

DAVID Y. IGE  
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CATHY BETTS  
DIRECTOR

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DEPUTY DIRECTOR

STATE OF HAWAII  
**DEPARTMENT OF HUMAN SERVICES**

P. O. Box 339  
Honolulu, Hawaii 96809-0339

February 11, 2021

TO: The Honorable Senator Brian T. Taniguchi, Chair  
Senate Committee on Labor, Culture and the Arts

FROM: Cathy Betts, Director

SUBJECT: **SB 679 – RELATING TO FAMILY LEAVE AND TEMPORARY DISABILITY INSURANCE.**

Hearing: Friday, February 12, 2021, 3:20 p.m.  
Via Videoconference, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) appreciates the intent of this measure and provides comments.

**PURPOSE:** The purpose of the bill provides employees with up to eight weeks of paid family leave during a one-year period paid through an employer based private insurance program currently used to provide for temporary disability benefits. Repeals chapter 398, Hawaii Revised Statutes.

In 2016, well before the impacts of the COVID-19 pandemic, the United States Department of Labor (US DOL) awarded the Hawaii State Commission on the Status of Women (HSCSW) a competitive grant. The US DOL Paid Leave Analysis grant program supported research and analysis to explore, develop, implement, and/or improve paid family and medical leave programs at the State and municipal levels. Through this grant, the HSCSW completed research in the following categories: economic analysis, eligibility, and benefit modeling; a feasibility and implementation study to carefully examine how a paid leave program could be

successfully implemented on the state level; public polling of Hawaii residents; focus groups of mothers, fathers, family caregivers, unions, small businesses, and large businesses.

Completed in September 2017, the research<sup>1</sup> provided a wealth of data on how successful and financially solvent paid leave programs can be implemented, using Hawaii-specific data and employee information. It is clear from the pandemic's impacts on working families, caregivers, and our kupuna, paid leave is an important life line for the health and economic recovery of our residents. In a pandemic in which working parents have exited the workforce in order to become caretakers, or juggled both work and caregiving responsibilities, we have seen how a lack of paid leave impacts our workforce, mental health, and the economy.

The resulting research examined the differences between privatized insurance and social insurance programs. Private insurance products increase in cost when usage increases, as the goal is to minimize risk. Those who traditionally subsume caregiving roles can be seen as "high risk" because of their caregiving responsibilities, and as such the cost of the private insurance product would then increase. This could create an incentive for employers to not hire those they believe may need to provide care to family members, those who may become pregnant, those with underlying health issues, etc., to avoid the potential costs that come with insuring them for family leave.

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

DHS has undertaken a multi-generational approach through its implementation of 'Ohana Nui, recognizing that Hawaii has the highest percentage of multi-generational households, the highest cost of housing, one of the highest costs of living, and the fastest

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<sup>1</sup> The see the complete report see, [https://www.capitol.hawaii.gov/CommitteeFiles/senate/LBR/LBRfiles/DOL\\_Hawaii-State-Paid-Family-Leave-Analysis-Grant-Report.pdf](https://www.capitol.hawaii.gov/CommitteeFiles/senate/LBR/LBRfiles/DOL_Hawaii-State-Paid-Family-Leave-Analysis-Grant-Report.pdf)

growing population of individuals aged 65 and older. Paid family leave is associated with better health outcomes for children and mothers; an increase in children receiving well-baby check-ups and vaccinations; increased bonding with children; and an increase in elderly individuals being able to age in place with family caregiver support. Research on current state paid leave programs reveal evidence that paid leave ensures fathers' ability to provide care for their families; increases mothers' labor force participation; and furthers a narrowing of the gender wage gap. Paid leave benefits families, communities, and the economy.

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



February 12, 2021

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: Friday, February 12, 2021  
Time: 3:20 p.m.  
Place: Conference Room 225, State Capitol

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

**Re: S.B. 679 RELATING TO FAMILY LEAVE AND TEMPORARY  
DISABILITY INSURANCE**

**I. OVERVIEW OF PROPOSED LEGISLATION**

SB679 proposes to amend Chapter 392, Hawaii Revised Statutes (HRS), to require employers to provide paid family leave insurance coverage to employees in addition to existing Temporary Disability Insurance (TDI) coverage requirements. The family leave insurance would pay up to eight weeks of benefits per year to eligible employees to care for a child upon birth or adoption of the child, or to care for a family member with a serious health condition. The bill also requires the establishment of a web-based Family Leave Data Collection system and a Family Leave Program system. Chapter 398, HRS, will be repealed by the bill.

DLIR supports the intent of this bill if sufficient staffing and resources are provided.

**II. CURRENT LAW**

Act 148 (SLH, 1969) established Hawaii's TDI program to address nonoccupational sickness or accident and the serious loss therefrom based upon Stefan Riesenfeld's LRB Report No. 1, 1969: [https://lrh.hawaii.gov/wp-content/uploads/1969\\_TemporaryDisabilityInsurance.pdf](https://lrh.hawaii.gov/wp-content/uploads/1969_TemporaryDisabilityInsurance.pdf). Hawaii became the fifth state along with Puerto Rico to offer a TDI benefit to workers. A special fund was established and funded by contributions from employers at a rate of .2% of covered wages from July 1, 1969 to December 31, 1969.

Chapter 392, HRS, requires employers to have TDI coverage that pays up to 26 weeks of partial wage replacement to eligible employees who are disabled from working. Benefits are not payable to employees who are capable of working, but take leave from work to care for another person.

Act 328 (SLH, 1991) established the Hawaii Family Leave Law (HFLL) and predates the Family and Medical Leave Act of 1993 enacted to balance the demands of the workplace with the needs of families, to promote the stability and economic security of families, and to promote national interests in preserving family integrity.

Chapter 398, HRS, the HFLL, 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.

§398-9.5 Family leave data collection system, establishment was passed on an override vote in the First Special Session of 2009. The administration did not take action on the new law and it has never been established.

### **III. COMMENTS ON THE HOUSE BILL**

The DLIR supports efforts to expand the economic security of workers and the provisioning of family leave through amending the TDI law. The department's support of this measure is predicated on sufficient resources and staffing to carry out the functions required by the adoption of the measure. This measure does not contain an appropriation.

The DLIR notes that is in the process of automating the information technology of the Disability Compensation Division (DCD). This modernization effort began in 2015 with an appropriation for business process optimization analysis and subsequent appropriations has allowed the DLIR to modernize its case management system. This case management system covers all three primary laws administered by DCD—Prepaid Healthcare, TDI, and Workers' Compensation.

This bill requires the establishment of a web-based Family Leave Data Collection system and a Family Leave Program system. The cost to develop and maintain the two systems is approximately \$6,000,000 exclusive of annual licensing and maintenance fees or staffing and support requirements. The amount of time to design, test, and implement both systems is estimated to be 3 years for the Family Leave Data Collection system and 2 years for the Family Leave Program system. The complete cost and time required to implement both systems will not be known until a system contractor can be acquired.

The establishment and maintenance of the Family Leave Data Collection system will be funded by the Trust Fund for Disability Benefits, a fund that is used to pay benefits to employees of liable employers who are bankrupt or who have not provided the requisite TDI coverage. In every year that the Fund falls below \$500,000, insurance carriers, uninsured employers, and self-insured employers,

including the State of Hawaii, will be assessed a levy to replenish the fund to \$500,000 pursuant to §392-67.

As the levy is based on wages paid, the levy for the State of Hawaii will be substantial every year. The levy will require resources to calculate and issue the levy to each employer and insurance carrier, collect and deposit the levy assessment, and perform enforcement actions on non-complying entities. The cost to determine, administer, collect, and record these annual levies will be borne by the Trust Fund for Disability Benefits.

As of the end of fiscal year 2020, the cash balance of the Fund was approximately \$2.6 million. The cost of establishing the Family Leave Data Collection system will deplete the Fund, and as this trust fund provides the economic protection to employees of bankrupt or non-compliant employers, these employees will be at risk of losing the economic protection the Fund was originally intended for.

This bill allows employers to provide the necessary coverage through an insurance policy, a self-insured plan backed by securities or a bond, a self-insured plan with proof of the employer's financial solvency, or by a plan or agreement accepted by the director of the department. Each option involves processes that will require time, personnel, and other departmental resources. For the insurance policy option, the insurance policies must be developed by insurance carriers and be approved by the State.

For self-insured employers placing a deposit or a bond, the department must establish bond requirements that will assure that the employees who claim benefits will be paid even if the self-insured employer is financially unable to pay the benefits. Employers that want to self-insure based on the employer's financial status must be audited by the department. DLIR expects that the number of self-insured plans being submitted will increase resulting in a need for additional auditors, equipment, and supplies to keep pace with the increased number of initial and continuing requests for financial review.

The department tracks employers' compliance with the TDI requirements and this task would extend to tracking employer compliance with the family leave insurance requirements. Additional personnel, equipment, supplies, and support will be needed to accurately track compliance. The department will also require additional personnel and supplies to ensure the requirements are enforced and complaints are addressed in a timely manner.

All told, the amount of additional funding required to carry out the provisions of this measure is estimated to be \$5,000,000 to develop the Family Leave Data Collection and the Family Leave Program systems, and \$755,720 annually for staffing and annual support requirements.

The proposed measure will also repeal chapter 398, HRS, which will result in the loss of the job and benefit protections provided by the HFLL in section 398-7, HRS. The DLIR notes that the purpose of chapter 398 is employment and benefits protection for workers and that protection does not exist in TDI.

By revising chapter 392 (TDI Law), HRS, the department will need to amend the associated Hawaii Administrative Rules (HAR) to assure that the TDI and the Family Leave benefits can be administered effectively and without cross-threading the provisions and benefits of each program. Some of the required revisions to the HAR include changes to definitions and details on how to prorate benefits for leave taken for less than a one-week period.

The department requests that the effective date of the bill be extended to July 1, 2026, to establish the Family Leave Data Collection and Family Leave Program systems, amend the related HAR, set up the programs that will enable employers to obtain coverage or have self-insured coverage approved, reorganize the divisions that handle chapters 392 and 398, HRS, and train staff and the public to implement and manage the revised law.

Extending the effective date will also allow the insurance industry time to develop family leave policies.

**SB-679**

Submitted on: 2/11/2021 9:29:18 AM

Testimony for LCA on 2/12/2021 3:20:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Tracy Keene Fischer	Testifying for Honolulu Board of Water Supply	Oppose	No

Comments:

I support the amendment HB5 to bill SB679. I support 16 weeks of paid family leave verse 8 weeks.



**Testimony to the Senate Committee on Labor, Culture and the Arts  
Friday, February 12, 2021 at 3:20 P.M.  
Via Videoconference**

**RE: SB 679, RELATING TO FAMILY LEAVE AND TEMPORARY DISABILITY  
INSURANCE**

Chair Taniguchi, Vice Chair Ihara, Jr., and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **does not support** SB 679 which:

1. Amends Parts I-IV of the Temporary Disability Insurance (TDI), Chapter 392, HRS;
2. Extends TDI to extend benefits to family leave;
3. Provides employees with up to 8 weeks of paid family leave during a one-year period paid through an employer based private insurance program currently used to provide for temporary disability benefits; and
4. Repeals Family Leave Chapter 398, HRS.

