

TESTIMONY

HB982 HD3

LINDA LINGLE
GOVERNOR



DARWIN L.D. CHING
DIRECTOR

COLLEEN Y. LaCLAIR
DEPUTY DIRECTOR

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

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To: The Honorable Dwight Y. Takamine, Chair
and Members of the Senate Committee on Labor

Date: Thursday, March 19, 2009
Time: 2:45 p.m.
Place: Conference Room 308
State Capitol

From: Darwin L.D. Ching, Director
Department of Labor and Industrial Relations

Re: H.B. No. 982, H.D. 3 - Relating to Family Leave

I. OVERVIEW OF PROPOSED LEGISLATION

H.B. No. 982 HD 3 establishes a web-based Family Leave Database in the Hawaii Family Leave Law ("HFLL"), Chapter 398, Hawaii Revised Statutes ("HRS") which is administered by the Department of Labor and Industrial Relations (DLIR) to collect data on public employees' use of family leave. The database would be created by the University of Hawaii Center on Aging (UH) and audited and reported on by the Legislative Auditor. It requires public employees to submit evidence of their submission of information into the Database as notice of their request for family leave.

Allocates funds to the University of Hawaii center on aging to develop the web-based data system and purchase equipment and hire personnel.

This Act would take effect July 1, 2020.

II. CURRENT LAW

The Department does no collection of any family leave data currently.

III. HOUSE BILL

The Department opposes H.B. 982, H.D. 3 for the following reasons:

1. While it is true that there is little real data about how often family leave is taken, the data that is available indicates that there is not an alarming problem as inquires regarding the HFLL to Wage Standards Division represent only 3% of almost 15,000 inquires annually.
2. Adding this type of responsibility at time when resources are thinnest would negatively impact the ability of the Department of Labor and Industrial Relations to carry out its core purposes. The Department understands the importance of family leave, however, we would like to point out that family leave is a benefit for those who are gainfully employed. Given the current economic challenges we are facing, any additional responsibilities that are not geared toward preserving or creating jobs would undermine the Departments efforts to aid our economic recovery.



STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
HONOLULU, HAWAII 96813-2437

March 17, 2009

TESTIMONY TO THE
SENATE COMMITTEE ON LABOR
For Hearing on Thursday, March 19, 2009
2:45 p.m., Conference Room 224

BY
MARIE C. LADERTA, DIRECTOR

**House Bill No. 982, H.D. 3
Relating to Family Leave**

TO CHAIRPERSON TAKAMINE AND MEMBERS OF THE COMMITTEE:

This bill proposes to amend the Hawaii Revised Statutes by adding a new section directing the Department of Labor and Industrial Relations to work with the University of Hawaii Center on Aging to create a web-based data collection system that will capture family leave information on private and public sector employees. Funding is to be appropriated out of the Disability Benefits special fund under section 392-61, HRS, and to be expended by the Department of Labor and Industrial Relations for the purposes of this Act.

The Department of Human Resources Development opposes this measure for the following reasons:

1. The development and maintenance of this new system will result in increased costs at a time when the State is facing a severe budget shortfall.
2. It appears that an objective of the new system is to provide data to determine whether paid family leave should be developed and implemented for employees in Hawaii (see page 3, lines 19-22). Public sector employees already earn generous paid vacation and sick leaves that can be used for family leave

purposes. Notably, regular public sector employees can even substitute accrued sick leave for any part or all of family leave allowable under the Hawaii Family Leave Law (HRS Chapter 398), up to 4 weeks per 12-month period.

3. The data captured through this system will not represent an accurate picture of public sector employees' needs for family leave. Since State and county government employees have generous vacation and sick leave benefits to utilize for family-related purposes, many would likely opt to apply for these paid leaves through the regular leave process, in lieu of applying for unpaid family leave through the proposed web-based process. As such, the number of employees requesting family leave through the proposed web-based system will be different from the actual number of employees taking leaves for family-related purposes.
4. Employees may be apprehensive about entering personal health information into a computer system and so be reluctant to request family leave in this manner.

In view of the above concerns, we respectfully request that the Committee **HOLD** this bill. Thank you for the opportunity to testify on this matter.

