



STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
www.labor.hawaii.gov

February 23, 2022

To: The Honorable Donovan M. Dela Cruz, Chair,
The Honorable Gilbert S.C. Keith-Agaran, Vice Chair, and
Members of the Senate Committee on Ways and Means

Date: Wednesday, February 23, 2022
Time: 10:05 a.m.
Place: Conference Room 211, State Capitol and Videoconference

From: Anne Perreira-Eustaquio, Director
Department of Labor and Industrial Relations (DLIR)

Re: S.B. 3316 S.D.1 RELATING TO FAMILY LEAVE

I. OVERVIEW OF PROPOSED LEGISLATION

SB3316 SD1 proposes to require employers to provide family leave and family leave benefits to eligible employees by amending Chapter 392 "Hawaii Temporary Disability Insurance Law," Hawaii Revised Statutes (HRS) and Section 398A-3, HRS, and repealing Chapter 398, HRS. The measure will provide employees with up to eight weeks of family leave and family leave benefits during the first year after birth of the individual's child, adoption of a child by the individual, or placement of a child with the individual through foster care, and eight weeks of family leave and family leave benefits to care for the individual's family member with a serious health condition during any benefit year. Benefits will be paid through an employer-based private insurance program, approved agreement, or self-insured employer plan.

The substantive changes in this version include the removal of the requirement that the trust fund be used to establish and maintain a family leave data collection system required by §398-9.5; the inclusion of an unstated number of positions to implement the family leave program; and an effective date of July 1, 2024 for sections 1 through 28.

The DLIR appreciates the intent of this measure, but opposes it as drafted. The Department notes the merging of the Temporary Disability Insurance (TDI), and Hawaii Family Leave laws requires analytical study, including an actuarial component. The Department opposes the requirement to implement a new program before the restoration of funding for pre-existing programs, including but not limited to TDI, Workers' Compensation, Prepaid Healthcare, Wage and Hour Law, Child Labor, Family Leave, and Prevailing Wages.

II. CURRENT LAW

Chapter 392, HRS, requires employers with one or more employees to provide TDI as a wage replacement benefit without job protection to eligible employees who are disabled from work due to the employee's own disability (nonoccupational sickness or accident).

Chapter 398, HRS (Hawaii Family Leave Law), requires employers with one hundred or more employees to provide qualifying employees with four weeks of unpaid, job-protected leave to care for a sick family member or for the birth or adoption of a child. The employee may elect to use accrued paid leave for any part of the four weeks.

Chapter 398A, HRS (Leave of Absence for Organ, Bone Marrow, or Peripheral Blood Stem Donation Law) requires employers with 50 or more employees to provide employees who have worked for the employer for at least one year with a leave of absence of seven calendar days to serve as a bone marrow donor or stem cell donor or thirty calendar days to serve as an organ donor.

III. COMMENTS ON THE SENATE BILL

The measure adds two requirements: family leave and family leave benefits. These are not interchangeable terms since one is defined as a leave of absence and the other refers to a payment. The revised text in the proposal makes numerous references to "family leave and disability benefits" which could mean family leave (leave of absence) and disability benefits or could mean family leave benefits (payments) and disability benefits. This misunderstanding could also apply to the phrase "family leave or disability benefits." These ambiguities could be clarified by inserting "family leave benefits" as used on page 17, line 20-21 when the subject is benefits and not a leave of absence.

The measure does not require proof of the family relationship. If the intent is to permit family leave benefits without verification of the relationship, the definitions of family member, parent, child, and sibling may be unnecessary. The pre-existing Hawaii Family Leave Law has a certification requirement (§398-6 Certification).

This measure will repeal the Hawaii Family Leave Law (Chapter 398, HRS), which will result in the loss of the job and benefit protections provided by §398-7. The DLIR notes that the purpose of the Hawaii Family Leave Law is to protect employment and benefits for workers and that this type of protection does not exist in the TDI law. Moreover, Chapter 398 may not cover the same employees as the TDI law because it defines employee as "a person who performs services for hire for not fewer than six consecutive months..." for eligibility purposes whereas §392-25 requires, "...at least fourteen weeks during each of which the individual has received remuneration in any form for twenty or more hours and earned wages of at least \$400, during the fifty-two weeks immediately preceding the first day of disability."

Chapter 392, HRS, requires the payment of TDI benefits to an eligible individual who meets the requirements even if the individual is separated from employment before or during the disability. As drafted, the measure is ambiguous as to how the entitlement to family leave would apply to an individual who is separated from employment before or during the period the individual is unable to work due to family-related reasons. Similarly ambiguous is the limitation that family leave benefits “not be duplicative of disability benefits for disability caused by termination of pregnancy” (page 8, line 10-12).

The measure also does not appear to prohibit family leave benefits and TDI benefits during the same period. If this is the intent of the measure, the department requests that the measure limit an individual who qualifies for family leave benefits and disability benefits during the same period to receive either the family leave benefits or disability benefits during that period.

The proposed amendments to §392-41 inserts “family leave benefits and” in some places and “family leave benefits or” (emphasis added) in other places. DLIR is unclear if the different conjunctions accurately reflect the intent of the revisions. Our understanding is that if the employer chooses to obtain coverage under by options in Sections 392-41(a)(1), (a)(2), and (a)(3), HRS, it must use that one option for both family leave benefits and TDI benefits. If the employer chooses to obtain coverage via options in Section 392-41(a)(4) or (a)(5), HRS, the employer can use the option for either family leave benefits or TDI benefits.

The Department questions whether the payer of family leave benefits should have subrogation rights to the workers’ compensation benefits and employer indemnity payments. TDI payers have subrogation rights because the disability that the individual received compensation for had to be either related to work (workers’ compensation) or unrelated to work (TDI). Once it is determined the disability was work-related, subrogation allows the repayment of the TDI benefits that should not have been paid. Family leave benefits, however, are payable due to the individual’s personal situation and are not related to the individual’s work. Thus, it is unclear as to why the family leave benefits would be reimbursed by the workers’ compensation payments.

The Trust Fund for Disability Benefits currently must maintain a minimum balance of \$500,000 (§392-67), which has not increased since the TDI law was enacted in 1969, despite annual increases in the maximum weekly benefit amounts. This measure will make more benefits available to more workers, which increases the potential that the trust fund will need to pay benefits to individuals whose employers are not compliant or bankrupt. This would cause the DLIR to reinstitute levies pursuant to §392-67 and thereby adding a significant, additional responsibility to a work unit that has suffered repeated cuts over time as well as add an expense for employers.

Furthermore, currently employers may select TDI benefit schedules that vary the length of the waiting period, the percentage of wages replaced, and the duration of benefits. The Department uses equivalency tables to determine if the benefit

schedule meets the requirement of being at least as favorable as the benefits required by the statute. The tables reflect the actuarial relationship between the types and amounts of benefits. Section 12-11-17, Hawaii Administrative Rules, established the evaluation benefit criteria for the tables. New tables will be needed to accommodate the additional value of the family leave benefits therefore funding is needed to have the tables developed.

In conclusion, if the DLIR is to effectuate this measure (if amended to resolve conflicts and ambiguities), the Department estimates it would likely require 26 additional positions at annual salaries of \$1,974,000, office equipment of \$197,000, actuarial studies of \$400,000, business analysis/organizational change management consulting of \$500,000, outreach funding of \$100,000, and the development of a robust benefits information technology program at \$5,000,000. In addition to the funding requirements, DLIR will require an additional 7,800 square feet of office space for the Paid Family Leave Program to operate.