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 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 employee or employer perspectives, as well as from a one-size-fits-all approach by broaden the TDI benefits to now extending them to paid family leave.

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

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 Chamber membership poll completed in February 2021, we

found that majority of business provide some type of leave, such as PTO, paid sick leave, vacation, paid family leave, etc.

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 a mandate on employers and businesses.

Findings from a recent Paid Family Leave Program Impact Study<sup>1</sup> released in November 2019 brought concerns on what exactly a possible paid family leave program in Hawaii would look like and associated costs. 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)

In closing, while we appreciate the Legislature indicating their intention to address business relief in our state during this difficult COVID-19 pandemic, we have concerns about what type of message this SB 679 is giving to the business community.

Thank you for this opportunity to provide testimony.

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<sup>1</sup> Paid Family Leave Program Impact Study in Accordance with Act 109, SLH 2018  
[https://lrb.hawaii.gov/wp-content/uploads/2019\\_PaidFamilyLeaveProgramImpactStudy.pdf](https://lrb.hawaii.gov/wp-content/uploads/2019_PaidFamilyLeaveProgramImpactStudy.pdf)



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TO:

Committee on Labor, Culture and the Arts  
Senator Brian T. Taniguchi, Chair  
Senator Les Ihara, Jr., Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION  
Lauren Zirbel, Executive Director

DATE: February 12, 2021  
TIME: 3:20pm  
PLACE: Via Videoconference

RE: SB679 Relating to Family Leave and Temporary Disability Insurance

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 business community and our State's economy are still in crisis. Once the recovery process does start, our local businesses will need time to rebuild, and we will all need to work together to create an economy that is stronger, more diverse, and more resilient. This is the worst possible time to add an additional financial burden to our local businesses as they struggle to keep the doors open, keep serving their communities, keep providing jobs, and keep driving our economy.

Many Hawaii businesses already offer various types of paid leave, in a recent survey by the Chamber of Commerce Hawaii it was found that of Hawaii businesses:

- Over 92% provide some type of leave, such as PTO, paid sick leave, vacation, paid family leave, etc.
- Over 52% provide paid sick leave for FT employees; and
- Over 20% provide paid sick leave to PT employees.

The legislature should be supporting and working with our business community to find ways to enable more companies to offer this benefit. Creating an unsustainable burden in the form of a mandate is not the solution.

We have already seen dozens of businesses closures around the state, and unfortunately more are likely before this is over. Adding a new program that will not only cost the State money but also add to the struggles of our local businesses is not the right choice. We ask that this measure be held and we thank you for the opportunity to testify.

**SB-679**

Submitted on: 2/11/2021 9:37:17 AM

Testimony for LCA on 2/12/2021 3:20:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Michael Golojuch Jr	Testifying for LGBT Caucus of the Democratic Party of Hawaii	Support	No

Comments:

Aloha Senators,

The LGBT Caucus of the Democratic Party of Hawai'i, Hawaii's oldest and largest policy and political LGBTQIA+ focused organization, supports SB 679. This pandemic has highlighted the need for paid family leave.

We do prefer the language in House Bill 5 as it is more comprehensive.

Mahalo nui loa for your time and consideration,

Michael Golojuch, Jr.  
Chair  
LGBT Caucus of the Democratic Party of Hawai'i



**TESTIMONY OF TINA YAMAKI, PRESIDENT  
RETAIL MERCHANTS OF HAWAII  
FEBRUARY 12, 2021**

**Re: SB 679 RELATING TO FAMILY LEAVE & TEMPORARY DISABILITY INSURANCE**

Good afternoon Chairperson Taniguchi and members of the Senate Committee on Labor, Culture and the Arts. 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.

While we understand the intent of this measure, the Retail Merchants of Hawaii **OPPOSES** SB 679 Relating to Family Leave and Temporary Disability Insurance. This measure provides employees with up to eight weeks of paid family leave during a one-year period paid through an employer based private insurance program currently used to provide for temporary disability benefits; and repeals chapter 398, Hawaii Revised Statute.

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.

Furthermore, SB 679 would add another costly benefit to the list of operational increases to businesses that they cannot afford. 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, especially retailers are not able to afford these kinds of costly operational increases. We are already bracing for an increase in the unemployment insurance costs. Retailers since March have laid off employees, taken pay cuts, streamlined and pivoted their business, shortened hours of operations, and more to survive and keep their door open and as many of their employees employed. Every week we are seeing more and more local and national retailers closing their doors in Hawaii due to the pandemic. Bills like SB 679 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.

We respectfully ask that you hold this measure.

Again mahalo for this opportunity to testify.



**Greg Maples, Chairman** – Polynesian Cultural Center      **Tambara Garrick, Incoming Chair** – Pineapple Place  
**Tyler Roukema, Secretary** – Outrigger Canoe Club  
**Kahili Soon, Treasurer** – Hukilau Marketplace      **Tom Jones, Past Chair** – Gyotaku

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

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Date: February 10, 2021

To: Sen. Brian T. Taniguchi, Chair  
Sen. Les Ihara, jr., Vice Chair  
Comm. On Labor, Culture and the Arts

From: Victor Lim, Legislative Lead

Subj: SB 679 Relating to Family Leave and TDI

The Hawaii Restaurant Association representing 3,500 restaurants here in Hawaii is opposed to SB 679 that plans to expend TDI provisions to include payments for Family Leave.

Expanding the TDI benefits to also include family leave will not only increase the administrative compliance but you are asking the business to shoulder all of the increases in costs.

Our industry is one of the hardest hit by this Covid-19 pandemic and many restaurants that have been serving in the community for generations have closed. The one that that still in operation are dealing with razor thins margins due to the many restrictions imposed by the City and the State, and are in no position to absorb additional overhead to the business..This and many of the possible new mandates will only exacerbate in more restaurants going out of business.

Please do not pass this bill out of this committee. Thank you for this opportunity to provide our testimony.





Hawaii  
**Children's Action Network Speaks!**  
Building a unified voice for Hawaii's children

*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 679 - Relating to family leave and temporary disability insurance**  
Hawai'i State Capitol, Room 225  
February 12, 2021, 3:20 PM

Dear Chair Taniguchi, Vice Chair Ihara, and committee members,

**On behalf of Hawai'i Children's Action Network Speaks!, I am writing in SUPPORT with SUGGESTED AMENDMENTS to SB 679, relating to family leave and temporary disability insurance.** This bill would provide employees with up to eight weeks of paid family leave during a one-year period 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.<sup>1</sup> To fill that gap, in just the last five years, six states and the District of Columbia have passed paid family leave laws.<sup>2</sup> 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.<sup>3</sup>

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.

SB 679 adds eight weeks of leave for caregiving to our current private temporary disability insurance system and is a step in the right direction, but which unfortunately falls short of what Hawai'i's working families and employers need. For that reason, we respectfully request that SB 679 be **AMENDED to reflect the language contained in HB 5**, 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.

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

<sup>2</sup> <https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-leave/state-paid-family-leave-laws.pdf>

<sup>3</sup> [https://d3n8a8pro7vhmx.cloudfront.net/goodbeginnings/pages/196/attachments/original/1521088265/FLI\\_Short\\_Piece.pdf](https://d3n8a8pro7vhmx.cloudfront.net/goodbeginnings/pages/196/attachments/original/1521088265/FLI_Short_Piece.pdf)





Hawaii

**Children's Action Network Speaks!**  
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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.<sup>4</sup> 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 SB 679 with our suggested amendments.

Thank you,

Nicole Woo, Director of Research and Economic Policy

<sup>4</sup>[https://d3n8a8pro7vhmx.cloudfront.net/goodbeginnings/pages/196/attachments/original/1521088022/Hawaii\\_Family\\_Leave\\_Insurance\\_Analysis\\_Report.pdf](https://d3n8a8pro7vhmx.cloudfront.net/goodbeginnings/pages/196/attachments/original/1521088022/Hawaii_Family_Leave_Insurance_Analysis_Report.pdf)



Breastfeeding Hawaii  
P.O. Box 4270  
Kaneohe, Hawaii 96744

TO: Senator Brian T. Taniguchi Chair.  
Senator Les Ihara, Jr., Vice Chair  
Members of the Committee on Labor, Culture and the Arts

FROM: Patricia Bilyk, RN, MPH, MSN, IBCLC (Retired)  
Breastfeeding Hawaii Board Member  
Maternal Infant Clinical Nurse Specialist

RE: SB 679 Relating to Family Leave and Temporary Disability Insurance

Good Afternoon Chair Taniguchi, Vice Chair Ihara, and Members of the Committee on Labor, Culture and the Arts. I am Patricia Bilyk, a Breastfeeding Hawaii Board Member. Today I am speaking for Breastfeeding Hawaii IN SUPPORT of SB 679 with the following amendments to:

Adopt the language of HB5 which provides a more comprehensive paid family leave system including 16 weeks paid leave and special provisions for public health emergencies.

Breastfeeding Hawaii is a non profit 501c3 organization which supports, protects and promotes breastfeeding in the State of Hawaii. The organization further works to educate the public, businesses and health professionals on the long term value of breastfeeding to our community, and the woman and her infant, and the importance of a longer leave period for the new mother before returning to work to establish her relationship with her infant.

Daily the board of Breastfeeding Hawaii, and other breastfeeding supporters in our State, work with families who must choose between taking time away from work to care for their new baby or a sick infant and receiving a paycheck. No one should be in that position!

At the present time, 9 states, the District of Columbia and the Federal Government have adopted Paid Family Leave Programs. The US, as a country, is the only high income nation in the world that does not universally offer a Paid Family Leave Program for all employees.

According to the Society for Human Resources Managers 2019-Employee Benefits Survey, more employees are demanding Paid Family Leave. According to this Survey, Paid Family Leave was associated with 1) increased worker productivity, 2) increased engagement in the workplace/job and 3) better physical wellness.

Hawaii needs to adopt a state run, job protected, partial wage replacement Paid Family Leave Program. Such a program guarantees that the employee, often a woman, is able to

care for herself, her baby, or a spouse with a serious illness or an elderly dying parent without concern for surviving without pay for a prolonged period of time.

Components of a state run Paid Leave Program would include but are not limited to:

- \*\*16 weeks wage replacement
- \*\*all employees/employers contribute
- \*\*covers life events such as new baby, sick spouse
- \*\*broad definition of family
- \*\*job protection
- \*\*opt in for self employed individual
- \*\*education for employers and employees on program
- \*\*progressive wage replacement
- \*\*Department of Labor and Industrial Relations administer the program

We strongly encourage this Committee to be pono and do the right thing for Hawaii families this year by creating a MUCH NEEDED Paid Family Leave Program that is sensitive to the needs of all families! The time is NOW to have such a Statewide Program.

Thank you for this opportunity to testify.



