you, Chair Johanson, Vice Chair Holt, and members of the committee, for the opportunity to testify in **strong support of House Bill 2598**, relating to family leave insurance. February 5 is the anniversary of passing the Family Medical Leave Act twenty-five years ago. That was the first significant federal legislation that gave workers the ability to take time off to care for a loved one. Hawaii now has the chance to pass stronger legislation that covers more workers, allows for adequate time off, and fits our definition of family.

House Bill 2598 would create a new family leave program and an implementation board to oversee the development and implementation of the program. The recently completed Department of Labor study on family leave in Hawaii will serve as a great resource as the board makes critical decisions on technology, staffing, and collection and payouts. House Bill 2598 provides a sound, working template for the board and we'd like to suggest amendments to make the board's work more clear. We suggest language be included to address a timeline for deliverables, shortening the implementation process, and reorganizing board members so that those who are truly part of the implementation serve on the board and others who have specialized skills or knowledge may serve as a invited speaker or guest.

The benefits of paid family leave are proven. We know the positive impact of family leave extend from the worker, to their family, to their business, and into their community. Because women are more likely to serve in a caregiving role, family leave is especially beneficial for them. Women are more likely to return to work after the birth of a child, to stay in their career instead of taking breaks to care for a parent and will have higher net earnings over their lifetime. We also know that businesses will see either a positive or neutral effect from the program. When these major life events happen, a worker will take time off regardless of paid leave, but they may not always come back. Businesses will no longer lose their talented and trained employees because they could not afford to include paid leave in their benefits package. Instead, their workers will be covered through a state program that allows all workers to take necessary time off.

Hawaii's workers and businesses need family leave insurance. A family leave insurance program enables workers to take time off during major life events and helps businesses retain key employees and remain competitive. Thank you for the opportunity to testify in support of House Bill 2598.

Kathleen Algire
Director, Public Policy and Advocacy
YWCA O'ahu

YWCA IS ON A MISSION

The Twenty-Ninth Legislature
Regular Session of 2018

HOUSE OF REPRESENTATIVES
Committee on Labor and Public Employment
Rep. Aaron Ling Johanson, Chair
Rep. Daniel Holt, Vice Chair
State Capitol, Conference Room 309
Tuesday, February 6, 2018; 8:30 a.m.



**STATEMENT OF THE ILWU LOCAL 142 ON H.B. 2598, PROPOSED HD1
RELATING TO FAMILY LEAVE**

The ILWU Local 142 **supports** H.B. 2598, proposed HD1, which requires the Department of Labor and Industrial Relations to establish paid family leave for all workers by January 1, 2023, authorizes the Department to adopt interim rules, establishes the paid family leave implementation task force to assist the Department and report to the Legislature, and establishes a paid family leave special fund with appropriation.

The implementation task force, or board, being proposed would bring together appropriate stakeholders, including key legislators, the Director of Labor and Industrial Relations, the Director of Human Resources Development, the Comptroller, the Insurance Commissioner, and representatives from employers of varying sizes, the insurance industry, labor unions, and paid family leave advocates to discuss and determine the best model to implement paid family leave in Hawaii.

Hopefully, the task force can set aside their personal biases and come to an agreement on a program that will be fair, cost-effective, and accomplish the goal of allowing workers to be paid for taking family leave. Each program model must be carefully vetted to ensure that the benefit program is sustainable and will not pose an undue hardship on employers and employees.

With input from all sectors, greater buy-in for the program can be established. Expertise from the departments and the insurance industry can also more readily help to identify workable solutions to allow the task force to accomplish its mission of establishing a sustainable, cost-effective paid family leave program.

The ILWU urges passage of H.B. 2598, HD1. Thank you for the opportunity to offer testimony on this measure.



49 South Hotel Street, Room 314 Honolulu HI 96813
www.lwv-hawaii.com 808.532.7448 voters@lwv-hawaii.com

COMMITTEE ON LABOR
Tuesday, February 6, 2018, 8:30 am, room 309

HB2598 Proposed HD1 RELATING TO FAMILY LEAVE
Laurie Tomchak, League of Women Voters
TESTIMONY

Chair Johanson, Vice Chair Holt and Committee Members

The League of Women Voters supports HB 2598 HD1. This bill requires the Department of Labor and Industrial Relations to establish paid family leave for all workers by 1/1/2023. The measure is more effective than previous bills which provided for unpaid family leave, such as HB 2136. It authorizes the department to adopt interim rules. establishes the paid family leave implementation task force to assist the department and report to the Legislature and establishes a paid family leave special fund while appropriating money to plan for implementation of family leave.

In the 25 years since the passing of the National Family Leave Act, there has been a lot of talk about how it is to be implemented but not enough movement toward a solid, fair approach to implementation. Some approaches stipulated such leave as unpaid. When this occurred, there was a de facto limitation to higher-paid employees, since lower-paid employees could not afford to take off from work.

Only three states — California, New Jersey, and Rhode Island — currently offer paid family and medical leave. New York joined them effective Jan. 1, 2018, after passing the Paid Family Leave Benefits Law during the 2016 session. All four state programs are funded through employee-paid payroll taxes and administered through their respective state disability programs. The state of Washington passed a paid family leave law in 2007, originally to take effect in October 2009, but the law was never implemented, and subsequent legislation has indefinitely postponed its implementation. The experience of these states should be carefully assessed before Hawaii embarks on a paid family leave program.

HB 2598 HD1 proposes to add Hawaii to the list of states which provide paid coverage. As provided in this bill, the first step would be an implementation task force, composed of a cross

section of community members and members of the government, to assist the Department of Labor and Industrial Relations and report to the Legislature. Importantly, since Paid Family Leave is envisioned as an insurance mechanism, insurance industry representatives should participate in a task force.

The act establishes a Family Leave Special Fund and appropriates money for that purpose. \$1,500,000 will be earmarked to fund one full time program manager to establish paid family leave for all workers by January 1, 2023.

Paid family leave is the only way that the program will be of benefit to lower income workers, the ones who need it most. The more people who are a part of it, the more it will establish a secure financial base for the insurance system necessary to fund it and the least expensive the cost. Employers and employees both must buy into the idea, not at great expense, but enough to make it worthwhile.

Workers of all sorts need this bill, and even if they do not plan to have children, they might need to take care of other relatives, such as the fragile elderly or children of siblings. The more they can provide this care without economic hardship, the more they will be able to do their regular work without stress or hardship. Parents who can take time off will be less likely to have to quit their jobs. And some sort of insurance program is necessary to make this happen. For these reasons, the League of Women Voters supports this bill.

Thank you for the opportunity to present testimony.

LATE

HB-2598

Submitted on: 2/6/2018 8:36:10 AM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Bart Dame		Comments	No

Comments:

WHile I appreciate the explicit commitment to establishing Family Leave, I strongly prefer the approach of HB2136, which I see as a better developed and clearer proposal. While I appreciate the difficulties in attaining consensus, and see signs that is the reason for the ambiguities in this bill and in its proposed and drawn-out timeline, I think we can save a lot of time if we do NOT "reinvent the wheel," but use the recent research which is behind HB2136 as a startng point.

I also have concerns that the insurance industry seems over represented on th "implementation board" and suggest only the Insurance Commissioner be retained. The direct representatives of the industry can submit testimony but should not be invlved in decisionmaking.

Thank you.