DLIR will require at least three years to procure a contractor and develop its information technology system to support the program, amend administrative rules, reorganize its divisions, hire and train staff, and develop outreach programs for employers and employees. DLIR suggests that the effective date of this measure be delayed for at least three years to July 1, 2025, to allow sufficient time for the insurance industry to develop policies to offer, for the DLIR to implement the program, and for employers to conform to the requirements of this measure.

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
DEPUTY DIRECTOR

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

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

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

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON
SENATE BILL NO. 3316, S.D. 1

February 23, 2022
10:05 a.m.
Room 211 and Videoconference

RELATING TO FAMILY LEAVE

The Department of Budget and Finance (B&F) offers comments on this bill, which amends Chapter 392, HRS, Relating to Temporary Disability Insurance, to add a new Hawai'i Family Leave Program (HFLP). The bill expands the employer mandate to cover temporary disability insurance to include eight weeks of family leave during the first year after birth, adoption, or foster placement of a child, or to care for a family member with a serious health condition. The bill also makes an appropriation of an unspecified amount of general funds in FY 23 to hire an unspecified number of full-time equivalent positions in the Department of Labor and Industrial Relations (DLIR) to implement the HFLP.

B&F defers to DLIR on the overall merits of this proposal. However, B&F strongly recommends first conducting a feasibility/actuarial study of the impact of this program. B&F also believes it would be prudent to conduct an operational study of the resources DLIR would need to implement it before going forward with program implementation.

B&F notes that, with respect to the general fund appropriation in this bill, the federal Coronavirus Response and Relief Supplemental Appropriations Act requires that states receiving Elementary and Secondary School Emergency Relief (ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with these ESSER MOE requirements.

Thank you for your consideration of our comments.



DISABILITY AND COMMUNICATION ACCESS BOARD

1010 Richards Street, Room 118 • Honolulu, Hawaii 96813
Ph. (808) 586-8121 (V) • Fax (808) 586-8129

February 23, 2022

LATE

TESTIMONY TO THE SENATE COMMITTEE ON WAYS AND MEANS

Senate Bill 3316, Senate Draft 1 – Relating to Family Leave

The Disability and Communication Access Board (DCAB) supports Senate Bill 3316, Senate Draft 1 Relating to Family Leave. This bill would provide employees with up to eight weeks of paid family leave during the first year after the birth, adoption, or fostering of a child, or to care for a family member with a serious health condition.

The statistics show only seventeen percent of workers in the United States having access to paid family leave through employers leads to a higher unemployment rate, loss of an employee's position which may be difficult to fill and loss of employee's wages and support for the first year after birth of a child, adoption, or fostering a child or to care for a family member with a serious health condition.

This bill ensures Hawaii's working families receive adequate caregiving support and return to work after a leave of absence.

Thank you for the opportunity to provide testimony.

Respectfully submitted,

Kristine Pagano

for KIRBY L. SHAW
Executive Director



Greg Maples, Chairman – Polynesian Cultural Center **Ryan Tanaka, Incoming Chair-** Giovanni Pastrami

Ave Kwok, Vice Chair- Jade Dynasty **Tambara Garrick, Secretary** – Hawaii Farm Project

Kahili Soon, Treasurer – Hukilau Marketplace **Tom Jones, Past Chair** – Gyotaku

Sheryl Matsuoka, Executive Director **Chivon Garcia**, Executive Assistant **Holly Kessler**, Director of Membership Relations

Date: February 19, 2022

To: Sen. Donovan M. Dela Cruz, Chair
Sen. Gilbert S.C. Keith-Agaran, Vice Chair
Members of the Committee on Ways and Means

From: Victor Lim, Legislative Lead

Subj: SB 3316, SD1 Relating to Family Leave

The Hawaii Restaurant Association representing 3,400 restaurants here in Hawaii opposes SB3316, SD1 that plans to expand the current TDI to include provisions for Family Leave

The Restaurant Industry has to be one of the hardest hit by the Covid Pandemic since April 2020. Two years into the pandemic, restaurants are still struggling to keep their doors open amid a surge in coronavirus cases, record inflation, a labor shortage, and supply chain delays.. We feel that it will take us well into 2023 for our businesses to normalize, provided that we do not face another Covid variant like Omicron.

Many well known legacy restaurants from Like Like Drive Inn to 12th Ave. Grill had closed here in our community and for those restaurants that are in operation, they are barely surviving on shoe strings margins. We need to postpone implementing any new programs that will increase additional administrative work and also increase the cost of doing business for at least two or three years out. We need to make sure that all the various laws dealing with paid and unpaid leave be cleared up before adding any more mandates,

Our restaurants are hurting and just cannot take on any more additional mandates and costs

Thank you for giving us this opportunity to share our concerns.





To: Senate Committee on Ways and Means
Hearing Date/Time: February 23, 2022 10:05AM
Re: Testimony in SUPPORT of SB3316 SD1

Dear Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Committee,

Members of AAUW of Hawaii thank you for this opportunity to testify in support of SB3316 SD1 which would provide employees up to 8 weeks of paid family leave, paid through an employer-based private insurance program.

Women shoulder a disproportionate burden of caring for a newborn and other relatives who have fallen ill. AAUW works toward greater availability of and access to a high standard of benefits and policies that promote work-life balance including paid family leave. Without these policies, balancing the responsibilities of work and family can be difficult for employees, negatively impacting productivity, engagement, and wellness.

Being forced to leave the labor force to care for a newborn or a sick family member limits women's advancement and corresponding pay increases, contributing to the gender pay gap, and contributing to the gender retirement income and savings gap. Being forced to take unpaid leave impacts the livelihood of the women and their family. Two-thirds of women are their family's primary or co-breadwinner.

The American Association of University Women (AAUW) of Hawaii is an all volunteer, statewide chapter of a national organization and is made up of six branches: Hilo, Honolulu, Kaua'i, Kona, Maui, and Windward O'ahu. UH Hilo, UH Mānoa, UH Maui College, and Windward Community College are also AAUW partners. AAUW's mission is to advance gender equity for equal opportunities in education, at workplace and for economic security, and in leadership.

with Aloha,
Younghee Overly

A handwritten signature in blue ink, appearing to read "Y. Overly", is positioned below the typed name.

Public Policy Chair, AAUW of Hawaii
publicpolicy-hi@aauw.net



**TESTIMONY OF TINA YAMAKI, PRESIDENT
RETAIL MERCHANTS OF HAWAII
FEBRUARY 9, 2022
Re: SB 3316 SD1 RELATING TO FAMILY LEAVE**

Good morning, Chairperson Dela Cruz and members of the Senate Committee on Ways and Means. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii was founded in 1901, RMH is a statewide, not for profit trade organization committed to the growth and development of the retail industry in Hawaii. Our membership includes small mom & pop stores, large box stores, resellers, luxury retail, department stores, shopping malls, local, national, and international retailers, chains and everyone in between.

We are opposed to SB 3316 SD1 Relating to Family Leave. This measure provides employees with up to eight weeks of paid family leave during the first year after birth of the individual's child, adoption of a child by the individual, or placement of a child with the individual through foster care, and eight weeks of paid family leave to care for the individual's family member with a serious health condition during any benefit year, paid through an employer-based private insurance program currently used to provide for temporary disability benefits. Repeals chapter 398, Hawaii Revised Statutes. Appropriates funds to the Department of Labor and Industrial Relations. Sections 1-28 effective 7/1/2024.