**INTERNATIONAL LONGSHORE & WAREHOUSE UNION**  
LOCAL OFFICE • 451 ATKINSON DRIVE • HONOLULU, HAWAII 96814 • PHONE 949-4161

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## LOCAL 142

The Thirty-First Legislature  
Regular Session of 2021

### THE SENATE

Committee on Labor, Culture, and the Arts

Senator Brian T. Taniguchi, Chair

Senator Les Ihara, Jr., Vice Chair

State Capitol, Conference Room 225

Friday, February 12, 2021; 3:20 p.m.

### STATEMENT OF THE ILWU LOCAL 142 ON S.B. 679 RELATING TO FAMILY LEAVE AND TEMPORARY DISABILITY INSURANCE

The ILWU Local 142 **supports** S.B. 679, which provides employees with up to eight weeks of paid family leave during a one-year period paid through an employer based private insurance program currently used to provide for temporary disability benefits and repeals chapter 398, Hawaii Revised Statutes.

The ILWU Local 142 strongly supports paid family leave for all workers in Hawaii. Nearly every country provides some form of paid family leave except for the United States. Fortunately, states across the country such as California, New Jersey, Rhode Island, New York, Washington, Massachusetts, Connecticut, Oregon, and Colorado have enacted paid family leave laws with other states likely to follow.

And the reality is simple - without paid family leave, workers in Hawaii do not have the financial ability to take time off from work to care for their child or sick family member and hard decisions must be made. Often, the child or family member suffer and are not provided the proper care they need. This is unfortunate but fortunately, S.B. 679 addresses some of these concerns and allows for much-needed paid family leave.

One suggested amendment would be to increase paid family leave from 8 weeks to 16 weeks to ensure parents have enough time to properly care for their children.

We recommend passage of S.B. 679.

Thank you for the opportunity to testify.



**SB-679**

Submitted on: 2/10/2021 12:56:39 PM

Testimony for LCA on 2/12/2021 3:20:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Emily Hayne	Individual	Support	No

Comments:

I'm a constituent Senate District 25 and am writing in support of the paid family leave bill being discussed on February 11, 2021, SB 679. I support the bill "with amendments" to adopt the language of HB 5.

As a newly expecting first-time mother, I've been incredibly disheartened to learn about the lack of support available to new parents or individuals that may need to provide assistance to ill or aging family members. While I have the support of a partner and a financial safety net, I cannot imagine the strain our lack of paid family leave puts on the average family, during what is already a stressful and challenging time. As a woman, I'm also discouraged by the disadvantage this places on women, who make up roughly half of our Hawaii labor force.

I support the bill with amendments because the option to take job-protected, paid leave is critical for providing equal opportunity and keeping women in the workforce. This is particularly important for low-income mothers and caregivers. For fathers or partners to have access to paid leave supports not only the mother, but also the development and health of our keiki.

I hope that you'll support SB 679 with amendments to adopt the language of HB 5.

Friday, February 12, 2021 at 3:20 PM  
Via Video Conference

**Senate Committee on Labor, Culture and the Arts**

To: Senator Brian Taniguchi, Chair  
Senator Les Ihara, Jr., Vice Chair

From: Sunshine Topping  
Senior Vice President, Human Resources & Organizational Effectiveness

Re: **Comments on SB 679**  
**Relating to Family Leave and Temporary Disability Insurance**

---

My name is Sunshine Topping, and I am the Senior Vice President of Human Resources and Organizational Effectiveness at Hawai'i Pacific Health. Hawai'i Pacific Health is a not-for-profit health care system comprised of its four medical centers – Kapi'olani, Pali Momi, Straub and Wilcox and over 70 locations statewide with a mission of creating a healthier Hawai'i.

**I write to provide comments on SB 679** which proposes to provide employees with up to eight weeks of paid family leave during a one-year period paid through an employer based private insurance program currently used to provide temporary disability benefits, and repeals chapter 398 Hawaii Revised Statutes (HRS) on family leave. The measure combines temporary disability insurance with paid family leave.

HPH supports the intent of SB 679 and already has policies and procedures in place that enable an employee to take family leave in order to care for a family member in need. We are concerned, however, of the overall operational impact the measure would have on employers in general. Hawai'i suffers from the negative perception of being a less than friendly business environment. Mandating that business now contribute to the paid family leave fund imposes yet another financial obligation on employers which, in light of the COVID-19 pandemic, is burdensome to many businesses, especially those that are struggling to keep their doors open.

There are additional considerations that are not addressed in this measure, such as the projected long-term impact in terms of cost trends, leave utilization, over-time costs to employers, increase in Premium Pay costs, turn-over increase to burn-out, and temporary staffing costs. Other considerations which may affect implementation of paid family leave benefits in addition to the financial stability of the program include:

- Cost of elder care is rising and more seniors are opting to “age in place”;
- More elderly parents are not living near family that can support them, requiring employees to travel to other parts of the country such that travel time must be considered;
- People are living longer;
- Should paid family leave include the care of a parent, usage will increase dramatically based on the above.

We are also concerned that employers with existing policies addressing family leave are not given the ability to “opt out” of the paid family leave program. It is unclear as to what happens to current employer programs (leave policies, PTO, ESL). This will result in confusion on the part of both employers and employees.

If this measure were to move forward, we would request that employers who already meet or exceed the requirements of this bill through PTO, leave policies, ESL, or other programs, be allowed to be exempted.

Thank you for the opportunity to testify.



## of Hawaii

To: Hawaii State Senate Committee on Labor, Culture, and the Arts

Hearing Date/Time: Thursday February 11, 3:20PM

Place: Hawaii State Capitol, Room 225

Re: Testimony in SUPPORT of S.B. 679

Dear Chair Taniguchi, Vice Chair Ihara, and Members of the Committee,

Members of AAUW of Hawaii are grateful for this opportunity to testify in support of SB679, which would provide family leave insurance benefits and extend period of family leave to eight weeks. We only request for an amendment to extend period of family leave to sixteen weeks to give an adequate time to allow workers to care for a newborn or to care for loved ones with as serious injury or illness.

AAUW works toward greater availability of and access to a high standard of benefits and policies that promote work-life balance including family leave. Without these policies, balancing the responsibilities of work and family can be difficult for employees, negatively impacting productivity, engagement, and wellness. According to Aloha United Way 2017 ALICE Report, 48% of Hawaii households are struggling to afford basic needs and if these families can barely make ends meet while working full-time, there is no way they could survive without pay. Without paid family leave, many workers will be forced to decide between taking care of a loved one or livelihood.

The American Association of University Women (AAUW) of Hawaii is a state-wide organization made up of six branches (Hilo, Honolulu, Kauai, Kona, Maui, and Windward Oahu), and over 3800 members and supporters statewide. As advocates for gender equity, AAUW of Hawaii promotes the economic, social, and physical well-being of all persons.

Please pass this important measure with requested amendment. Mahalo.

A handwritten signature in blue ink, appearing to read "Younghee Overly".

Younghee Overly, Public Policy Chair, AAUW of Hawaii





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**MAILING ADDRESS**

Bill South  
Zahava Zaidoff  
P.O. Box 23404  
Honolulu  
Hawaii 96823

February 10, 2021

TO: Chair Taniguchi and members of LCA Committee

RE: SB 679 Relating to Family Leave and Temporary Disability Insurance

Support for hearing on February 12

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

We support SB 679 as we support paid family leave insurance. Below is an article we had published in Civil Beat. It makes our case.

Paid Family Leave Insurance  
By John Bickel and Megan Tagami  
Americans for Democratic Action Hawaii

President Dwight Eisenhower fought against the “pro-business” interests in 1956 to successfully pass the Disability Insurance amendment to the Social Security Act. Although Europeans had provided this public benefit to all its workers for decades, the Chamber of Commerce interests argued it was too expensive and burdensome to business to be worth it. Yet Congress knew that injuries were bankrupting many families and putting severe financial strain on others. The need was great. The benefits helped both individual workers and the economy as a whole. Fortunately Eisenhower succeeded.

This is parallel to our situation today with the fight for Paid Family Leave Insurance. Europeans have had it successfully for years. Business interests including one interpretation of the recently published study from the Hawaii Legislative Reference Bureau claim it will be onerous to business. Yet we know that too many families are burdened with infant care or elder care, causing financial hardship and even bankruptcy.

Current programs of the Federal Family and Medical Leave Act (FMLA) and the Hawaii Family Leave Law (HFLL) provide a basis for workers to take time off work to act as caregivers when the need arises. There are limitations that prevent both of these programs from providing adequate benefits, however. Both the FMLA and HFLL only cover 60% of workers<sup>1</sup> on both the national and state level and neither program offers paid time off. This essentially discourages workers from using these programs and creates greater financial burdens for those who do choose to take the leave.

In 2017 working families on the national level lost \$20.6 billion in wages due to the lack of paid family leave; on the state level, they lost approximately \$2 billion in 2011 when caring for loved ones. These statistics show that lack of paid leave clearly has a negative effect on families and has the potential to force workers, especially those with low incomes, to choose between financial stability and care-giving duties.

When most people think of family leave, they think of care for infants. The 2017 Hawaii State Paid Family Leave Analysis Grant Report projects that almost 70% of the Paid Family Leave claims would be related to bonding and caring for a newborn.

Family leave is important for fathers. As seen in studies from states already providing Paid Family Leave Insurance, a lack of paid leave discourages men, especially fathers, from taking time off to care for family members. Thus, the responsibility of care-giving falls heavily upon women: on a national level, women make up approximately 75% of informal caregivers. Only 22% of women have employers offering paid maternity leave. Some mothers in the state of Hawaii may receive temporary disability insurance after giving birth, but this program solely covers the time needed to recover from complications from childbirth. It also fails to cover families adopting an infant.

Family leave for mothers pays multiple dividends. In a California study, women who took paid family leave were more likely to initiate breastfeeding and continue breastfeeding for longer periods of time than those who did not take paid family leave. Taking the leave decreases the risk of health problems for babies, which includes asthma, diabetes, eczema, and Sudden Infant Death Syndrome. It also decreases a mother's chance at developing breast and ovarian cancer, diabetes, and hypertension after childbirth. Moreover, mothers in a New York survey were more likely to report experiencing depression in the year following the birth of their child if they took less than six weeks of leave and were more likely to report experiencing poor health if they took less than four weeks of leave. It is a testimony to the maternal benefits of paid family leave that women who take paid leave for bonding purposes are 40% less likely to use food stamps than women who return directly to work after childbirth.

This responsibility of caring for a child can negatively impact careers as 29% of women workers cite relinquishing a promotion, training, or assignment to care for a family member. Twenty percent report that they gave up full-time employment to become an informal caregiver. In Hawaii, 63% of children grow up in households in which both parents work, so it is likely that a woman will be both the caregiver of the family and a source of income as well.

While 70 percent of claims relate to infant care, the bulk of the rest of the claims are for elder-care. *Kupuna* are a cherished and growing part of the population. This segment of the population is on track to increase by 310% between 1980 and 2035. The “silver tsunami” of people over the age of 60 is expected to boost their share of the population to approximately 29% by 2040. Unfortunately, many workers struggle to care for the needs of their dependent and elderly family members.

