



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

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February 6, 2018

To: The Honorable Jill N. Tokuda, Chair,
The Honorable J. Kalani English, Vice-Chair, and
Members of the Senate Committee on Labor

Date: Tuesday, February 6, 2018
Time: 3:30 p.m.
Place: Conference Room 229, State Capitol

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

RE: S.B. NO. 3047 RELATING TO FAMILY AND MEDICAL LEAVE

I. OVERVIEW OF PROPOSED LEGISLATION

This proposal adds a new chapter to the Hawaii Revised Statutes (HRS) that establishes a paid family and medical leave program to be administered by DLIR, and repeals the Temporary Disability Insurance (TDI) law, Chapter 392, HRS and the Hawaii Family Leave Law (HFLL), Chapter 398, HRS.

The Department opposes the measure that repeals TDI and HFLL and would require significant resources to properly implement. Washington State has a similar law that was funded with an \$82,000,000 appropriation. Washington estimates it will spend between \$30,000,000 and \$50,000,000 on IT costs and eventually require 150 staff.

II. CURRENT LAW

Chapter 392, HRS requires covered employers to provide Temporary Disability Insurance (TDI) coverage to eligible employees. After serving an unpaid waiting period, the employee can receive a wage replacement payment for the remaining period of the employee's own disability. The statute does not offer job protection.

Chapter 398, HRS (HFLL) provides four weeks of unpaid, protected leave for employees of employers with 100 or more employees, on the birth or adoption of a child or to care for a family member who is seriously ill. Unlike the federal Family and

Medical Leave Act, the HFLL does not allow employees to take leave for their own serious health conditions.

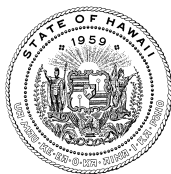
III. COMMENTS ON THE SENATE BILL

The TDI law was enacted in 1969, providing partial wage replacement to employees disabled for non-work related reasons. Coverage is primarily provided, and benefits paid, by private insurance companies. A TDI Trust Fund provides benefits to certain employees who become disabled while receiving unemployment benefits and for eligible employees whose employer is non-compliant or bankrupt. The TDI Trust Fund was established using employer contributions for six months before benefits payments began. Penalties paid by employers also go into the fund. No additional assessments have been required.

The TDI program has been very efficient and effective since inception. Currently, approximately nineteen positions in the Department work directly on the TDI program. Staff members ensure employer and insurer compliance, answer questions, address complaints, adjudicate appeals, maintain a database of employer coverage, review denial of claims, review plans for approval, process claims of unemployed claimants, and oversee the TDI program. None of these positions work exclusively for the TDI program.

Repealing TDI would greatly increase the necessary staffing requirements since the Department would need to replicate the operations of a private insurer, in addition to the other functions outlined in the measure, the costs of which are discussed above. DLIR notes the measure contains neither an appropriation or clear effective date.

DAVID Y. IGE
GOVERNOR



LAUREL A. JOHNSTON
ACTING DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

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

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ADMINISTRATIVE AND RESEARCH OFFICE
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 SENATE COMMITTEE ON LABOR
ON
SENATE BILL NO. 2990, PROPOSED S.D. 1, SENATE BILL NO. 2350 AND
SENATE BILL NO. 3047

**February 6, 2018
3:30 p.m.
Room 229**

SENATE BILL NO. 2990, PROPOSED S.D. 1, RELATING TO FAMILY LEAVE
SENATE BILL NO. 2350, RELATING TO FAMILY LEAVE
SENATE BILL NO. 3047, RELATING TO FAMILY AND MEDICAL LEAVE

Senate Bill No. 2990, Proposed S.D. 1, Senate Bill No. 2350, and Senate Bill No. 3047 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.



SENATE COMMITTEE ON LABOR
The Honorable Jill N. Tokuda, Chair
The Honorable J. Kalani English, Vice Chair

S.B. NO. 3047, RELATING TO FAMILY AND MEDICAL LEAVE

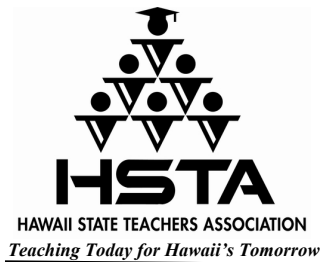
Hearing: Tuesday, February 6, 2018, 3:30 p.m.

The Office of the Auditor has **no position** regarding S.B. No. 3047, which establishes the Paid Family and Medical Leave Program (“Program”) and creates a family leave data collection system. **However, we have concerns about our ability to conduct the work required by S.B. No. 3047.**

S.B. No. 3047 requires our office to “be provided access to the [family and medical leave data collection system] and [] prepare annual reports to the legislature, the department, and the University of Hawaii center on aging.” The requirement is contained in Section 4 of the new statute, at pages 8-10 of S.B. No. 3047. This type of annual review and reporting is outside of the typical performance or financial audits we perform under our duties and authority under Hawai'i Revised Statutes, Chapter 23. Typically, these types of reports are prepared by the department that manages the respective program.

We further believe that a performance audit of the Family and Medical Leave Program is premature. We suggest that the Legislature allow the Department of Labor and Industrial Relations to implement the Program. After the Program has been established, we can provide a more meaningful assessment of the oversight and implementation of the data collection system or other aspects of the Program.