It is our understanding that Family Leave is used when the Employee needs to take care of someone else who is a family member; and Sick Leave and TDI is used when the employee themselves are sick or injured.

Many employers already offer benefits that include significant paid time off to those employees who have earned it in addition to the mandated family leave for employees to care for their family who are ill and ensure that their jobs are secure when they return to work. Furthermore, Hawaii mandates medical insurance coverage for employees' healthcare.

We would like to point out that TDI is calculated based on payroll and wage base. By including family leave into the TDI calculations, the employer's premium rates would significantly increase. Not to mention that the administrative process will also add an additional burden and increase the cost to the businesses. It is important to note that in addition to the "family leave" compensation the employer would have to pay to the individual taking sick leave, the employer most likely has to pay another employee "filling in" for this individual.

Businesses are very sensitive to the finite price points customers are willing to pay. Retailers are sometimes not able to absorb all the costs associated with these types of government mandates and have to pass the cost on by raising prices of goods and services. However, as Hawaii has become so expensive retailers are even more price sensitive to not be priced out of the market, have customers go online to stores not associated with Hawaii to purchase items. When that happens, some employee special benefits may no longer be offered (i.e., additional employee discounts); employees may be laid off or replaced with automation like self-check-out lines or in the worst cases businesses just close.

Retailers are already operating on a very thin margin. The rising cost for employee health care benefits, goods, services, and shipping have a substantial effect on our operations since the pandemic ensued. Many are not able to afford these kinds of costly operational increases, especially when the legislature is also considering a raise in the minimum wage. Retailers have still not recovered. Many are still barely hanging on to keep their doors open and their employees employed. Many still carry a large debt from being shut down and the lack of customers – especially since the international visitors have not returned. We are also seeing streamlined and pivoted business with shortened hours of operations and freeze in employee hiring. We continue to see local and national retailers closing their doors in Hawaii. Measures like this will encourage more businesses to close their doors as they can no longer afford to operate in Hawaii and thus more of our friends, family and neighbors will be unemployed.

Policy makers should be focusing in on eliminating obstacles to business growth, job creation and economic stability and not adding additional costs that employers cannot afford.

Again, mahalo for this opportunity to testify.



**Testimony to the Senate Committee on Ways and Means
Wednesday, February 23, 2022, at 10:05 A.M.
Conference Room 211 & Videoconference**

RE: SB 3316 SD1 Relating to Family Leave

Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **does not support** SB 3316 SD1, which:

- Provides employees with up to eight weeks of paid family leave during the first year after birth of the individual's child, adoption of a child by the individual, or placement of a child with the individual through foster care, and eight weeks of paid family leave to care for the individual's family member with a serious health condition during any benefit year, paid through an employer-based private insurance program currently used to provide for temporary disability benefits.
- Repeals chapter 398, Hawaii Revised Statutes.
- Appropriates funds to the Department of Labor and Industrial Relations.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 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 appreciate and understand the intent of this bill to allow for paid family leave in the workplace. However, we have serious concerns that this measure is not a reasonable, manageable or an affordable approach in addressing those needs.

First, Hawaii employers already pay Temporary Disability Insurance (TDI) premiums based on payroll up to the allowable wage base. Expanding TDI benefits to now include family leave will not only increase administrative compliance, but, more importantly, employers will likely shoulder the burden of increases in TDI premium rates to the proposed extended coverage to family leave.

It is important to note that many businesses already offer paid leave programs as a means of attracting and retaining their workforce, especially with the COVID-19 employment environment. In a Chamber membership poll completed in February 2021, we found that the majority of businesses provide some type of leave, such as PTO, paid sick leave, vacation, paid family leave, etc.



Chamber of Commerce HAWAII

The Voice of Business

With the way the pandemic has affected the economy, we need policies that will provide flexibility for businesses so they can help create more jobs for our economy. We need to be encouraging businesses to adopt their own innovative paid leave programs, rather than placing yet another mandate on employers and businesses.

Furthermore, the recent Paid Family Leave Program Impact Study¹ released in November 2019, brought concerns on what exactly a possible paid family leave program in Hawaii would look like and cost. Recognizing the challenges employers face in coordinating multiple paid leave laws, the report recommended the state consider numerous issues, including the following, when deciding how to implement paid family leave in Hawaii:

- Clear regulation
- Allowing for at least two, but ideally three years, to implement the new program
- Straightforward administration
- Comprehensive education
- Permitting paid family/medical leave to run concurrently with unpaid FMLA
- Considering a simplified benefit formula
- Avoiding Employee Retirement Income Security Act (ERISA) status
- Advocating for return to work within the law, but excluding job protection (as it is accounted for elsewhere)
- Providing gender neutral covered relationships and leave lengths
- Sunsetting existing unpaid leave laws (to start fresh with any new law)

Given the lack of substantiated data on the adverse impact of mandatory paid family leave on Hawaii employees, the Chamber asks that the committee hold this bill and review the findings of the Paid Family Leave Program Impact Study before enacting a one-size-fits-all policy.

In closing, while we appreciate the Legislature indicating their intention to address the issue of family leave, we have concerns about the impacts this will have to small businesses that are still struggling to recover from the pandemic.

Thank you for the opportunity to testify.

¹ Paid Family Leave Program Impact Study in Accordance with Act 109, SLH 2018
https://lrb.hawaii.gov/wp-content/uploads/2019_PaidFamilyLeaveProgramImpactStudy.pdf



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

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

The Thirty-First Legislature, State of Hawaii
The Senate
Committee on Ways & Means

Testimony by
Hawaii Government Employees Association

February 23, 2022

S.B. 3316, S.D. 1 – RELATING TO FAMILY LEAVE

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO supports the intent of S.B. 3316, S.D. 1 which provides employees with up to eight weeks of paid family leave during the first year after birth of the individual's child, adoption of a child, or placement of a child through foster care, and eight weeks of paid family leave to care for a family member with a serious health condition via an employer-based private insurance program used to provide temporary disability benefits.

We have historically supported the passage of a paid family leave program and recognize that the current COVID-19 worldwide pandemic has not only exacerbated wage inequality but exposed the need for workers to access time off to address their and their family members' health care concerns, without losing wages. Since many of our members live paycheck to paycheck, we could not support prior paid family leave models that created a social insurance program or an employee mandate to fund. However, since S.B. 3316 is an extension of temporary disability benefits, it is a viable alternative.

Thank you for the opportunity to provide testimony in support of S.B. 3316, S.D. 1.

Respectfully submitted,

Randy Perreira
Executive Director



**THE SENATE
THE THIRTY-FIRST LEGISLATURE
REGULAR SESSION OF 2022**

Committee on Ways and Means
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

Wednesday, February 23, 2022, 10:05AM
Conference Room 211 and Videoconference

Re: Testimony in Support of SB3316, SD1 - RELATING TO FAMILY LEAVE

Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Committee:

The United Public Workers, AFSCME Local 646, AFL-CIO (“UPW”) is the exclusive bargaining representative for approximately 14,000 public employees, which includes blue collar, non-supervisory employees in Bargaining Unit 1 and institutional, health, and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties. The UPW also represents 1,500 members in the private sector.

UPW **supports** SB3316, SD1, which provides employees with up to eight weeks of paid family leave during the first year after birth of the individual’s child, adoption of a child by the individual, or placement of a child with the individual through foster care, and eight weeks of paid family leave to care for the individual’s family member with a serious health condition during any benefit year, paid through an employer-based private insurance program currently used to provide for temporary disability benefits.