While paid family leave is beneficial for parents and newborns alike, it also offers benefits to businesses as well. In a California study on the impact of paid family leave on both large and small businesses, employers reported that implementing the program increased their employee retention rate and thus helped them to save a total of \$89 million a year due to their lower turnover rates. In the study, the benefits of Paid Family Leave were especially seen in “low-quality” job industries, in which 83% of workers returned to their employer after taking paid family leave, 10% more than those who did not take paid family leave. Moreover, 89% of employers said that paid family leave had either a positive effect or no effect on their workers’ productivity and 91% reported no impact or a positive impact on their businesses’ performance and profitability. Perhaps surprisingly, small businesses with 100 or less employees were less likely to report negative effects than larger ones, possibly because these businesses already had well-established coping mechanisms to deal with employee absenteeism prior to the implementation of the paid family leave program.

Eight states—California, Massachusetts, New Jersey, New York, Rhode Island, Washington, Connecticut, and Oregon, as well as the District of Columbia—have already established Family Leave Insurance programs, or have recently passed legislation to create their own programs in the near future. Many states model their Paid Family Leave Insurance programs after their temporary disability insurance programs, and, thus, majority of the paid family leave programs are under the control of the state.

However, almost like Hawaii, New York’s temporary disability insurance is largely provided by employers’ private insurance companies, rather than directly run by the state. New York does have a State Insurance Fund competing with private plans. The state’s statutory plan offers generous benefits, including ten weeks of leave, currently the longest amount offered by any paid family leave program in the country, full job protection, a benefit only a handful of states currently provide, and a moderate 55% wage replacement rate. Employees are required to contribute .153% of their incomes as employers are not required to take on any of the costs of the program.

As New York and Hawaii both rank within the top three states in terms of cost of living and already have employer-run temporary disability insurance programs set in place, New York’s paid family leave program is likely the most realistic basis (yet not perfectly aligned) on which Hawaii can form its own program. For Hawaii it would be reasonable to have a plan by which both employer and employee share the cost.

Regarding worker contributions to the costs of the program, the percentage of workers' incomes varies from state to state, ranging from .08% of incomes in New Jersey to 1.2% in Rhode Island, as of 2017. Differences in employee contributions could be attributed to the extent of benefits of each state, such as length of leave and rate of wage replacement, as well as the varying costs of sustaining a family in each state. Notably, Oregon's paid family leave law, passed in the summer of 2019, proposes that employers will pay 40% of the program costs, with the exception of small businesses employing less than 25 workers. The Oregon paid family leave program is the first of its kind to mandate a split in costs between employers and employees, and this model could be adopted in Hawaii's statutory plan as local employers and employees already equally split the cost of the temporary disability insurance program.

Paid Family Leave Insurance is a very important benefit for infants, working mothers, caring fathers, kupuna, children of kupuna, employees, and probably employers. Of course the program is not free. Yet the benefits outweigh the costs. Our legislature must not get caught up in bickering over who pays how much or business interests crying wolf. Just as the Social Security Act and its Disability Insurance amendment, we need politicians with courage to stand up to the nay-sayers and pass a bill to meet the large and growing needs of families. May they put the rhetoric of valuing ohana into policy. Pass a Paid Family Leave Insurance bill!

John Bickel is President of Americans for Democratic Action and Megan Tagami is one of its interns.

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<sup>i</sup> *Hawaii State Paid Family Leave Analysis Grant Report (Executive Summary)*, report, November 2017, 1, accessed June 15, 2019, [https://www.dol.gov/wb/media/Hawaii\\_Report\\_Final\\_2.pdf](https://www.dol.gov/wb/media/Hawaii_Report_Final_2.pdf).

<sup>i</sup> Stern, Ivette Rodriguez, Sylvia Yuen, and Shi-Jen He. "Hawaii's Strong Families." 6. Accessed July 4, 2019. <http://uhfamily.hawaii.edu/publications/papers/StrongFamilies.pdf>.

<sup>i</sup> Nonprofit Finance Fund, *Caring for Our Kupuna: Building an Aging in Place Movement in Hawaii*, Hawaii Community Foundation, [www.hawaiicomunityfoundation.org](http://www.hawaiicomunityfoundation.org), 2, accessed July 4, 2019, <https://www.hawaiicomunityfoundation.org/file/pdfs/Caring-for-Our-Kupuna-Study.pdf>.

<sup>i</sup> Jenjira Yahirun and Hua Zan, *Uhfamily.hawaii.edu,report*, Center on the Family, University of Hawaii, 2016, 1, accessed July 4, 2019, [http://uhfamily.hawaii.edu/publications/brochures/6a78a\\_477d1\\_Hawaiis\\_Older\\_Adults\\_A\\_Demo\\_graphic\\_Profile\\_HZ\\_091316\\_v2.pdf](http://uhfamily.hawaii.edu/publications/brochures/6a78a_477d1_Hawaiis_Older_Adults_A_Demo_graphic_Profile_HZ_091316_v2.pdf).

<sup>i</sup> *Hawaii State Paid Family Leave Analysis Grant Report (Executive Summary)*, report, November 2017, 1, accessed June 15, 2019, [https://www.dol.gov/wb/media/Hawaii\\_Report\\_Final\\_2.pdf](https://www.dol.gov/wb/media/Hawaii_Report_Final_2.pdf).

<sup>i</sup> The Women's Initiative. "Paid Family and Medical Leave: By the Numbers." [www.americanprogress.org](http://www.americanprogress.org). September 27, 2017. Accessed June 28, 2019.

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<https://www.americanprogress.org/issues/women/reports/2017/09/27/439527/paid-family-medical-leave-numbers/>.

<sup>i</sup> "Paid Family Leave." [Www.hmhb-hawaii.org](http://www.hmhb-hawaii.org). Accessed July 3, 2019. <https://www.hmhb-hawaii.org/information/paid-family-leave/>.

<sup>i</sup> "The Child Development Case for a National Paid Family and Medical Leave Program." [Www.zerotothree.org](http://www.zerotothree.org). December 2018. Accessed June 20, 2019. <https://www.zerotothree.org/resources/204-the-child-development-case-for-a-national-paid-family-and-medical-leave-program>.

<sup>i</sup> Jeffery Hayes, *Usage and Cost of Parental and Family Care Leave in Hawaii*, report, November 2017, 20, accessed June 15, 2019, [https://www.dol.gov/wb/media/Hawaii\\_Report\\_Final\\_2.pdf](https://www.dol.gov/wb/media/Hawaii_Report_Final_2.pdf).

<sup>i</sup> Neuhauser, Maxine, and Alkid Kacani. "New Jersey Expands Paid Family Leave Laws to Cover More Employers, Double Leave Time, Increase Uses, and Raise Benefits." [Www.ebglaw.com](http://www.ebglaw.com). March 04, 2019. Accessed June 28, 2019. <https://www.ebglaw.com/news/new-jersey-expands-paid-family-leave-laws-to-cover-more-employers-double-leave-time-increase-uses-and-raise-benefits/>.

<sup>i</sup> United States Department of Labor, *Paternity Leave: Why Parental Leave For Fathers Is So Important For Working Families*, policy brief, 2012, 3, accessed July 3, 2019, <https://www.dol.gov/asp/policy-development/PaternityBrief.pdf>.

<sup>i</sup> Eileen Appelbaum and Ruth Milkman, *Leaves That Pay: Employer and Worker Experiences with Paid Family Leave in California*, report, January 2011, 7, accessed July 2, 2019, <http://cepr.net/documents/publications/paid-family-leave-1-2011.pdf>.

<sup>i</sup> *Paid Family Leave: Study of City Workers in NYC*, report, 1, accessed July 18, 2019, [https://www.dol.gov/wb/media/Paid\\_Family\\_Leave-Study\\_of\\_City\\_Workers\\_in\\_NYC.pdf](https://www.dol.gov/wb/media/Paid_Family_Leave-Study_of_City_Workers_in_NYC.pdf).

<sup>i</sup> *H.B. NO. 2136 Relating to Family Leave: Testimony to the House Committee on Labor and Public Employment*, Hawaii State Legislature Cong., 14 (2018) (testimony of Will Caron).

<sup>i</sup> "Paid Family Leave."

<sup>i</sup> Appelbaum and Milkman, "Leaves That Pay," 24.

<sup>i</sup> Rizzo, Albert. "New York State Paid Family Leave Act 2019 - FMLA 2019." [Www.nycbar.org](http://www.nycbar.org). January 2018. Accessed June 27, 2019. <https://www.nycbar.org/get-legal-help/article/employment-and-labor/family-medical-leave-act-fmla/new-york-state-paid-family-leave-act/>.

<sup>i</sup> Jackson Brainerd, *Paid Family Leave in the States*, report, August 2017, 2, accessed June 20, 2019, <http://www.ncsl.org/LinkClick.aspx?fileticket=krAvd-XY2OM=&tabid=31635&portalid=1>.

<sup>i</sup> Bowler, Sharon, and Jason Stanevich. "Connecticut Set to Offer Nation's Most Generous Paid-Family-Leave Benefits." [Www.shrm.org](http://www.shrm.org). June 17, 2019. Accessed July 5, 2019. [https://www.shrm.org/resourcesandtools/legal-and-compliance/state-and-local-updates/pages/connecticut-set-to-offer-most-generous-paid-family-leave-benefits.aspx?\\_ga=2.140709617.27418623.1562387296-1115001010.1559786150](https://www.shrm.org/resourcesandtools/legal-and-compliance/state-and-local-updates/pages/connecticut-set-to-offer-most-generous-paid-family-leave-benefits.aspx?_ga=2.140709617.27418623.1562387296-1115001010.1559786150).

<sup>i</sup> *Paid Family Leave Study Polling*, report, November 2017, 15, accessed June 15, 2019, [https://www.dol.gov/wb/media/Hawaii\\_Report\\_Final\\_2.pdf](https://www.dol.gov/wb/media/Hawaii_Report_Final_2.pdf).

<sup>i</sup> *H.B. NO. 2136 Relating to Family Leave: Testimony to the House Committee on Labor and Public Employment*, Hawaii State Legislature Cong., 8 (2018) (testimony of PHOCUSED).

<sup>i</sup> Barbara E. Silver, Helen Mederer, and Emilija Djurdjevic, *Launching the Rhode Island Temporary Caregiver Insurance Program (TCI): Employee Experiences One Year Later*, report, University of Rhode Island, April 2016, 35, accessed July 3, 2019, [https://www.dol.gov/wb/media/RI\\_paid\\_leave\\_report.pdf](https://www.dol.gov/wb/media/RI_paid_leave_report.pdf).

<sup>i</sup> *Hawaii State Paid Family Leave Analysis Grant Report (Executive Summary)*, 9.

<sup>i</sup> Brainerd, *Paid Family Leave in the States*, 2.