Thank you for considering our testimony related to S.B. No. 3047.



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TESTIMONY BEFORE THE SENATE COMMITTEE ON
LABOR

RE: SB 3047 - RELATING TO FAMILY AND MEDICAL LEAVE

TUESDAY, FEBRUARY 6, 2018

COREY ROSENLEE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Tokuda and Members of the Committee:

The Hawaii State Teachers Association **supports SB 3047**, relating to family and medical 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, their children, and their kupuna without loss of pay. We also note that women are disproportionately harmed by the lack of family leave insurance. Inasmuch as women serve as primary caregivers for keiki and kupuna alike, the lack of paid family leave exacerbates the gender wage gap and the cycle of economic discrimination toward the women who comprise 59 percent of Hawai'i's workforce.

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.



February 6, 2018

To: Senator Jill Tokuda, Chair
Senator J. Kalani English, Vice Chair and
Members of the Committee on Labor

From: Jeanne Y. Ohta, Co-Chair

RE: SB 3047 Relating to Family and Medical Leave
Hearing: Tuesday, February 6, 2018, 3:30 p.m., Room 229

POSITION: Support with Amendments

The Hawai'i State Democratic Women's Caucus writes in support of SB 3047 Relating to Family and Medical Leave, requesting that the implementation time be shortened to two years, more family leave insurance advocates/experts be appointed to the task force, and assurance of the program being launched will have all of the necessary structural components included in SB2350/HB2136.

HSDWC prefers the passage of SB 2350 Relating to Family Leave and HB 2136 Relating to Family Leave.

The Hawai'i State Democratic Women's Caucus is a catalyst for progressive, social, economic, and political change through action on critical issues facing Hawaii's women and girls. Thank you for the opportunity to provide testimony.



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

**TESTIMONY FOR SENATE BILL 3047, RELATING TO FAMILY
AND MEDICAL LEAVE**

**Senate Committee on Labor
Hon. Jill N. Tokuda, Chair
Hon. J. Kalani English, Vice Chair**

**Tuesday, February 6, 2018, 3:30 PM
State Capitol, Conference Room 229**

Honorable Chair Tokuda 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 Senate Bill 3047, relating to family and medical 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.

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.

Mahalo for the opportunity to testify in support of this bill.

Sincerely,
Kris Coffield
Executive Director
IMUAlliance



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February 6, 2018

Senate Committee on Labor

Hearing Date: Tuesday, February 6, 2018 at 3:30 a.m., Conference Room 229

Subject: Comments to SB 3047, Relating to Family and Medical Leave

Dear Chair Tokuda 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 SB 3047 is to establish a system of family and medical leave insurance that makes it possible for working individuals to take paid leave for family care and medical reasons.

All of our member firms already provide paid sick leave or 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.

The proposed insurance program would create significantly more administrative burden and overhead costs for employers to fulfill all the program's requirements.

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



**Testimony to the House Committee on Labor
Tuesday, February 6, 2018 at 3:30 P.M.
Conference Room 229, State Capitol**

RE: SENATE BILL 3047 RELATING TO FAMILY AND MEDICAL LEAVE

Chair Tokuda, Vice Chair English, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **opposes** SB 3047, which establishes the Paid Family and Medical Leave Program and creates a fund.

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.



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TO:
Committee on Labor
Senator Jill N. Tokuda, Chair
Senator J. Kalani English, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

DATE: Tuesday, February 6, 2018
TIME: 3:30pm
PLACE: Conference Room 229

RE: SB 3047 Relating to Family and Medical Leave

Position: Oppose

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.

Labor costs are a substantial percentage of business costs for grocery retailers, and any increase to these costs can have significant consequences for businesses like grocery stores which operate at profit margins of around 3% or less.

In the current labor market, with unemployment at the historically unprecedented level of 2%, there is strong incentive for employers to provide their employees with the most attractive compensation packages possible in order to hire and retain the most talented people. One form of compensation that many of our member businesses offer is paid leave. This is an expensive benefit for an employer to provide and is traditionally only offered to employees at certain levels in a company. For employees who have earned paid leave it is often flexible and they are free to use it for whatever purpose they choose.

It does not make financial sense for employers to offer paid leave to all employees as part of their compensation. Forcing employers to cover over half of the costs of medical leave for all the employees covered in this bill would cause a substantial increase in labor costs for Hawaii businesses. There would also be an increased financial burden on employers because of the

added administration, data collection and sharing, HR, and staffing requirements this bill would require. Unfortunately many businesses will not be able to absorb these costs without either cutting jobs or raising prices, or both.

Eliminating Hawaii jobs, and raising prices of Hawaii's food is not a benefit to Hawaii workers. For these reasons we ask that this measure be held.

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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.



Testimony to the
Senate Committee on Labor
February 6, 2018
3:30 pm
State Capitol - Conference Room 229

RE: SB 3047 Relating to Family Leave

Aloha Chair Tokuda, Vice English and members of the committee:

On behalf of the Society for Human Resource Management – Hawaii Chapter (“SHRM Hawaii”), we are writing in opposition to SB 3047, relating to family leave. SHRM Hawaii has a long-standing position in favor of workplace flexibility initiatives. We believe that proposals to establish paid leave requirements do not promote flexibility and that they have the potential to conflict with federal, state and local requirements and laws.

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.