While many union members in Hawaii are fortunate to have access to paid sick days, the ongoing COVID-19 pandemic has illustrated the need for workers to have the opportunity to receive time off to address their and their family members’ health care worries. Allowing employees the opportunity to take time off to care for an illness not only protects the employee, but also protects their families, coworkers, and customers by reducing the likelihood of spreading an illness further.

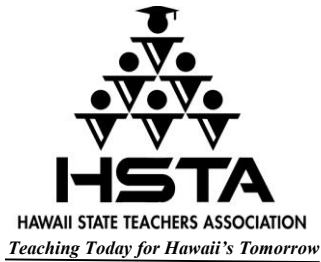
Thank you for the opportunity to provide testimony.

Sincerely,

Liz Ho
Administrator

UNITED PUBLIC WORKERS
AFSCME Local 646, AFL-CIO





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

Osa Tui, Jr.
President

Logan Okita.
Vice President

Lisa Morrison
Secretary-Treasurer

Wilbert Holck
Executive Director

TESTIMONY BEFORE THE SENATE COMMITTEE ON WAYS AND MEANS

RE: SB 3316, SD1 - RELATING TO FAMILY LEAVE

WEDNESDAY, FEBRUARY 23, 2022

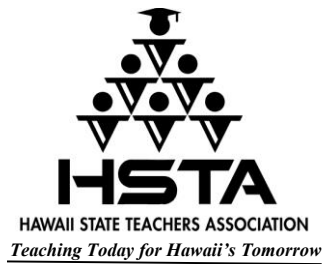
OSA TUI, JR., PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Dela Cruz, and Members of the Committee:

The Hawaii State Teachers Association **supports SB 3316, SD1**, relating to family leave. This bill will provide employees up to eight weeks of paid family leave during the first year after birth or adoption of a child, or placement of a child from foster care. It will also provide up to eight weeks of paid leave to care for an individual's family member with a serious medical condition. Benefits will be paid through an employer-based private program that currently provides for temporary disability benefits.

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, are not afforded the same benefit. Only 17 percent of workers in the U.S. have access to paid family leave through their employers. Women, as primary caregivers of infants, children, and elderly parents, are disproportionately affected by the absence of paid family and medical leave. According to AARP Hawaii, there are approximately 157,000 unpaid family caregivers in the State. Hawai'i has one of the fastest growing populations over the age of sixty-five in the nation; from 2020 to 2030 the percentage of people age sixty-five and over is expected to go from 19.1 per cent of the State's population to 22.5 per cent. Nearly a third of those who need but do not have access to family leave will need the time off to care for an ill spouse or elderly parent.

What's more, the COVID-19 pandemic became a public health emergency that infected thousands of people, overburdened hospital capacities, created medical supply shortages, and claimed the lives of numerous Hawai'i residents. Enacting a comprehensive family leave program would allow employees whose family members are impacted by serious health conditions to provide adequate care for their loved ones.



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

Osa Tui, Jr.
President

Logan Okita.
Vice President

Lisa Morrison
Secretary-Treasurer

Wilbert Holck
Executive Director

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, and not much learning occurs for the ill child who needs to recover from an illness.

To better care for families living paycheck to paycheck, the Hawaii State Teachers Association asks your committee to **support this bill.**



Hawai'i Children's Action Network Speaks! is a nonpartisan 501c4 nonprofit committed to advocating for children and their families. Our core issues are safety, health, and education.

To: Senate Committee on Labor, Culture and the Arts

Re: **SB 3316, SD1 - Relating to Family Leave**
Hawai'i State Capitol, Room 211 & Videoconference
February 23, 2022, 10:05 AM

Dear Chair Dela Cruz, Vice Chair Keith-Agaran, and committee members,

On behalf of Hawai'i Children's Action Network Speaks!, I am writing in SUPPORT with SUGGESTED AMENDMENTS to SB 3316 SD1, relating to family leave. This bill would provide employees with up to eight weeks of paid family leave: during the first year after the birth, adoption, or foster placement of a child with the individual, or for the individual to care for a family member with a serious health condition during any benefit year. This leave would be paid through an employer based private insurance program currently used to provide for temporary disability benefits.

The United States is the only OECD nation that does not provide paid family leave for its working population.¹ To fill that gap, in just the last six years, six states and the District of Columbia have passed paid family leave laws.² As a state that values 'ohana, Hawai'i has the chance to step forward and be the next.

Hawai'i needs a paid family leave program that allows all workers to take up to 16 weeks of paid, job-protected leave to care for sick or aging relatives, adjust to the birth, adoption, or placement of a child, or attend to other family emergencies. It is also essential that Hawaii's program be structured to provide a higher proportion of their pay to the low-wage workers who need this benefit the most.³

Although some workers might have access to paid leave through their workplaces, because coverage is a voluntary option for employers, it is usually offered as a perk for only by larger businesses to their highest-paid workers. Too many in our workforce, especially low-income workers, lack access paid leave.

This bill is a step in the right direction, but it falls short of what Hawai'i's working families and employers need. For that reason, we respectfully request that this bill be **AMENDED to reflect the language contained in SB 2312**, which provides for a more comprehensive and efficient paid family leave system.

Besides providing different amounts of leave, the main difference between the two approaches is whether paid family leave is designed as a social insurance program, such as Social Security and Medicare, or offers leave through employer-provided private insurance policies.

¹ Pew Research Center, <https://www.pewresearch.org/fact-tank/2019/12/16/u-s-lacks-mandated-paid-parental-leave/>

² National Partnership for Women and Families, <https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-leave/state-paid-family-leave-laws.pdf>

³ Hawai'i Working Families Coalition, https://d3n8a8pro7vhmx.cloudfront.net/goodbeginnings/pages/196/attachments/original/1521088265/FLI_Short_Piece.pdf



There are many advantages to the social insurance approach, especially for small businesses who currently can't afford to voluntarily provide paid leave – and are losing good employees to larger businesses that can. In addition, the social insurance model ensures more equity for working women and lower-wage workers. A social insurance program would also likely cost less than additional private insurance coverage.⁴ The table below compares the two types of systems in more detail:

	Expanded TDI Program	Social Insurance Program
Current examples of this model	Employer-provided private health insurance or TDI.	Social Security and Medicare.
How an employer sets it up	Employer searches for and pays for a private insurance product (or adopts and submits for approval by the state a self-insurance plan).	Employer adds one more deduction to payroll (if the employer uses a payroll service, that service would likely set it up).
Administration of claims	Handled by the employer and the private insurance company.	Handled by the state.
Enforcement of coverage and claims	Handled by the state. Likely costly and complicated to track and enforce thousands of private policies.	Handled by the state. Likely less costly and simpler to enforce a single program with uniform benefits.
Cost to employer	Relatively high, since each employer required to go onto the private market (or self-insure) and unable to pool risk with others.	Relatively low, as risk and costs are spread widely among all employers and administration is handled by the state.
Burden on small businesses	Higher than for larger employers, due to smaller risk pools and proportionally higher human resources costs.	Would enable small businesses to better compete for employees by providing this benefit. Rates would be the same as for larger employers and administration would be handled by the state.
Likelihood of discrimination	Since private insurance premiums increase with higher utilization of policies, employers are incentivized to discriminate against female employees.	Since payments into the system are uniform, regardless of gender, there is no incentive for employers to discriminate against female employees.
Progressive wage replacement	Unclear if provisions would be made to ensure that lower-income workers would be able afford to take leave with partial wage replacement.	Newer state paid family leave programs provide lower-income workers with a larger percentage of their pay to ensure that they can afford to take leave.