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- <sup>1</sup> Sarah Jane Glynn, *Paid Family Leave Program Development and Administration: Hawaii*, report, November 2017, 13, accessed June 15, 2019, [https://www.dol.gov/wb/media/Hawaii\\_Report\\_Final\\_2.pdf](https://www.dol.gov/wb/media/Hawaii_Report_Final_2.pdf).
- <sup>2</sup> "The Child Development Case for a National Paid Family and Medical Leave Program." Zero to Three. December 2018. Accessed June 20, 2019. <https://www.zerotothree.org/resources/204-the-child-development-case-for-a-national-paid-family-and-medical-leave-program>.
- <sup>3</sup> *Hawaii State Paid Family Leave Analysis Grant Report (Executive Summary)*, 7
- <sup>4</sup> Brainerd, *Paid Family Leave in the States*, 2.
- <sup>5</sup> "Family and Medical Leave Act (FMLA)." New York State. Accessed July 4, 2019. <https://paidfamilyleave.ny.gov/paid-family-leave-and-other-benefits>.
- <sup>6</sup> Cassandra D. Engeman, *Ten Years of the California Paid Family Leave Program: Strengthening Commitment to Work, Affirming Commitment to Family*, report, Department of Sociology, University of California, Santa Barbara, September 2012, 6, accessed July 2, 2019, <http://crwsj.projects.femst.ucsb.edu/engagements/pdf/Engeman-PFL-Policy-Brief.pdf>.
- <sup>7</sup> Suma Setty, Curtis Skinner, and Renee Wilson-Simmons, *Protecting Workers, Nurturing Families: Building an Inclusive Family Leave Insurance Program*, report, Mailman School of Public Health, Columbia University, March 2016, 5, accessed June 20, 2019, [http://nccp.org/publications/pdf/text\\_1152.pdf](http://nccp.org/publications/pdf/text_1152.pdf).
- <sup>8</sup> *First Impressions: Comparing State Paid Family Leave Programs in Their First Years*, report, February 2015, 5, accessed June 25, 2019, <http://www.nationalpartnership.org/our-work/resources/workplace/paid-leave/first-impressions-comparing-state-paid-family-leave-programs-in-their-first-years.pdf>.
- <sup>9</sup> Barbara E. Silver, Helen Mederer, and Emilija Djurdjevic, *Launching the Rhode Island Temporary Caregiver Insurance Program*, 29.
- <sup>10</sup> S Peterkin, Olivia. "Why Hawaii Trends Toward Large And Extended Families." Honolulu Civil Beat. November 21, 2017. Accessed July 4, 2019. <https://www.civilbeat.org/2017/11/why-hawaii-trends-toward-large-and-extended-families/>.
- <sup>11</sup> *Grandfacts: State Fact Sheets for Grandfamilies*, report, 1, accessed June 27, 2019, <http://www.grandfamilies.org/Portals/0/State Fact Sheets/Grandfamilies-Fact-Sheet-Hawaii.pdf>.

**SB-679**

Submitted on: 2/10/2021 10:15:58 AM

Testimony for LCA on 2/12/2021 3:20:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Laurie Field	Testifying for Planned Parenthood Votes Northwest and Hawaii	Support	No

Comments:

Planned Parenthood Votes Northwest and Hawaii supports SB 679 with amendments to adopt the language of [HB 5](#), which provides a more comprehensive paid family leave system, including up to 16 weeks of paid leave and special provisions for public health emergencies.

**SB-679**

Submitted on: 2/11/2021 12:45:36 AM

Testimony for LCA on 2/12/2021 3:20:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Christy MacPherson	Individual	Support	No

Comments:

I support SB679 with amendments to include up to 16 weeks of paid leave and provisions for public health emergencies.

When I was the program manager of a homeless shelter on O`ahu, many of the jobs that the parents in our program had were low-wage, non-exempt/hourly jobs and their work hours were subject to change at any given moment. If an employer sees that their employee is not able to work the hours they need them to, they move on to the next worker and let go of the other one. I have seen many homeless parents lose their jobs because they had to miss work to care for a sick child or family member for whom they were the primary caregiver, falling deeper into homelessness. I have also known of former families who were once housed being evicted because of the same reason and becoming homeless *again*.

I was a single mom for many years and was fortunate to have a strong support system when one of my children fell ill. However, many single moms do not have that same kind of support, left to fend for themselves.

How are we showing Hawai`i's workers who are raising our keiki or selflessly caring for our kupuna that we value them when we don't offer them any other option but to reluctantly give up their jobs- their livelihoods? This is the present reality and it's not alright.

Paid Family Leave could prevent this from happening for a little over \$1/week for the average employee. Thank you for your consideration.



# *Celebrating 120 Years*

**Creating Opportunities**

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**HONOLULU JAPANESE CHAMBER OF COMMERCE**

FOSTERING FRIENDSHIPS • CONNECTING B2B • MĀLAMA KA ʻĀINA

February 10, 2021

Honorable Brian T. Taniguchi, Chair  
Honorable Les Ihara, Jr., Vice Chair  
Committee on Labor, Culture and the Arts  
The Senate  
State Capitol  
415 South Beretania Street  
Honolulu, Hawai'i 96813

Re: S.B. NO. 679, RELATING TO FAMILY LEAVE AND TEMPORARY DISABILITY INSURANCE

Dear Chair Taniguchi, Vice Chair Ihara and Committee Members:

On behalf of the Honolulu Japanese Chamber of Commerce, we respectfully submit the following written comments on Senate Bill No. 679, relating to family leave and temporary disability insurance. As noted in the Legislative Reference Bureau's Paid Family Leave Impact Study dated November 13, 2019, as revised on December 5, 2019, the adoption of a paid family leave mandate is a complex undertaking and adequate time for implementation is required. The recommendations noted in the LRB Study include the following:

For new states seeking to enact a paid leave system, industry professionals offer the following advice, some of which is thought to encourage gender equity and even increase state to state equity: \* \* \*

- Allow for adequate timing to implement a new program, which is felt to be at least two years but ideally two to three years, starting with the point at which legislation is developed so that parameters can be clearly-defined and administration requirements well thought out, and a thorough job can be done to estimate cost
- Leverage industry experts (e.g., insurance carriers, TPAs, brokers and consultants) in all steps of the paid leave law development process, as they have been managing both paid and unpaid leave for years and can provide valuable insight into industry and market best practices. Invite industry to comment on draft regulations, provide input on process and administrative nuances. Hire people with industry experience into state departments as applicable, and work closely with department of insurance counterparts to ensure effective coordination

Honorable Brian T. Taniguchi, Chair  
Honorable Les Ihara, Jr., Vice Chair  
Committee on Labor, Culture and the Arts  
February 10, 2021  
Page 2

Senate Bill No. 679 would implement a paid family requirement upon approval, in the midst of a continuing economic depression as a result of the Covid-19 pandemic. We respectfully submit that consideration must be given to the economic effects of the Covid-19 pandemic on Hawaii businesses and that these amplify the need identified in the LRB Study for a deliberative and inclusive process to resolve the many issues identified in the LRB Study. As such, we believe that the immediate adoption of a paid family leave mandate would be premature.

Thank you for your consideration of the foregoing.

Very truly yours,



Wayne Ishihara  
President and CEO



Peter Hamasaki  
Chair, Government Affairs Committee

**SB-679**

Submitted on: 2/11/2021 7:44:54 AM

Testimony for LCA on 2/12/2021 3:20:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lehua Kaulukukui	Testifying for Puakalehua Early Learning Consortium	Support	No

Comments:

We support this bill **with amendments** to adopt the language in [HB5](#), which provides a more comprehensive paid family leave system, including up to 16 weeks of paid leave and special provisions for public health emergencies.

Thank you,

Puakalehua Early Learning Consortium

February 11, 2021

The Honorable Brian T. Taniguchi, Chair  
The Honorable Les Ihara Jr., Vice-Chair  
Members of the Senate Labor, Culture and Arts Committee

RE: Hawaii Senate Bill 679, SUPPORT

Dear Chair Taniguchi, Vice-Chair Ihara and members of the Labor, Culture and Arts Committee:

On behalf of all the people we serve in Hawaii, including the 5,279 residents currently living with End Stage Renal Disease (ESRD) who are hoping for a transplant we respectfully ask for your support for SB 679, which provides eight weeks of paid family and disability leave, which includes living organ donors.

The American Kidney Fund (AKF), based in Rockville, Maryland is the nation's leading nonprofit organization working on behalf of the 37 million Americans living with kidney disease, and the millions more at risk, with an unmatched scope of programs that support people wherever they are in their fight against kidney disease, from prevention through transplant. With programs that address early detection, disease management, financial assistance, clinical research, innovation and advocacy, no kidney organization impacts more lives than AKF. We are also one of the nation's top-rated nonprofits, investing 97 cents of every donated dollar in programs, AKF has also received the highest 4-Star rating from Charity Navigator for 19 consecutive years, as well as the Platinum Seal of Transparency from Guidestar.

A kidney transplant can increase the chances of living a longer, healthier life. But the severe shortage of organs means that more than 5,000 Hawaii residents must wait for someone to die in order to get a kidney, unless they can find a living donor. Last year, living donors accounted for less than a third of Hawaii's 44 kidney transplants. This bill could help increase the organs available for transplant by eliminating barriers, such as an unpaid leave that may prevent someone from being a living donor. That is why AKF fully supports this legislation and urges its passage.

Donating an organ to save another person's life is a profoundly generous act that changes a life in profound ways. The gift of a kidney transplant allows patients to go back to work, to travel, to be active again, to get back so much time previously spent in dialysis treatments. This bill could help more kidney patients live a healthier and longer life by encouraging living organ donation and providing common-sense protections, such as paid time off to the generous people who give such a life-changing gift.

We believe that removing burdens for living donors can lead to an increase in organ donations. For all these reasons we respectfully ask for your support for SB 679.

Sincerely,



**Melanie Lynn Lendnal**  
American Kidney Fund  
Director, State Policy and Advocacy



## THE QUEEN'S HEALTH SYSTEMS

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To: The Honorable Brian T. Taniguchi, Chair  
The Honorable Les Ihara, Jr., Vice Chair  
Members, Senate Committee on Labor, Culture & the Arts

From: Colette Masunaga, Director, Government Relations & External Affairs, The Queen's Health Systems

Date: February 12, 2021

Re: Comments on SB679, Relating to Family Leave and temporary Disability Insurance

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The Queen's Health Systems (Queen's) is a nonprofit corporation that provides expanded health care capabilities to the people of Hawai'i and the Pacific Basin. Since the founding of the first Queen's hospital in 1859 by Queen Emma and King Kamehameha IV, it has been our mission to provide quality health care services in perpetuity for Native Hawaiians and all of the people of Hawai'i. Over the years, the organization has grown to four hospitals, and more than 1,500 affiliated physicians and providers statewide. As the preeminent health care system in Hawai'i, Queen's strives to provide superior patient care that is constantly advancing through education and research.

Queen's appreciates the opportunity to provide comments on SB 679, which provides employees with up to eight weeks of paid family leave during a one-year period paid through an employer based private insurance program currently used to provide for temporary disability benefits.