The Twenty-Fifth Legislature
Regular Session of 2009

THE SENATE
Committee on Labor
Senator Dwight Y. Takamine, Chair
Senator Brian T. Taniguchi, Vice Chair

State Capitol, Conference Room 224
Thursday, March 19, 2009; 2:45 p.m.

**STATEMENT OF THE ILWU LOCAL 142 ON H.B. 982, HD3
RELATING TO FAMILY LEAVE**

The ILWU Local 142 supports H.B. 982, HD3, which establishes a new data collection system for family leave and appropriates funds from the Disability Benefits Special Fund.

Hawaii's population is growing older and not always in good health. That means more and more adults will need some kind of help for caregiving--and more and more workers will be called upon to serve in a caregiver capacity and will need to take family leave.

Hawaii law currently requires employers with 100 or more employees to provide family leave, which is four weeks of unpaid leave to care for a seriously ill family member. The leave provision is limited (four weeks), unpaid, and only for workers in large companies (100+). However, all workers may be faced with the need for family leave yet may not be able to take it because of loss of income.

A bill had been proposed last year to provide for paid family leave. Unable to agree on this concept, the Legislature established a working group (of which the ILWU was a part) to discuss the issue, explore options, and report to the Legislature on a proposal. Unfortunately, the working group also could not agree.

H.B. 982 was developed as a compromise, knowing that in the current economic climate, a tax to support paid family leave would not pass. Yet even proponents of paid family leave do not have sufficient information about the magnitude of the problem or the amount of funds needed to support the benefit. H.B. 982 was proposed as a means of collecting data to determine how many workers take family leave even if it is unpaid. This data can later be extrapolated to determine how many may seek paid family leave when a law is enacted.

While H.B. 982, HD3 is not a perfect bill and does not include some of the provisions from the original bill that the ILWU supported, we believe this bill will bring us a little closer toward understanding the scope of the problem for working men and women who must become family caregivers. Paid family leave may not be the answer, but it is a beginning recognition of the problem that must be addressed by the State.

The ILWU urges passage of H.B. 982, HD3. Thank you for considering our testimony.



Senator Dwight Takamine, Chair
Senator Brian Taniguchi, Vice Chair
Committee on Labor

HEARING Thursday, March 19, 2009
 2:45 pm
 Conference Room 224
 State Capitol, Honolulu, Hawaii 96813

RE: **HB982, HD3, Relating to Family Leave**

Chair Takamine, Vice Chair Taniguchi, and Members of the Committee:

Retail Merchants of Hawaii (RMH) is a not-for-profit trade organization representing 200 members and over 2,000 storefronts, and is committed to support the retail industry and business in general in Hawaii.

RMH opposes HB982, HD3, relating to family leave, which establishes a new data collection system for family leave.

We do concur that further study to determine the scope of the problem, i.e., the number of employees opting for family leave under HFLA and/or FMLA is prudent before adding greater onus to our employers. However, we believe that the data collection system proposed should be **first limited to public employees since HFLA has been effective in the public sector for a greater amount of time and more extensive data is readily available.** Given the current economic crisis, it is imprudent to add additional cost burdens to businesses which are struggling to maintain employment levels and avoid layoffs.

We respectfully ask that HB982, HD3 be amended to delete the provisions imposed in the HD3 and advance as amended in the HD2. Thank you for your consideration and for the opportunity to comment on this measure.

A handwritten signature in cursive script, appearing to read 'Carol Pregill'.

Carol Pregill, President

HAWAII TEAMSTERS AND ALLIED WORKERS, LOCAL 996

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Sen. Dwight Takamine, Chair
Sen. Brian Taniguchi, Vice-Chair
Committee on Labor

Glenn Ida
Representative
Thursday, Mar. 19, 2009, 2:45 PM,
Conference Room 224

Support of HB 982, HD3, Relating to Family Leave.

The Hawaii Teamsters Local 996 participated in the Joint Legislative Committee on Aging in Place. We focused our attention on the area of paid family leave for caregivers. We were trying to establish a policy change and criteria based on the State of Hawaii Caregivers Needs Assessment of 2007 but there was not enough information on the current use of Family Leave for the committee members to come to consensus regarding how we would reach our goals.