Mahalo for the opportunity to provide this testimony. Please pass this bill with our suggested amendments.

Thank you,
Nicole Woo, Director of Research and Economic Policy

⁴ Hawai'i Commission on the Status of Women and Hawai'i Children's Action Network, https://d3n8a8pro7vhmx.cloudfront.net/goodbeginnings/pages/196/attachments/original/1521088022/Hawaii_Family_Leave_Insurance_Analysis_Report.pdf

RE: SB 3316, SD1 - RELATING TO FAMILY LEAVE

WEDNESDAY, FEBRUARY 23, 2022

MITZIE HIGA, LEGISLATIVE CHAIR
DEMOCRATIC PARTY OF HAWAII LABOR CAUCUS

Chair Dela Cruz and Members of the Committee:

The Democratic Party of Hawaii Labor Caucus **supports SB 3316, SD1, with the suggested amendments**, relating to family leave. This bill provides employees with up to eight weeks of paid family leave during the first year after birth of the individual's child, adoption of a child by the individual, or placement of a child with the individual through foster care, and eight weeks of paid family leave to care for the individual's family member with a serious health condition during any benefit year, paid through an employer-based private insurance program currently used to provide for temporary disability benefits; repeals chapter 398, Hawaii Revised Statutes; and appropriates funds to the Department of Labor and Industrial Relations.

While we strongly support the establishment of a paid family leave program for the workers in Hawai'i, and suggest an amendment to use the social insurance model, as contained in SB 2312. 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.

Studies have been conducted and 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.**

Hawai'i 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. **Please support this bill.**



American Cancer Society
Cancer Action Network
2370 Nuʻuanu Avenue
Honolulu, Hi 96817
808.460.6109
www.fightcancer.org

Senate Committee on Ways and Means
Senator Donovan Dela Cruz, Chair
Senator Gilbert Keith-Agaran, Vice Chair

Hearing: February 23, 2022

ACS CAN SUPPORTS SB 3316 SD1 – RELATING TO FAMILY LEAVE

Cynthia Au, Government Relations Director– Hawaii Guam
American Cancer Society Cancer Action Network

Thank you for the opportunity to **SUPPORT** SB3316 SD1: RELATING TO FAMILY LEAVE.

The American Cancer Society Cancer Action Network (ACS CAN) is the nonprofit, nonpartisan advocacy affiliate of the American Cancer Society. We support evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem.

Cancer is the second leading cause of death in Hawaiʻi taking over 2,500 lives each year. In 2018, over 6 million workers in the U.S. had a history of cancer.ⁱ Cancer treatment is time consuming – often requiring time off from work for doctor’s visits, surgery and recovery, chemotherapy and radiation. The flexibility to balance cancer treatment and employment is essential. Studies show that cancer patients who have paid leave have higher rates of job retention and lower rates of financial burden.^{ii iii} Yet not all cancer patients, survivors and caregivers who work have access to paid leave, and without it they risk losing employment or not getting the care they need.

The need for access to paid medical & family leave became clearer nationwide during the COVID-19 Public Health Emergency. ACS CAN supports policies at the national, state and local levels that increase access to job-protected paid family & medical leave that can be used for cancer treatments, survivorship care, and caregiving as well as other illnesses.

Thank you for the opportunity to comment on this matter.

ⁱ National Center for Health Statistics. Survey Description (<https://www.cdc.gov/nchs/nhis/data-questionnairesdocumentation.htm>), 2018 National Health Interview Survey Public Use Data Release. Hyattsville, Maryland. Analysis performed by American Cancer Society Intramural Research team, April 7, 2020.

ⁱⁱ Veenstra CM, Regenbogen SE, Hawley ST, Abrahamse P, Banerjee M, Morris AM. Association of Paid Sick Leave With Job Retention and Financial Burden Among Working Patients With Colorectal Cancer. *JAMA*. 2015 Dec 22 29;314(24):2688-90. doi: 10.1001/jama.2015.12383. PubMed PMID: 26717032.

ⁱⁱⁱ Veenstra, C.M., Abrahamse, P., Wagner, T.H., Hawley, S.T., Banerjee, M. & Morris, A.M. (2018). Employment Benefits and Job Retention: Evidence Among Patients With Colorectal Cancer. *Cancer Med*. 2018 Mar; 7(3): 736– 745. doi: 10.1002/cam4.1371.

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS
COMMENTING ON SB 3316, SD 1, RELATING TO FAMILY LEAVE

February 23, 2022

Honorable Senator Donovan Dela Cruz, Chair
Honorable Senator Gilbert S. C. Keith-Agaran, Vice Chair
Committee on Ways and Means
State Senate
Conference Room 211 and Via Videoconference
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Committee:

Thank you for the opportunity to comment on SB 3316, SD 1, relating to Family Leave.

Our firm represents the American Council of Life Insurers (“ACLI”). ACLI is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI’s member companies are dedicated to protecting consumers’ financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI’s 280 member companies represent 94 percent of industry assets in the United States. Two hundred seventeen (217) ACLI member companies currently do business in the State of Hawaii; and they represent 94% of the life insurance premiums and 97% of the annuity considerations in this State.

For decades, disability insurers have been providing American workers with income protection when a medical condition keeps them out of the workplace. In 2017 alone, this private insurer-based system paid American workers more than \$20 billion as they recovered from conditions that kept them from their jobs.¹ As Hawaii looks to establish a paid family leave program, disability insurers can provide employers with the coverage they need to comply with the family leave benefit required by SB 3316.

In addition to offering the policies and having the infrastructure to support administration, insurers help employers comply with unpaid leave requirements and accommodation services. Workers depend on their employers to help navigate the multiple and not always consistent benefits available at the employer level, the state level, and/or the federal level. Insurers have helped to facilitate employers’ compliance with the various leave programs, paid and unpaid. This facilitation occurs because employers have trusted these companies’ experience,

¹ Calculation based on NAIC 2017 Annual Statement Data

expertise, and understanding of the entitlements under the various federal, state, and municipal laws which sometimes may overlap and other times may have different (and sometimes competing) eligibility rules, leave entitlements, and administration requirements.

SB 3316, SD 1, proposes to provide employees with up to eight weeks of paid family leave during the first year after birth of the individual's child, adoption of a child by the individual, or placement of a child with the individual through foster care, and eight weeks of paid family leave to care for the individual's family member with a serious health condition during any benefit year. Two of the five options available to the employer to provide the employee with the required family leave benefits is by insuring payment through an employer-based private insurance program. See Section 14 of SB 3316, SD 1, beginning on page 17, amending HRS section 392-41, relating to provision for payment of benefits.

ACLI supports passage of SB 3316, SD 1.

However, there needs to be sufficient time for all stakeholders to implement its provisions.

In order for insurers to issue family leave benefit insurance policies providing the benefits mandated by SB 3316, SD 1, insurers must first obtain approval to sell the policy from Hawaii's Insurance Commissioner, including approval of the benefits provided and the premiums charged by the insurer by the use of new tables to be established by the Insurance Commissioner to reflect the actuarial relationship between the different types and amounts of benefits required by SB 3316, SD 1, in accordance with Section 12-11-17, of the Hawaii Administrative Rules. In this regard, SB 3316, as amended, is silent and does not address the amount of funds or time required by the Insurance Commissioner to develop these new tables and to implement the bill's provisions. SB 3316, should, therefore, be amended to address these matters.