Estimates from our Human Resources, suggest that the proposed bill could cost Queen's over \$1.7 million per year. Taking that estimate, and the backfill expense associated with covering lost productivity due to increased leave, in total, this measure would increase costs to \$2.5 million annually. Queen's appreciates the intent of the measure, but would suggest clarification on the provisions of the bill and allow currently employer policies addressing family leave requirements of the bill be exempted.

As an employer, Queen's offers a wide range of leave benefits and because we are self-insured, Queen's pays all temporary disability insurance (TDI) benefits. The bill currently combines TDI and family leave. We would appreciate provisions that would allow us to continue self-insurance and clarify what would happen to current employer leave benefits like paid time off and extended sick leave.

Thank you for the opportunity to testify on this measure.

*The mission of The Queen's Health Systems is to fulfill the intent of Queen Emma and King Kamehameha IV to provide in perpetuity quality health care services to improve the well-being of Native Hawaiians and all of the people of Hawai'i.*

**SB-679**

Submitted on: 2/11/2021 8:56:07 AM

Testimony for LCA on 2/12/2021 3:20:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Neil Ishida	Testifying for ABC Stores	Oppose	No

Comments:

Good afternoon Chairperson Taniguchi and members of the Senate Committee on Labor, Culture and the Arts. I am Neil Ishida Director of Government Affairs for ABC Stores. I appreciate this opportunity to testify.

ABC Stores **OPPOSES** SB 679 Relating to Family Leave and Temporary Disability Insurance. This measure provides employees with up to eight weeks of paid family leave during a one-year period paid through an employer based private insurance program currently used to provide for temporary disability benefits; and repeals chapter 398, Hawaii Revised Statute.

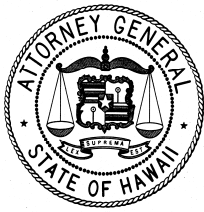
Family Leave is used when the Employee needs to take care of someone else who is a family member; and Sick Leave and TDI is used when the employee themselves are sick or injured. These benefits are already available to our employees. SB 679 would add another costly benefit to the list of operational increases that we cannot afford. TDI is calculated based on payroll and wage base. By including family leave into the TDI calculations, the employer's premium rates will significantly increase. Not to mention that the administrative process will also add an additional burden and increase the cost doing business. It is important to note that in addition to the "family leave" compensation for the individual taking sick leave, we will also be paying for another employee "filling in" for the employee on sick leave.

Businesses cannot afford these kinds of costly operational increases. We are already bracing for a slow rebound of our tourist industry and increase in the unemployment insurance costs. ABC Stores since March have furloughed employees, taken pay cuts, streamlined and pivoted our business, shortened hours of operations, and more to survive and keep our doors open and our employees employed. Every week we are seeing more and more local and national retailers closing their doors in Hawaii due to the pandemic. Bills like SB 679 will encourage more businesses to close their doors as they can no longer afford to operate in Hawaii, and leaving more of our friends, family, and neighbors 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.

We respectfully ask that you hold this measure.

Again, thank you for this opportunity to testify.



**WRITTEN TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
THIRTY-FIRST LEGISLATURE, 2021**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 679, RELATING TO FAMILY LEAVE AND TEMPORARY DISABILITY INSURANCE.

**BEFORE THE:**

SENATE COMMITTEE ON LABOR, CULTURE, AND THE ARTS

**DATE:** Friday, February 12, 2021 **TIME:** 3:20 p.m.

**LOCATION:** State Capitol, Room 225, Via Videoconference

**TESTIFIER(S):** **WRITTEN TESTIMONY ONLY.**  
(For more information, contact Adam Rosenberg,  
Deputy Attorney General, at 586-1450)

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Chair Taniguchi and Members of the Committee:

The Department of the Attorney General (Department) appreciates the intent of this measure and provides the following comments.

The purpose of this bill is to provide for a family leave data collection system and to provide employees with up to eight weeks of paid family leave, during a one-year period, paid through an insurance program. The Disability Compensation Division of the Department of Labor and Industrial Relations, which administers the Temporary Disability Insurance law, chapter 392, Hawaii Revised Statutes (HRS), would administer the new family leave law provisions that are inserted alongside the existing provisions of chapter 392, HRS. This bill also repeals chapter 398, HRS, Family Leave.

The title of the bill, "RELATING TO FAMILY LEAVE AND TEMPORARY DISABILITY INSURANCE," contains two subjects in violation of article III, section 14, of the Hawai'i Constitution, which states, "[e]ach law shall embrace but one subject, which shall be expressed in its title." The Supreme Court of Hawai'i has held that, "[l]egislative compliance with this section [article III, section 14] of the Hawai'i Constitution is 'mandatory and a violation thereof would render an enactment nugatory.'" Villon v. Marriott Hotel Services, Ins., 130 Hawai'i 130, 140, 306 P.3d 175, 185 (2013) (citation



omitted). Based on the the compound title of the bill, the plain meaning of article III, section 14, of the Hawai'i Constitution, and the precedent set forth in case law, the title of the bill appears to be in violation of article III, section 14, of the Hawai'i Constitution.

Additionally, the Department is concerned because the funds for two groups of designated beneficiaries are not segregated in section 23 of the bill (page 38, lines 11-20) as required by the definition of "trust fund," contained in section 37-62, HRS.

Finally, the Department is also concerned that this bill may be preempted by the federal Employee Retirement Income Security Act (ERISA). ERISA is a comprehensive federal legislative scheme that regulates the administration of private employee benefit and pension plans and establishes standards relating to the administration of these plans. In enacting ERISA, Congress included a sweeping preemption provision that provides in relevant part, ERISA "shall supersede any and all State laws insofar as they may now or hereafter relate to any employee benefit plan." 29 U.S.C.A. § 1144(a).

This bill relates to temporary disability insurance (TDI), which is an employee benefit plan, and would thus be preempted by ERISA. However, disability insurance laws are specifically exempted from ERISA, provided that the disability insurance laws are "maintained *solely* for the purpose of complying with applicable . . . disability insurance laws." 29 U.S.C.A. § 1003(b) (emphasis added). Because this bill amends chapter 392, HRS, to provide for family leave in addition to disability insurance, arguably the TDI laws would no longer be "maintained *solely* for the purpose of complying with applicable . . . disability insurance laws," and may be subject to ERISA preemption. 29 U.S.C.A. § 1003(b) (emphasis added).

For the preceding reasons, we respectfully ask the Committee to hold this bill.

Thank you for the opportunity to testify.

**SB-679**

Submitted on: 2/11/2021 9:40:06 AM

Testimony for LCA on 2/12/2021 3:20:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Pride at Work - Hawaii	Testifying for Pride @ Work - Hawaii	Support	No

Comments:

Aloha Senators,

Pride at Work - Hawai'i, the state-wide chapter of Pride At Work (a constituency group of the national AFL-CIO) and an affiliate of the Hawai'i State AFL-CIO, supports SB 679.

Mahalo nui loa,

Pride at Work - Hawai'i

**SB-679**

Submitted on: 2/11/2021 9:29:24 AM

Testimony for LCA on 2/12/2021 3:20:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Puanani Woo	Individual	Support	No

Comments:

I support this bill. I believe that families deserve this support!

To: Senator Brian T. Taniguchi, Chair & Committee Members  
Committee on Labor, Culture & Arts

From: Teresa Bill

Re: SB 679, Relating to Family Leave and Temp. Disability Insur.

Date: Fri, Feb 12, 2021 3:20 pm Conf. Room 225 & Video

Position: **SUPPPORT with AMENDMENTS**

Aloha Chair and Members of the Committee on Labor, Culture & the Arts -

I **support** passage of SB679 **WITH AMENDMENTS** to adopt the language in HB5, to establish a paid family leave system for Hawaii's working families.

We have been discussing and researching Paid Family Leave in Hawaii for many years. We have Hawaii-specific research data that shows the need, expected coverage and cost. We've come to the brink of passing this legislation, but are waylaid by requests for more "research." We know that our families need an option for paid leave with job protection to return after their family emergency. And our families, especially women need this paid leave whether they are younger and need it for childbirth, or they need to care for aging parents. Now, nine (9) States plus D.C. have implemented similar Paid Family Leave systems and there is ample data on the subject.

Linking or adding Paid Family Leave to Hawaii's current Temporary Disability Insurance is convoluted and will not offer the leave and protections needed by our lowest earning workers to care for family. Language in HB5 establishing a separate Family Leave Insurance Fund implements the system that is necessary, allowing leave to care for others, as well as affordable payments by both employer and employee.

As a public employee, I had the privilege of using paid (sick) leave to care for my terminally ill father, and I returned to my job after 12 weeks. Everyone in Hawaii should have access to such an option, and our lowest earning women, particularly since they typically do not have access to any form of paid leave. An employee can pay an estimated \$1.11/week for a "sliding, scale" of wage replacement payments.

The time to act is now. Please **support and amend SB 679**.

Thank you for this opportunity to testify.

Teresa Bill  
Honolulu, HI. 96816

**SB-679**

Submitted on: 2/11/2021 10:30:21 AM

Testimony for LCA on 2/12/2021 3:20:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Nanea Lo	Individual	Support	No

Comments:

Hello,

My name is Nanea Lo and I'm writing in support with amendments. **This bill is problematic** and we ask that you support this bill **with amendments** to adopt the language in [HB5](#), which provides a more comprehensive paid family leave system, including up to 16 weeks of paid leave and special provisions for public health emergencies.

Please support this bill with amendments.

Me ke aloha 'Ä• ina,  
Nanea Lo

**SB-679**

Submitted on: 2/11/2021 11:34:16 AM

Testimony for LCA on 2/12/2021 3:20:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Erica Yamauchi	Individual	Support	No

Comments:

I support this bill with amendments to adopt the language in [HB5](#), which provides a more comprehensive paid family leave system, including up to 16 weeks of paid leave and special provisions for public health emergencies.

In Hawai'i, only about 10 percent of all workers have access to paid family leave that provides time off for caregiving. Too many hard-working people in our workforce, especially low-income employees, lack access to these forms of paid leave.

Please amend this bill to make worthwhile paid family leave a reality in our state.

Thank you for your consideration.

Erica Yamauchi (Wilhelmina Rise/Maunalani Heights)



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## Senate Committee on Labor, Culture and the Arts

Senator Brian T. Taniguchi, Chair  
Senator Les Ihara, Jr., Vice Chair  
Friday, February 10, 2021 at 3:20 P.M.  
Via Videoconference

**RE: SB 679, RELATING TO FAMILY LEAVE AND TEMPORARY DISABILITY  
INSURANCE**

Chair Taniguchi, Vice Chair Ihara, Jr., and Members of the Committee:

**The Society of Human Resource Management (SHRM) Hawaii opposes SB 679** which provides employees with up to eight weeks of paid family leave during a one-year period paid through an employer based private insurance program currently used to provide for temporary disability benefits and repeals chapter 398, Hawaii Revised Statutes.

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 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 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 in order to care for a family member in need.

In a COVID-19 pandemic, SHRM has concerns about what type of message this measure is giving to the employer community and respectfully ask that it be deferred.