HB 982, HD3, would compile the necessary data needed to address issues concerning the increase of caregivers for our seniors since the number of those in this category will surely rise in the near future.

The Hawaii Teamsters Local 996 supports, HB 982, HD3, Relating to Family Leave.

Thank you for allowing me to testify on this important Issue.

Testimony of Jim Shon

RE: HB 982 H.D. 2 RELATING TO FAMILY LEAVE

Committee: Senate Labor

March 19, 2009 2:45 pm Room 224

I support this bill. I served on the Paid Family Leave Task Force, representing Kokua Council. Kokua Council has endorsed this bill as one of the important strategies to support Kupuna in our community. However, I suggest the funding go directly to the UH Center on Aging.

Summary of Rationale:

- There are not enough services for seniors. Employed family members often are called upon to take time off for family leave. Some are retiring prematurely to provide this care. The workforce is being sapped of its most experienced workers.
- We need good data on **both** public and private sector current use of family leave.
- We can do this at minimum cost to the system (\$10K), employers, and employees.
- We need to close the gap group (firms with 50-100 employees).
- State agencies should incorporate this small but important task rather than arguing against the concept.
- Those who oppose this bill seem to offer no alternatives for employees or their family members.
- Because the DLIR does not want responsibility, another agency should be given the resources to implement the data base. A likely candidate would be the UH Center on Aging.

Supporting Data

1. Data from the UH Center on the Family indicate many seniors need some form of assistance, and the number is growing far beyond Hawaii's ability to respond.

General Observations re Hawaii's 60+ population:

- **The 2000 census estimates approximately 250,000 seniors 60+. The non-institutionalized population is 203,000.**
- **Hawaii's 60+ population stats are similar to national stats, and thus national data are relevant for determining many of the costs and trends for Hawaii;**
- **About 75% own their own home, meaning they do not necessarily need assisted living IF services can be delivered to their homes.**
- **37.5% have some disability, or 93,750 (about 30,000 between the age of 60+ and 65+ have some disability).**
- **Hawaii's 60+ population has a higher percentage of language barriers (11.2%) vs. the national average (4.1%)/**
- **Nearly 18% have no source of transportation (about 36,540). Even in households with more than one, this rate is nearly 16%.**

- About 28,000 living at home have a sensory disability.
- About 40,000 cannot easily leave home (a ‘go-outside-of-home disability’)
- About 22,000 have a mental disability.

General Observations re Hawaii’s 65+ population:

- About 172,000 65+
 - Slightly higher % of population than national average (13.6 vs. 12.4)
 - Slightly higher % of all households (23.1 vs. 21.5)
 - Much higher % living with grandchildren under 18 years (12.3 vs. 4.4)
 - About 36% have some disability, or about 62,000.
- According to a 2007 study by the Hawaii Legislative Reference Bureau, “Between 2000 and 2020, Hawaii’s older adult population is projected to increase by 70%, a rate three times faster than Hawaii’s total population. The population of those 85 and older is projected to increase 93%, over four times faster than Hawaii’s total populations. “(*Selected Issues in Work-Family Policy; A Brief Overview, Report No.1, 2007*)
 - According to the State Data Book (Table 12.26) there are over 200,000 non federal employees that are NOT covered by the federal family leave law (Federal Family and Medical Leave Act of 1993 or FLMA), and an additional 75,000 employees not covered by state law.
 - A 1999 MET LIFE study found that among employed caregivers, 13% needed to retire early, 16% quit their job, 20% changed from full time to part time, 22% took a leave of absence, 33% worked decreased hours, and 64% took increased sick days or vacation time.
 - According to researchers at the University of Hawaii, approximately 10% of Hawaii’s total workforce (800,000 +) has taken some length of family leave to care for elders.
2. The most recent Hawaii State Plan on Aging (2007-20011) indicates large numbers of seniors and households with unmet needs. See attached charts for the City and County of Honolulu. An additional chart lists many of the issues faced by seniors who continue to live at home.
 3. During deliberations of the Family Leave Task Force, it was estimated that from 80,000 to 100,000 current employees were taking time off to address many of these unmet needs for their aging family members. Clearly, the workforce is under stress, in part, because the large number of 60+ residents are over whelming the current service delivery system.
 4. HB 982 seeks to create a data base of all employees who apply for family leave. This data base will be helpful in developing a future paid family leave program, as well as other needed services in the community.