In its written testimony submitted at the hearing of SB 3316 by the prior committee, the Department of Labor and Industrial Relations ("DLIR") requested "at least three years to procure a contractor and develop its information technology system to support the program, amend administrative rules, reorganize its divisions, hire and train staff, and develop outreach programs for employers and employees."

For the employer, there needs to be enough time to identify their actions for compliance. For example, providing the necessary notification of the program to their employees and to determine which of the five options available the employer will use to provide its employees with the family leave benefits required by the new law.

Accordingly, ACLI joins in DLIR's request that section 32 of the bill be amended to delay the effective date for implementing sections 1 through 28 of SB 3316, SD 1. That date should, however, be determined after further discussion and input from all stakeholders.

Again, thank you for the opportunity to comment on SB 3316, SD 1, Relating to Family Leave.

LAW OFFICES OF
OREN T. CHIKAMOTO
A Limited Liability Law Company

Oren T. Chikamoto
P. O. Box 4277
Honolulu, Hawaii 96812
Telephone: (808) 531-1500
E mail: otc@chikamotolaw.com



Senate Committee on Ways and Means

Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair
Wednesday, February 23, 2022 at 10:05 A.M.
Via Videoconference

RE: SB 3316, SD1 RELATING TO FAMILY LEAVE

Chair Dela Cruz, Vice Chair Keith-Agaran., and Members of the Committee:

The Society of Human Resource Management (SHRM) Hawaii opposes SB 3316 SD1 which provides employees with up to eight weeks of paid family leave during the first year after birth of the individual's child, adoption of a child by the individual, or placement of a child with the individual through foster care, and eight weeks of paid family leave to care for the individual's family member with a serious health condition during any benefit year, paid through an employer-based private insurance program currently used to provide for temporary disability benefits. It repeals chapter 398, Hawaii Revised Statutes, and appropriates funds to the Department of Labor and Industrial Relations.

SHRM Hawaii serves and represents nearly 600 members and employers' statewide and human resource management is a critical component to the success and survival of the many businesses that make up our local economy. HR professionals are responsible for evaluating and balancing the needs of both the employers and employees and caring for businesses' most valuable asset: the working people of our state.

We appreciate and understand the intent of this bill to allow for paid family leave in the workplace. In a recent SHRM employer survey, we have found that most employers offer a diverse mix of sick leave, vacation floating holiday, PTO, and paid family leave. These benefits are in addition to benefits required under Hawaii Family Leave Law and Family and Medical Leave Act.

SHRM has serious concerns and expresses to the Committee that Hawaii employers already pay TDI premiums based on payroll up to the allowable wage base. Expanding and muddying the



SHRM Hawaii, P. O. Box 3175, Honolulu, Hawaii (808) 447-1840

waters to blend TDI benefits to now include family leave will not only increase administrative compliance but employers would likely see increases in TDI premium rates.

Given the lack of substantiated data on the adverse impact of mandatory paid family leave on Hawaii employers, we should consider the aggregation of data and claims from the [Paid Family Leave Program Impact Study](#) released in November 2019. The study conducted comparative analysis of state plan models but did not provide any quantitative assessment on the Hawaii's current claims environment.

The study recognizes the challenges employers face in coordinating multiple paid leave laws and suggests that the State consider a broad range of issues when deciding how to implement paid family leave in Hawaii but makes no reference to key analysis on family leave data in Hawaii such as employers who already have policies and procedures that enables an employee to take family leave to care for a family member in need.

SHRM Hawaii has concerns about the details of the proposed bill and would like to defer until further discussion and investigation into the need of such leave and the ways to make any such policy effective.

Thank you for this opportunity to provide testimony.

Kalani Morse
Legislative Affairs Committee Co-Chair

Dailyn Yanagida
Legislative Affairs Committee Co-Chair





**SENATE COMMITTEE ON WAYS & MEANS
Hawaii State Capitol
Via Videoconference
10:05 AM**

February 23, 2022

RE: SB 3316 SD1, RELATING TO FAMILY LEAVE

Chair Dela Cruz, Vice Chair Agaran, and members of the committee:

My name is Daryl Takamiya, 2022 President of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA Hawaii offers the following comments on SB 3316, Relating to Family Leave. We recognize that there is a need within our community for support of people experiencing family health issues and other challenges. We also recognize how many local businesses are struggling already in our heavily even over-regulated environment. Any long-term family leave solution must recognize both of these fundamental truths. Thus, any family leave legislation should –

- Consider the other current legislative priorities as well as the current economic climate. For example, the current move to raise the minimum wage will already have a profound impact on employers. Combined with uncertainties faced in a post-Covid recovery and potential increases in Unemployment Insurance (UI) contributions, employers already face dramatic increases in cost of employment. The Legislature should realize these costs not only affect individual businesses but are passed on to the consumer as well. This will result in aggravating our current inflationary problems.
- Can **NOT** be the responsibility of the business to pay directly at the time of leave. Any plan should build off the existing Temporary Disability Insurance (TDI) or UI model. Whereby **Employers and Employees** pay into a fund that can be tapped at the time of leave. Any model that requires employers to pay the cost of leave directly at the time of leave will devastate small businesses.
- Require a **minimum period of employment** to be eligible to receive benefits. It would be unconscionable for people to reap more benefit from a system than they have put into it. This minimum period of employment prior to eligibility should at least equal the maximum period of possible benefits. It should recognize potential beneficiaries total employment rather than just their most recent position.

- Needs to strike a balance between providing adequate support for those in need, while also discouraging abuse of the system by bad actors. In no event should Family Leave benefits exceed UI benefits. It should also be noted that the longer the potential term of leave used will be, the better it would be to step down benefits over time. For example, provide more robust support in the first 8 weeks with a reduction of a set percentage for each ensuing 8 week period.
- While the amount of family leave time potentially available is being considered under any legislation, it needs to provide some checks and balances to verify need. Just as UI beneficiaries are required to show they have been looking for work, family leave beneficiaries should be required to demonstrate the ongoing need exists periodically through the leave process.
- Contain a required notice from **Employers to Employees** of at least 4 weeks prior to return to work. Employers will need this time to accommodate any short-term staffing changes made during the period of leave.

We appreciate the opportunity to provide our comments on this matter.



February 22, 2022

Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice-Chair
Senate Committee on Ways and Means

Re: S.B. 3316, SD1, RELATING TO FAMILY LEAVE

Hearing: Wednesday, February 23, 2022, 10:05 a.m. (videoconference)

Dear Chair Dela Cruz, Vice-Chair Keith-Agaran, and Members of the Committee on Ways and Means:

Hawaii Women Lawyers (“HWL”) **supports the intent of S.B. 3316, SD 1**, to provide employees with up to eight weeks of paid family leave during the first year after birth of the individual's child, adoption of a child by the individual, or placement of a child with the individual through foster care, and eight weeks of paid family leave to care for the individual's family member with a serious health condition during any benefit year.

The mission of Hawaii Women Lawyers is to improve the lives and careers of women in all aspects of the legal profession, influence the future of the legal profession, and enhance the status of women and promote equal opportunities for all.

HWL supports efforts to expand paid family leave. As recognized in the proposed bill, while current federal/state law provides unpaid leave for employees, the majority of Hawaii's workforce cannot afford to take unpaid leave, and women, who are often the primary caregivers of infants, children, and elderly parents, are affected disproportionately by the absence of paid family leave. It is well-documented that the development and advancement of women in the legal profession, as well as in other careers, is substantially impeded by the lack of affordable caretaking options. The pandemic has only increased the caretaking responsibilities taken on by women, who are also trying to maintain their jobs and careers to provide for themselves and/or their families. HWL supports the intent of this bill, which would provide much-needed support for caretakers.