Thank you for this opportunity to provide testimony.

Kalani Morse  
Legislative Affairs Committee Co-Chair

Dailyn Yanagida  
Legislative Affairs Committee Co-Chair







Young Progressives Demanding Action  
P.O. Box 11105  
Honolulu, HI 96828

February 11, 2021

**TO: COMMITTEE ON LABOR, CULTURE AND THE ARTS**  
**RE: Testimony in Support of SB679 WITH AMENDMENTS**

Dear Senators,

Young Progressives Demanding Action (YPDA) supports passage of SB679 with amendments to replace the current language in this bill with what we believe to be far more robust and effective language found in HB5, which was unfortunately allowed to die without a hearing in the House of Representatives.

Hawai'i needs a Family Leave Insurance program that allows workers to take paid, job-protected leave for family emergencies, 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. Overall, only about 10% of all workers have access to paid family leave that includes time off for caregiving. Too many in our workforce, especially low-income employees, lack access to these forms of paid leave.

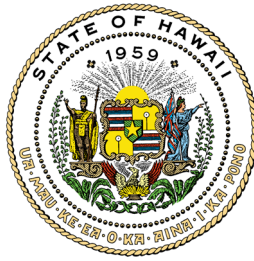
Low-wage workers, hourly workers, and Native Hawaiians and Pacific Islanders are less likely to be covered under the existing Family and Medical Leave Act. Unfortunately, it is often these families who need family leave insurance the most. In many households, working parents cannot take unpaid time off work while still making ends meet. Studies show that women who receive paid leave after the birth of a child are 39% less likely to rely on public assistance and 40% less likely to rely on food stamps than women who do not take paid leave at all and return to work, and this trend is also present in men.

This is an immediate concern in particular for Hawai'i because we are a state that is aging. The population of Hawai'i is both older than the U.S. as a whole, and is aging faster. As the number of kupuna increase, so does the demand for caregiving. It is not uncommon for Generation X families to face the combined pressure of caring for their children and aging parents and relatives, and millennials are beginning to face this double-ended pressure as well. Many workers experience financial strain as they lose income and risk their jobs to care for an aging parent in a medical crisis. Family leave insurance allows workers to provide the care their elderly relatives need without having to sacrifice their livelihoods.

The United States is the only high-wealth country that does not offer paid leave for the working population. California, Rhode Island, Washington, New Jersey, New York, and the District of Columbia have successfully implemented or are in the process of implementing family leave insurance programs. As a state that values 'ohana, Hawai'i has the chance to step forward and be next.

Mahalo for the opportunity to testify,

Will Caron  
Board President & Secretary  
[action@ypdahawaii.org](mailto:action@ypdahawaii.org)



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SENATE COMMITTEE ON LABOR, CULTURE AND THE ARTS  
The Honorable Brian T. Taniguchi, Chair  
The Honorable Les Ihara, Jr., Vice Chair

**S.B. NO. 679, RELATING TO FAMILY LEAVE AND TEMPORARY DISABILITY  
INSURANCE**

Hearing: Friday, February 12, 2021, 3:20 p.m.

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The Office of the Auditor takes **no position** on S.B. No. 679 and offers the following comments.

The bill establishes, among other things, a family leave data collection system and a web-based data system to be administered by the Department of Labor and Industrial Relations and the University of Hawai'i Center on Aging. Section 1 of the bill provides the Auditor with access to the database and directs the Auditor to "prepare annual reports to the legislature, the department, and the University of Hawai'i center on aging."

We are concerned that 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.

Should the bill move forward, we would request the provision requiring annual reports be amended to require either the Department of Labor and Industrial Relations and/or the University of Hawai'i Center on Aging to provide the requested information.

Thank you for considering our testimony related to S.B. No. 679. We are committed to providing meaningful audit findings that address the issues identified by the Legislature.



# Hawai'i Island Chamber of Commerce

1321 Kino'ole Street  
Hilo, Hawai'i 96720  
Phone: (808) 935-7178  
Fax: (808) 961-4435  
E-mail: [admin@hicc.biz](mailto:admin@hicc.biz)  
[www.hicc.biz](http://www.hicc.biz)

**Testimony to the Senate Committee on Ways and Means  
Friday, February 12, 2021 at 3:20 P.M.  
Via Videoconference**

**RE: SB 679, RELATING TO FAMILY LEAVE AND TEMPORARY DISABILITY  
INSURANCE**

Chair Taniguchi, Vice Chair Ihara, Jr., and Members of the Committee:

The Hawaii Island Chamber of Commerce ("HICC") **does not support** SB 679 which:

1. Amends Parts I-IV of the Temporary Disability Insurance (TDI), Chapter 392, HRS;
2. Extends TDI to extend benefits to family leave;
3. Provides employees with up to 8 weeks of paid family leave during a one-year period paid through an employer based private insurance program currently used to provide for temporary disability benefits; and
4. Repeals Family Leave Chapter 398, HRS.

The HICC represents over 250 business and individual members, primarily from the east side of Hawaii Island. Many of our member businesses are small employers and have struggled to remain in business during the COVID-19 pandemic. Any additional expense imposed by legislation could be the final blow to small business in Hawaii.

SB 679 proposes to add paid family leave to the existing temporary disability insurance requirement. We appreciate that the intent of this bill is to help Hawaii's workers, but we have serious concerns that this proposed bill is not reasonable, manageable, or affordable for employers. Passage of this bill will result in increased costs and will likely lead to employers having to reduce their workforce to be able to pay for the increased TDI premium rates. This will not help Hawaii's workforce.

Instead, we ask for your support in developing policy that will help Hawaii retain and grow its businesses and ease regulation to allow new businesses to start and prosper. These actions will provide more employment opportunities for the fine people of Hawaii and will be the catalyst for employers to develop and implement robust and innovative programs to attract workers.

Thank you for this opportunity to provide testimony on SB 679.



## HIPHI Board

*Kilikina Mahi, MBA  
Chair  
KM Consulting LLC*

*Michael Robinson, MBA, MA  
Immediate Past Chair  
Hawai'i Pacific Health*

*JoAnn Tsark, MPH  
Secretary  
John A. Burns School of  
Medicine, Native Hawaiian  
Research Office*

*Debbie Erskine  
Treasurer  
Kamehameha Schools*

*Keshia Adolpho, LCSW  
Molokai Community Health  
Center*

*Keawe'aimoku  
Kaholokula, PhD  
John A. Burns School of  
Medicine, Department of  
Native Hawaiian Health*

*Mark Levin, JD  
William S. Richardson School  
of Law*

*Rachel Novotny, PhD, RDN, LD  
University of Hawai'i at  
Mānoa, College of Tropical  
Agriculture and Human  
Resources*

*May Okihiro, MD, MS  
John A. Burns School of  
Medicine, Department of  
Pediatrics*

*Misty Pacheco, DrPH  
University of Hawai'i at Hilo,  
Department of Kinesiology and  
Exercise Sciences*

*Garret Sugai  
Kaiser Permanente*

*Catherine Taschner, JD  
McCorriston Miller Mukai  
MacKinnon LLP*

Date: February 11, 2021

To: Senator Brian T. Taniguchi, Chair  
Senator Les Ihara, Jr., Vice Chair  
Members of the Labor, Culture, and the Arts Committee

Re: Support for SB 679, Relating to Family Leave and Temporary  
Disability Insurance

Hrg: February 12, 2021 at 3:25 PM via videoconference

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The Obesity Prevention Task Force, convened by the Hawai'i Public Health Institute,<sup>i</sup> is in **Support of SB 679 with amendments**. This bill would provide employees with up to 8 weeks of paid family leave through our current private temporary disability benefits system.

We appreciate the intent of the bill, but **recommend adopting the language of HB 5** to create a more comprehensive paid family leave system that includes up to 16 weeks of paid leave and special provisions for public health emergencies.

It is time for Hawai'i to pass a strong family leave insurance program. Employees need paid time off of work to care for a newborn, newly adopted or foster child, or an ill family member. Paid family leave guarantees that employees can cover basic costs of living, while also providing care to family members when they need it most. Nine states and Washington, D.C. have passed similar legislation providing partial wage replacement for family and medical leave purposes.

Paid time off for families to care for a newborn also helps to establish a foundation in breastfeeding. Infant feeding practices can greatly affect later growth and development and can be a protective factor against obesity<sup>ii</sup>. The American Academy of Pediatrics and the World Health Organization recommend exclusive breastfeeding for the first six months of life and continued breastfeeding with the addition of other foods until a child is at least twelve months of age<sup>iii</sup>.

"A robust body of evidence suggests that breastfeeding has multiple health benefits for infants, and that paid family leave (and other forms of maternity leave) significantly increases the length of time that mothers breastfeed. In a review and analysis of studies of breastfeeding in developed countries, the U.S. Agency for Healthcare Research and Quality found that full-term infants fed formula are at substantially greater risk

than breastfed infants for acute ear infection, eczema, gastrointestinal infection, hospitalization for lower respiratory tract diseases in the first year of life, asthma, childhood obesity, Type 2 diabetes, leukemia, and sudden infant death syndrome (SIDS).<sup>iv</sup>”

Thank you for the opportunity to provide testimony.

Mahalo,

A handwritten signature in black ink that reads "Jessica Yamauchi". The signature is written in a cursive, flowing style.

Jessica Yamauchi, MA  
Executive Director

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<sup>i</sup> Created by the legislature in 2012, the Obesity Prevention Task Force is comprised of over 60 statewide organizations, and works to make recommendations to reshape Hawai'i's school, work, community, and health care environments, making healthier lifestyles obtainable for all Hawai'i residents. The Hawai'i Public Health Institute (HIPHI) convenes the Task Force and supports and promotes policy efforts to create a healthy Hawai'i.

Hawai'i Public Health Institute is a hub for building healthy communities, providing issue-based advocacy, education, and technical assistance through partnerships with government, academia, foundations, business, and community-based organizations.

<sup>ii</sup> S. Arenz et al., Breast-feeding and childhood obesity - a systematic review, 28(10) International Journal of Obesity and Related Metabolic Disorders 1247-56 (2004).

<sup>iii</sup> American Academy of Pediatrics, AAP Reaffirms Breastfeeding Guidelines, <https://www.aap.org/en-us/about-the-aap/aap-press-room/pages/AAP-Reaffirms-Breastfeeding-Guidelines.aspx> (last updated February 27, 2012).

<sup>iv</sup> [http://www.nccp.org/publications/pdf/text\\_1059.pdf](http://www.nccp.org/publications/pdf/text_1059.pdf)



# MAUI

CHAMBER OF COMMERCE  
VOICE OF BUSINESS

**HEARING BEFORE THE SENATE COMMITTEE  
ON LABOR, CULTURE & THE ARTS  
HAWAII STATE CAPITOL, SENATE CONFERENCE ROOM 225  
FRIDAY, FEBRUARY 12, 2021 AT 3:20 P.M.**

To The Honorable Brian T. Taniguchi, Chair;  
The Honorable Les Ihara, Jr., Vice Chair; and  
Members of the Committee on Labor, Culture & The Arts Affairs,

**OPPOSE SB679 RELATING TO  
FAMILY LEAVE AND TEMPORARY DISABILITY INSURANCE**

Aloha, my name is Pamela Tumpap. I am the President of the Maui Chamber of Commerce, in the county most impacted by the COVID-19 pandemic in terms of our dependence on the visitor industry and corresponding rate of unemployment. I am writing share our opposition to SB679.