Summary

Support for Aging in Place is what seniors want and need most, but are least able to receive. This bill is an important component to a future that honors and respects seniors. State agencies should not be giving excuses for not collecting data, they should be stepping forward with productive solutions.

Attachments:

Common Issues Faced by Kupuna living at Home

Disability or Challenge
1. Lacking in Financial Literacy.
2. Vulnerable to Financial abuse.
3. Physically hard to maintain a house.
4. Physically hard to do all chores.
5. Working family cannot always help.
6. Family moves far away. Loss of supporters.
7. Neighbors are new and unknown. Isolation.
8. Eyesight restricts night activities. Isolation.
9. Hearing limits phone, parties.
10. Cannot drive anymore. Major loss of dignity.
11. Some short term memory loss.
12. Hard to keep proper diet. Impacts health.
13. Difficulty in taking meds – threat to health.
14. Few recreational opportunities. Isolation
15. Short hospital stay. 4 wk recovery. ADLs.
16. Move to Condo. Stress.
17. Condo dwellers are strangers. Isolation
18. Hurricane – no electricity, no elevators, isolated for days.
19. Spouse Dies. Grief. Isolation. Depression.
20. More memory loss, depression.
21. Falls, breaks bone. Immobility. ADLs hard.
22. Need daily assistance, observation.
23. Serious hospitalization. 2 mos. recovery at home.
24. Difficulty in preparing meals. Poor diet.
25. Early Alzheimers.

Attachment: Unmet needs for Honolulu. Hawaii State Plan on Aging (2007-20011)

City and County of Honolulu

Programs and Services	Data Source and Methodology	Extent of Need	Existing Capacity	Informal Capacity	Unmet Needs
Access					
Information & Assistance	BFRSS 2000; all adults 18+	696,421	118,474		577,947
Outreach	BFRSS 2000; all 60+ and caregivers under age 60 (14%)	245,571	35,495		210,076
Case Management	NHIS-D, 2004, MEPS 2002 Special Tabulation Diminished functional capacities which require the provision of services by formal service providers or family caregivers	50,467	6,937	38,355	5,175
Assisted Transportation	NHIS-D, MEPS 2002 Special Tabulation Physical or cognitive difficulty using regular vehicular transportation	50,467	6,477	38,355	5,635
Transportation	60+ mobility disadvantaged; 65+ nondrivers - AARP report: Aging Americans: Stranded Without Options; 21% of 60+	36,157	40,263		(4,106)
Supportive Services – Community Based					
Adult Day Care	NHIS – D. MEPS 2002 Special Tabulation Need daytime personal care in a supervised, congregate setting	50,467	1,832		48,635
Congregate Meals	60+ Hot meals in a congregate or group setting	172,177	5,822		166,355
Health Maintenance	60+ with Disability 60+ with Chronic Conditions	66,960	25,007		41,953
Housing Assistance	65+ Low-Income 65+ Renter		2,748		(2,748)
Supportive Services – In-home					
Attendant Care (1)			2,197		(2,197)
Chore	NHIS 2003-2004; DHHS, CMS, MCBS 2002 Difficulty standing and performing heavy housework	45,139	547		44,592
Homemaker	NHIS 2004 Needs help of another person handling routine needs such as household chores, shopping or getting around	18,929	798		18,131