Thank you for the opportunity to submit testimony on this measure.



Testimony to the Senate Committee on Ways & Means
Wednesday, February 23, 2022
10:05 am
Via Videoconference

Comments Re: SB 3316 SD1, Relating to Family Leave

To: The Honorable Donovan Dela Cruz, Chair
The Honorable Gil Keith-Agaran, Vice-Chair
Members of the Committee

My name is Stefanie Sakamoto, and I am testifying on behalf of the Hawaii Credit Union League, the local trade association for 48 Hawaii credit unions, representing over 867,000 credit union members across the state.

HCUL offers the following comments on SB 3316 SD1, Relating to Family Leave. This bill would provide employees with up to eight weeks of paid family leave during the first year after birth of the individual's child, adoption of a child by the individual, or placement of a child with the individual through foster care, and eight weeks of paid family leave to care for the individual's family member with a serious health condition during any benefit year, paid through an employer-based private insurance program currently used to provide for temporary disability benefits.

Combining any state family leave mandate with the federal Temporary Disability Insurance program would be confusing, and extremely difficult to administer. This would cause the unintended consequence of employers needing to scale back in other ways in order to comply with the administrative and business expense.

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



Senate Committee on Ways and Means

Wednesday, February 23rd, 2022, 10:05a.m.

Hawai'i Alliance for Progressive Action Supports: SB3316 SD1 with amendments

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran and Members of the Committee,

On behalf of the Hawai'i Alliance for Progressive Action (HAPA) I am submitting testimony in support of SB3316 SD1 with amendments. HAPA is a state-wide organization that engages approximately 10,000 local residents annually.

HAPA strongly supports SB3316 SD1, which provides employees with up to eight weeks of paid family leave during the first year after birth of the individual's child, adoption of a child by the individual, or placement of a child with the individual through foster care, and eight weeks of paid family leave to care for the individual's family member with a serious health condition during any benefit year, paid through an employer-based private insurance program currently used to provide for temporary disability benefits.

This bill is a step in the right direction, but can go further to support Hawai'i's working families and employers. **We respectfully request that this bill be AMENDED to reflect the language contained in SB 2312**, which provides for a more comprehensive and efficient paid family leave system. Besides providing different amounts of leave, the main difference between the two approaches is whether paid family leave is designed as a social insurance program, such as Social Security and Medicare, or offers leave through employer-provided private insurance policies.

There are many advantages to the social insurance approach, especially for small businesses who currently can't afford to voluntarily provide paid leave – and are losing good employees to larger businesses that can. In addition, the social insurance model ensures more equity for working women and lower-wage workers. A social insurance program would also likely cost less than additional private insurance coverage

HAPA supports paid family leave. Family leave allows workers to be paid while taking leave for important life events, such as the birth or adoption of a baby, elder care, or to care for loved ones with a serious injury or illness. Although some workers might have access to paid leave through their workplaces, because coverage is a voluntary option

for employers, it is usually offered as a perk for only the highest-paid workers, not those who truly need it the most. Now is the time to ensure no one is forced to choose between caring for a new child or an ill family member or making ends meet.

Paid Family Leave supports family well-being and the economy. The benefits of paid family leave include increased health benefits such as decreasing infant mortality rates. The availability of family leave also increased rates of breastfeeding, which has been shown to have long-term health benefits. Paid family leave is known to also increase health equity among different racial and socioeconomic groups.

Another reason to support paid family leave is because our kūpuna deserve quality care from loved ones when they need it. There are not enough licensed care homes/ care home workers to care for the fast growing population of kūpuna here and we need to support measures that help them whenever possible.

Paid leave supports women and HAPA supports measures that improve women and family well being. Women are the primary or co-breadwinners for almost two-thirds of families in the U.S., so a woman's income lost during maternity leave has a significant economic impact on her entire family. Women who take paid parental leave and return to work are 39% less likely to receive public assistance and 40% less likely to receive food stamps than women who do not take paid leave and return to work.

In Hawaii, the majority of families are "working families" who cannot afford to take unpaid leave long enough to cover their caretaking needs—paid family leave alleviates economic instability for struggling families by ensuring job security.

Family leave also helps our economy through an increase in worker retention and loyalty. Workers who have access to family leave benefits are more likely to return to work after their leave is over.

Please PASS SB3316 SD1 with amendments.

Mahalo for your consideration,



Anne Frederick
Executive Director



LATE

Eric W. Gill, Financial Secretary-Treasurer

Gemma G. Weinstein, President

Godfrey Maeshiro, Senior Vice President

February 22, 2022

Committee on Ways and Means
Senator Donovan Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

Testimony in support of SB 3316

Chair Dela Cruz, Vice Chair Keith-Agaran and Members of the Committee:

UNITE HERE Local 5 represents over 11,500 people working in the hotel, food service and health care industries throughout Hawaii. We support the intent of SB 3316. Paid family leave is a benefit offered by almost all other countries – it’s time for us to offer it here. This is an issue of gender equality, and it speaks to our fundamental values as a society. Parents should be able to bond with newborn children, and everyone should be able to take time off work to care for family members with serious health conditions. These are both types of work – often quite exhausting and strenuous work – and it is necessary to the functioning of society. With as few safety net provisions as families in the U.S. have today, and the looming threat of cuts to those that still exist, many families are trying to stay afloat in an already-untenable situation.

With the intent of this bill, the Hawaii legislature is stepping up to do what Congress has failed to do for decades. It’s time we rejoin the rest of the world.

Please support SB3316.

Thank you for your consideration.



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

Executive Officers

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Derek Kurisu, KTA Superstores, *Advisor*
Toby Taniguchi, KTA Superstores, *Advisor*
Joe Carter, Coca-Cola Bottling of Hawaii, *Immediate Past Chair*

LATE

TO: Committee on Ways and Means
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

DATE: February 23, 2022
TIME: 10:05am
PLACE: Via Videoconference

RE: SB3316 SD1 Relating to Family 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.

HFIA is in opposition to this measure. Our state's businesses and economy are still struggling. The recovery process from the economic crisis caused by the COVID-19 pandemic will take years. The complete shutdown of tourism the state's primary economic driver, the ongoing labor shortage, and the supply chain crisis have all hit our local businesses hard. Many have closed, and unfortunately more are likely to close in the years before we make a full economic recovery.

Hawaii employers already bear some of the highest employee health care costs in the Country, and average wages in our state are at an all time high. Our local businesses and economy cannot take another state mandate that will further increase the cost of labor. Our member companies want to keep providing jobs and keep serving their customers and their communities. Now is not the time for the state to make it harder for them to do that.

We ask that this measure be held and we thank you for the opportunity to testify.

LATE



MAUI
CHAMBER OF COMMERCE
VOICE OF BUSINESS

**HEARING BEFORE THE SENATE COMMITTEE ON
WAYS AND MEANS
HAWAII STATE CAPITOL, SENATE CONFERENCE ROOM 211
WEDNESDAY, FEBRUARY 23, 2022 AT 10:00 A.M.**

To The Honorable Senator Donovan M. Dela Cruz, Chair
The Honorable Senator Gilbert S.C. Keith-Agaran, Vice Chair
Members of the committee on Ways and Means

OPPOSE SB3316 SD1 RELATING TO FAMILY LEAVE

The Maui Chamber of Commerce opposes SB3316 SD1 which provides employees with up to eight weeks of paid family leave during the first year after birth of the individual's child and eight weeks of paid family leave to care for the individual's family member with a serious health condition, paid through an employer-based private insurance program currently used to provide for temporary disability benefits.