Residents and businesses are hurting during this difficult time and we are all rushing to try to meet their needs. However, businesses cannot be expected to shore up these needs and expand their benefits when they cannot afford it. Temporary disability insurance (TDI) premiums are based upon payroll costs and running family leave through the TDI service will result in higher premiums on top of the expense of providing paid family leave and compliance costs.

Further, paid leave is a benefit often used by employers to incentivize job positions and retain their employees. Instead of adding mandates, especially during a crisis, we ask that the committee provide an incentive, such as a tax credit, to employers who offer paid family leave. This will help struggling businesses who currently offer this benefit and not heap another expense on those who simply cannot afford it.

Mahalo for your consideration of our testimony and ask that you please defer this bill.

Sincerely,

*Pamela Tumpap*

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.



**BEFORE THE SENATE COMMITTEE ON LABOR, CULTURE AND THE ARTS**

DATE: February 12, 2021

TIME: 3:20 p.m.

PLACE: Conference Room 225 &  
Videoconference

**Re: SB679, Relating to Family Leave and Temporary Disability Insurance**

Aloha Chair Taniguchi, Vice-Chair Ihara and members of the committee:

We are testifying on behalf of the National Federation of Independent Business (NFIB) with comments to SB679, relating to family leave and temporary disability insurance.

No one has greater incentive, responsibility or ability to lead the economy than Hawaii's small business owners. Small businesses play a major role in the economy, representing 99% of all employer firms, employing about half of private-sector employees and generating 63% to 80% of net new jobs annually. NFIB has consistently expressed concerns about the costs and impacts of employer-paid leave. We are strongly committed to promoting workplace flexibility and wellness. We appreciate the legislature's intent in addressing workplace operations and look forward to working collaboratively with policy leaders and wish to serve as a resource on this and other important employment law matters.

The National Federation of Independent Business is the largest advocacy organization representing small and independent businesses in Washington, D.C., and all 50 state capitals. In Hawaii, NFIB represents nearly 900 members. NFIB's purpose is to impact public policy at the state and federal level and be a key business resource for small and independent business.





# HAWAII APPLESEED

CENTER FOR LAW & ECONOMIC JUSTICE

Testimony of the Hawai'i Appleseed Center for Law & Economic Justice  
In Support of SB 679 with Amendments – Relating to Family Leave and Temporary Disability Insurance  
Senate Committee on Labor, Culture and the Arts  
Friday, February 12, 2021, 3:20 PM, in conference room 225

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Dear Chair Taniguchi, Vice Chair Ihara, and members of the Committee:

Thank you for the opportunity to provide testimony in **SUPPORT of SB 679 with Amendments**, which would provide family leave insurance benefits to qualified businesses and employees. **We respectfully request that you replace the family leave provisions of SB 679 with the program described in HB 5**, which provides a more comprehensive paid leave system, including up to 16 weeks of aid leave and special provisions for public health emergencies. The more robust structure proposed by HB 5 is necessary to provide effective support to Hawai'i workers and families.

Low-wage workers are the least likely to have access to paid family leave, while they need the financial support of paid leave the most. And especially with more and more of our kūpuna needing care, our state needs to create a safety net for families facing serious caregiving responsibilities.

The United States is the only developed nation that doesn't provide its workers with paid family leave.<sup>i</sup> The federal Family and Medical Leave Act provides employees with only *unpaid* leave, and more than 40 percent of private sector workers are not covered by it.

The Hawai'i Family Leave Law currently provides only four weeks of *unpaid* leave and also fails to cover around 40 percent of the state's workforce. Hawai'i's temporary disability insurance program offers partial wage replacement to workers recovering from illness or injury, including childbirth, but no job protection. It's also not available to non-biological parents or to family caregivers.

Although some individual companies offer employees paid leave, this benefit is typically only available to higher-income workers. Nationally, only 6 percent of low-wage workers – those who truly have the greatest need for paid family leave – have access to it.<sup>ii</sup>

This lack of access to paid family leave has profound consequences for our working families. In Hawai'i, two-thirds of children live in households where both parents work, and a quarter of live in households headed by a single parent, leaving no full-time caregiver at home.<sup>iii</sup>

That is why it's crucial for Hawai'i to put into place a strong financial safety net for the hard-working families who desperately need support when faced with serious family caregiving responsibilities.

Nine states and the District of Columbia have already adopted state-level paid family leave laws.<sup>iv</sup> Their programs typically operate under a social insurance system, with employees and/or employers across the state paying into a dedicated insurance fund. By spreading both risks and resources across all workers, this system provides benefits at a low per-person cost.

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

In order for such a program to be truly effective in Hawai‘i, it is important for a paid family leave program to also follow a similar social insurance model. Examples of a social insurance approach are programs like Social Security and Medicare. Experts from both the left and the right agree that this is the best way to reduce costs to employers and overall administrative expenses, as well as prevent discrimination against those workers who are mostly likely to take leave. Even the right-leaning American Enterprise Institute prefers a social insurance program over an employer mandate to purchase family leave insurance or to self-insure<sup>v</sup>:

*[T]he idea that companies might be better off with an employer mandate instead of a social insurance program is hard to fathom. While social insurance broadly distributes the costs of providing leave, an employer mandate shifts all of the costs onto the firm, raising implicit labor costs. Firms can respond to this mandate in several ways: One, they may try to self-insure or purchase private insurance products; these will likely be costly and unavailable in many places. Two, they may reduce wages paid for workers that are hired. Three, firms may simply discriminate against people who are more likely to use this leave, particularly women. Since an employer mandate disproportionately raises the expected labor costs of those most likely to use the paid leave, mandating paid leave incentivizes firms to discriminate against women and others likely to take up the policy... A mandate imposes additional costs and distortions that could be much more expensive to the public than social insurance.*

Creating a similar system in Hawai‘i would help keep workers, especially women, in the workforce, and at higher wages. It would also reduce reliance on public benefits.

Job-protected paid family leave provides job continuity, so workers are less likely to leave the labor force altogether. Research shows that mothers with access to family leave are more likely to return to work after the birth of a child and also more likely to return to the same or higher wages than they were earning before giving birth. In California, where the program has been in effect for over 15 years, mothers of small children were found to be working more hours and at higher average incomes than similar women were before the law was passed.

Studies also show that women who receive paid leave after the birth of a child are 39 percent less likely to rely on public assistance and 40 percent less likely to rely on food stamps than women who do not take paid leave, and this trend is also present in men.

A Hawai‘i statewide poll found that 94 percent of respondents had either a “very favorable” (60 percent) or “somewhat favorable (34 percent) perception of paid family leave. Nearly 6 in 10 (59 percent) said that they’d be willing to contribute a portion of their paycheck every month to a paid leave program, and the average amount that they said they’d be comfortable contributing is over \$41 per month. That is several times more than actuarial estimates of what such a system would cost in Hawai‘i,<sup>vi</sup> as well as the experience of the states that are already running paid family leave programs.

We appreciate your consideration of this testimony. We respectfully urge you to pass this bill, with amendments so it conforms to the paid family leave program proposed by HB 5.

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<sup>i</sup> <https://www.pewresearch.org/fact-tank/2019/12/16/u-s-lacks-mandated-paid-parental-leave/>

<sup>ii</sup> <https://www.healthaffairs.org/doi/10.1377/hpb20190301.484936/full/>

iii <https://datacenter.kidscount.org/data#HI/2/0/char/0>

iv [https://bipartisanpolicy.org/explainer/state-paid-family-leave-laws-across-the-u-s/#:~:text=A%20s%20of%202021%2C%20nine,paid%20family%20leave%20\(PFL\)](https://bipartisanpolicy.org/explainer/state-paid-family-leave-laws-across-the-u-s/#:~:text=A%20s%20of%202021%2C%20nine,paid%20family%20leave%20(PFL))

v <https://www.aei.org/wp-content/uploads/2017/10/DC-Testimony-Mathur-1.pdf>

vi [https://www.dol.gov/wb/media/Hawaii\\_Report\\_Final\\_2.pdf](https://www.dol.gov/wb/media/Hawaii_Report_Final_2.pdf)

**SB-679**

Submitted on: 2/12/2021 12:19:35 AM

Testimony for LCA on 2/12/2021 3:20:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
James K. Chan	Testifying for Hawaiian Chip Company, LLC	Oppose	No

Comments:

Aloha Chair Taniguchi, Vice Chair Ihara, and Members of the Committee on Labor, Culture and the Arts:

My name is Jimmy Chan and I oppose SB679 because it will add one more expense that my business and others like it simply can't afford at this time. I founded, own and operate the Hawaiian Chip Company which is a small business that is best known for making taro and sweet potato chips. The company has been in business for twenty years and currently has twenty employees. The number of employees is down 15% from last year because in such economic uncertainty, tough decisions have been made for the company to survive. Like many others, the company is struggling financially to deal with a drastic loss in revenue from hotels, restaurants and airlines. In spite of the significant loss of income, the company still has the same sized bills (rent, utilities, etc) to pay, much like anyone else suffering from a reduction in work hours.

To put the burden of paid leave on small businesses, especially at this time, would be catastrophic for companies like mine. I do want to help my employees the best I can. However, at this point... that entails just trying to keep the lights on.

Mahalo,

Jimmy Chan

**SB-679**

Submitted on: 2/11/2021 9:55:50 PM

Testimony for LCA on 2/12/2021 3:20:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
David Mulinix	Testifying for Our Revolution Hawaii	Support	No

Comments:

Aloha Committee,

On behalf of Our Revolution Hawaii's 7,000 members and supporters, we are in support of SB679 with amendments to adopt the language in HB5 which provides a more comprehensive paid family leave system, including up to 16 weeks of paid leave and special provisions for public health emergencies.

Mahalo for your kind attention,

Dave Mulinix

Statewide Community Organizer

Our Revolution Hawaii

**SB-679**

Submitted on: 2/11/2021 8:46:22 PM

Testimony for LCA on 2/12/2021 3:20:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Allison Mikuni	Individual	Support	No

Comments:

I support this measure with amendments to add language from HB5 to include up to 16 weeks paid leave and special provisions for public health emergencies. This is crucial to provide a strong safety net for Hawaii's workforce in times of personal or public crisis.

**SB-679**

Submitted on: 2/12/2021 9:14:29 AM

Testimony for LCA on 2/12/2021 3:20:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Andrew Fox	Individual	Support	No

Comments:

I urge you to support this bill with amendments to adopt the language in House Bill 5, which provides a more comprehensive paid family leave system, including up to 16 weeks of paid leave and special provisions for public health emergencies. There is an impending crisis of housing, employment and financial ruin that can be addressed NOW.