Programs and Services	Data Source and Methodology	Extent of Need	Existing Capacity	Informal Capacity	Unmet Needs
Home Delivered Meals	NHIS-D, MEPS 2002 Special Tabulation Hot meals delivered to frail, homebound	50,467	3,515	38,355	8,597
Nutrition Counseling	BFRSS 2003 Nutritionally at risk	111,915	32,940		78,975
Nutrition Education	60+ and caregivers under 60 Nutrition information	245,571	3,005		
Para-Professional Services					
Counseling (1)			8,736	0	(8,736)
Escort (1)			1,298	0	(1,298)
Literacy/Language		18,455	10	14,026	4,419
Personal Care	DHHS, CDC, National Center for Health Statistics, NHIS 2004	9,922	3,617	7,541	(1,236)
Respite	BFRSS 2000 Adult caregivers 18+ (14%)	97,499	1,467	74,099	21,933
Legal					
Legal Assistance	60+	172,177	2,790		169,387
Elder Abuse & Neglect	65+ Living Alone	22,813	705		22,108
National Family Caregiver Support Services (Title III-E)					
Access Assistance	BFRSS 2000 Adult caregivers 18+ (14%) Assists caregivers in obtaining access to services	97,499	3,276		94,223
Information Services	All adults 18+	696,421	6,139		690,282
Counseling	BFRSS 2000 Adult caregivers 18+ (14%)	97,499	4,380		93,119
Respite	BFRSS 2000 Adult caregiver 18+ (14%)	97,499	1,836		95,663
Supplemental Services	BFRSS 2000 Adult caregiver 18+ (14%) Services provided on a limited basis which may include home modifications, emergency response systems, and incontinence supplies	97,499	351		97,148
Support Groups	BFRSS 2000 Adult caregiver 18+ (14%)	97,499	4,528		92,971
Training	BFRSS 2000 Adult caregiver 18+ (14%)	97,499	326		97,173
Multipurpose Senior Center					
Recreation	60+	172,177	1,423		170,754

(1) Estimate of need not available

Testimony to the Senate Committee on Labor
Thursday, March 19, 2009
2:45 p.m.
Conference Room 224
State Capitol

RE: HOUSE BILL NO. 982, HD3 RELATING TO FAMILY LEAVE

Chair Takamine, Vice Chair Taniguchi, and members of the committee:

My name is Jim Tollefson and I am the President and CEO of The Chamber of Commerce of Hawaii ("The Chamber"). The Chamber does not support House Bill No. 982 HD3, relating to Family Leave in its current form and respectfully requests that the committee reinsert the language of HD2.

The Chamber is the largest business organization in Hawaii, representing more than 1,100 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 its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber well recognizes the growing number of caregivers in our state. Employers understand the hardships that some employees are experiencing and care about the well-being of their employees. They realize the importance of taking care of their employees and offering benefits to retain their staff. Many voluntarily offer benefits that address care giving responsibilities. Businesses are already providing a level of flexibility for employees who are in difficult situations.

We believe the data collection system applied to the public sector first is an appropriate start in analyzing and developing improvements to the family leave system. When Hawaii enacted the Hawaii Family Leave Act in 1991 (HRS §398), the Legislature extended the law to the public sector first. The law was not applicable to the private sector until July 1, 1994. The Chamber believes that this is a step in the right direction. Furthermore, imposing this requirement on the private sector during a tough economic period will further undermine the employers' ability to direct their resources and attention to issues that greatly assist employees.

In summary, we oppose the current version and ask that the HD2 language be reinserted. Thank you for the opportunity to testify.

TO: COMMITTEE ON LABOR
Senator Dwight Takamine, Chair
Senator Brian Taniguchi, Vice Chair

FROM: Eudice R. Schick
PABEA (Policy Advisory Board for Elder Affairs)

SUBJECT: IIB 982, HD 3

HEARING: Thursday, March 19, 2009 2:45 p.m. Room 224

POSITION: Support of IIB 982, HD 3

I am offering testimony on behalf of PABEA, the Policy Advisory Board for Elder Affairs, which is an appointed Board tasked with advising the Executive Office on Aging (EOA). My testimony does not represent the views of the EOA but of the Board.

HB 982, HD 3 requests the necessary funding for the Data Collection System that will, in the future, provide us with the necessary information so that the employee that is in need of family leave will be able to take this leave with pay, and also know that they will be able to return to the work force. The University of Hawaii Center on Aging is certainly the perfect place to have this data collection system set-up. The University is well versed on projects such as this.

Your support of HB 982, HD 3 is appreciated.

Eudice R. Schick, Chair PABEA Legislative Committee