We appreciate and understand the intent of this bill to allow for paid family leave in the workplace. However, we have serious concerns that this measure is not a reasonable, manageable, or an affordable approach in addressing those needs, either from an employee or employer perspective, as well as from a one-size-fits-all approach by broadening the TDI benefits to now extend them to family leave.

Hawaii employers already pay TDI premiums based on payroll up to the allowable wage base. Expanding TDI benefits to now include family leave will not only increase administrative compliance, but, more importantly, employers will likely be shouldered the burden of increases in TDI premium rates to the proposed extended coverage to family leave.

The majority of businesses with whom the Chamber is speaking already have a large to severe worker shortage. These small businesses are barely able to get by without having the extra insurance burden; this on top of a proposed continuous increase of minimum wage based on existing pending legislation.

It is important to note that many businesses already offer paid leave programs as a means for attracting and retaining their workforce especially with the current COVID-19 employment environment. In a poll conducted last year, Chambers found that a majority of business provide some type of leave, such as PTO, paid sick leave, vacation, paid family leave, etc.

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.



MAUI

CHAMBER OF COMMERCE

VOICE OF BUSINESS

We need policies that will help Hawaii bring new businesses and support those in existence by encouraging businesses to adopt their own innovative paid leave programs rather than by placing yet another mandate on employers and businesses as well as increasing the size of government in order to administer these extra burdens on businesses.

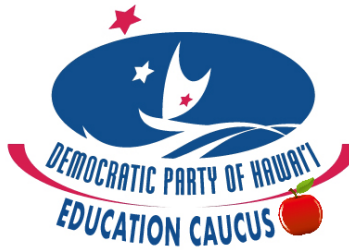
Sincerely,

A handwritten signature in cursive script that reads "Pamela Tumpap". The ink is a light grey or blue color.

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.

LATE



SENATE BILL 3316, SD 1, RELATING TO FAMILY LEAVE

FEBRUARY 23, 2022 · SENATE WAYS AND MEANS
COMMITTEE · CHAIR SEN. DONOVAN DELA CRUZ

POSITION: Supporting the intent with amendments.

RATIONALE: The Democratic Party of Hawai'i Education Caucus **supports the intent of and suggests amendments** for SB 3316, SD 1, relating to family leave, which provides employees with up to eight weeks of paid family leave during the first year after birth of the individual's child, adoption of a child by the individual, or placement of a child with the individual through foster care, and eight weeks of paid family leave to care for the individual's family member with a serious health condition during any benefit year, paid through an employer-based private insurance program currently used to provide for temporary disability benefits; repeals chapter 398, Hawaii Revised Statutes; and appropriates funds to the Department of Labor and Industrial Relations.

While we strongly support the establishment of a paid family leave program for Hawai'i's workers, **we urge the committee to pass a robust family leave program using the social insurance model, as contained in SB 2312.** Please hear SB 2312 or replace the contents of SB 3316 with the contents of SB 2312. We need to *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.

Kris Coffield · Chairperson, DPH Education Caucus · (808) 679-7454 · kriscoffield@gmail.com

LATE



HB 3316, SD 1, RELATING TO FAMILY LEAVE

FEBRUARY 23, 2022 · SENATE WAYS AND MEANS
COMMITTEE · CHAIR SEN. DONOVAN DELA CRUZ

POSITION: Supporting the intent with amendments.

RATIONALE: Imua Alliance supports the intent of and offers amendments for SB 3316, SD1, relating to family leave, which provides employees with up to eight weeks of paid family leave during the first year after birth of the individual's child, adoption of a child by the individual, or placement of a child with the individual through foster care, and eight weeks of paid family leave to care for the individual's family member with a serious health condition during any benefit year, paid through an employer-based private insurance program currently used to provide for temporary disability benefits; repeals chapter 398, Hawaii Revised Statutes; and appropriates funds to the Department of Labor and Industrial Relations.

While we strongly support the establishment of a paid family leave program for Hawai'i's workers, we urge the committee to pass a robust family leave program using the social insurance model, as contained in SB 2312. Please hear SB 2312 or replace the contents of SB 3316 with the contents of SB 2312. We need to *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.

Kris Coffield · Executive Director, Imua Alliance · (808) 679-7454 · kris@imuaalliance.org

SB-3316-SD-1

Submitted on: 2/20/2022 9:50:54 PM

Testimony for WAM on 2/23/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Thaddeus Pham	Individual	Support	No

Comments:

Aloha Chair Dela Cruz, Vice Chair Chang, and WAM Committee Members,

I write in strong support of SB3316 SD1, which would provide paid during certain important life circumstances for working families in Hawai'i.

As has been demonstrated during the ongoing COVID-19 pandemic, working families are most impacted when leave options are not available, leading to harmful impacts on local economies, public health, and social cohesion. As a public health professional, I recommend the measure because of the clear evidence of the positive outcomes of paid family leave on population health, as explicated by the American Public Health Association (<https://www.apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2014/07/16/11/05/support-for-paid-sick-leave-and-family-leave-policies>).

I fully support SB3316 SD1.

Thank you for your consideration of this testimony.

Thaddeus Pham (he/him)

LATE

SB-3316-SD-1

Submitted on: 2/22/2022 11:35:54 AM

Testimony for WAM on 2/23/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Cindy Nawilis	Individual	Support	No

Comments:

Dear Chair Dela Cruz, Vice Chair Keith-Agaran, and other members of the WAM committee:

I write in strong support of SB3316 SD1, which would provide paid leave benefits during certain important life circumstances for working families in Hawai'i. Many other developed countries have implemented family leave benefit policies that have positive outcomes for their populations. It is time for USA to follow suit to continue improving public health and the long-term economy.

Thank you for the opportunity to testify in support of this bill.

LATE

SB-3316-SD-1

Submitted on: 2/23/2022 6:10:03 AM

Testimony for WAM on 2/23/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Emily Miyasato	Individual	Support	No

Comments:

To: The Honorable Brian T. Taniguchi, Chair,

The Honorable Les Ihara, Jr., Vice Chair,

and Members of the Senate Committee on Labor, Culture and the Arts

Date: Wednesday, February 23, 2022

Time: 10:05 AM

Place: Conference Room 211, State Capitol & Videoconference

Re: S.B. 3316 RELATING TO FAMILY LEAVE

Aloha,

My name is Emily Miyasato. I am a Social Work student at the University of Hawaii Mānoa. I would like to provide testimony in favor of SB3316- Relating to family leave.

Hawaii was recently named the state with the highest cost of living (taking into account grocery, housing, and transportation costs) by the World Population Review. This makes taking off work to care for family members financially devastating. Without adequate support from their employer, employees who need to take time off to care for family are forced into debt and the prospect of working an additional job in the future, taking valuable time away from their family.

Additionally, the problems associated with unpaid leave disproportionately affect women as they are the primary caregivers for children and elderly parents.

The current policies (FLMA and HFLL) offer protected time off but not paid time off. Currently only 17% of the employed in Hawai'i are eligible for paid family leave.

This modest payroll deduction would provide protection to all employees regardless of their benefit status. While this may place an additional burden on small businesses, it could be alleviated by government programs offering subsidies on rent, insurance, taxes, etc.

Paid family leave would not only strengthen families and the community but contribute to a strong and satisfied workforce.

Thank you for your time in reading this testimony,

Emily Miyasato

Student- University of Hawai'i- Mānoa

ritz@hawaii.edu