



GOV. MSG. NO. 931

EXECUTIVE CHAMBERS
HONOLULU

July 9, 2008

LINDA LINGLE
GOVERNOR

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

Re: House Bill No. 2520 HD3 SD2 CD1

On July 8, 2008, House Bill No. 2520, entitled "A Bill for an Act Relating to Caregivers" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purposes of this Act are to require the joint legislative committee on aging in place to explore the provision of wage replacement benefits to employees who need to take time off from work to care for a family member with a serious health condition and to establish a working group to further explore the issue.

Every day, families in Hawaii struggle to find a way to care for an aging family member, a disabled spouse, or a sick child. As our aging population grows, this problem will become a reality for more Hawaii residents. This bill continues the analysis of this issue, but raises several concerns that should be acknowledged.

Any system that mandates employer-paid wage replacement benefits for Hawaii workers will increase the already high cost of doing business in the State and I would caution the working group to avoid recommending a system that will become an administrative and financial burden for companies in Hawaii that provide jobs and livelihoods for our residents. It should be noted that many employees can already use the benefits of the federal Family Medical Leave Act which requires employers to grant employees up to 12 work weeks of leave for an immediate family member with a serious health condition.

I would have liked to have seen the working group include members of the insurance industry, medical profession, and economic experts in lieu of advocacy organizations whose views are already well established.

This bill also raises concerns because it proposes to mandate a benefit that would aid some but could be unfair to others. It would allow an employee with an aging parent or a sick

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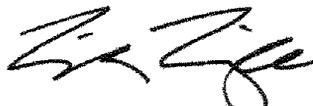
child to be entitled to more paid leave than an employee without a dependent that needs care. It would require an employer to make a judgment as to whether an employee is entitled to leave, but without being able to ask sensitive, personal medical questions about the family member's illness or condition. This could create the potential for abuse.

I believe most Hawaii workers are committed to their jobs and want to work. Most understand and are motivated by the dedication, hard work, and time that lead to career advancement. It makes sense to support policies that give workers the tools they need to balance work and family life, such as my Administration's proposals for tax credits for the purchase of long-term care insurance which will give Hawaii residents an opportunity to plan for family needs.

While there is no substitute for the care provided by a family member, it is important to remember that the stress and financial commitment of caring for a loved one can be overwhelming and damaging to all involved. Long-term care can aid and assist in such situations and ensure that the entire family unit remains healthy and successful.

For the foregoing reasons, I allowed House Bill No. 2520 to become law as Act 243, effective July 8, 2008, without my signature.

Sincerely,



LINDA LINGLE

A BILL FOR AN ACT

RELATING TO CAREGIVERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The joint legislative committee on family
2 caregiving was created to develop a comprehensive public policy
3 to strengthen support for family caregivers. The committee's
4 mandate was expanded in 2007 to require the committee to explore
5 the provision of wage replacement benefits to employees who need
6 time off from work to care for a family member with a serious
7 health condition.

8 In furtherance of this mandate, the committee held
9 informational hearings on the subject and contracted with the
10 University of Hawaii's school of social work to conduct a
11 comprehensive assessment of the needs of care recipients aged 60
12 or older with physical or cognitive disabilities and the needs
13 of their family caregivers. In addition to providing the
14 demographics of care recipients and their family caregivers,
15 researchers were asked to focus on the impact family caregiving
16 has in general on employment to determine, among other things,
17 whether the relationship warrants wage replacement benefits.



1 The preliminary results of the needs assessment
2 substantiate the critical role that family caregiving has in
3 Hawaii's health and long-term care system. According to the
4 needs assessment, over 25 per cent of Hawaii's households
5 contain at least one individual providing informal, unpaid care
6 for an adult aged 60 or older with physical or cognitive
7 disabilities. This percentage is expected only to increase.
8 Projections indicate that by 2020, more than one in four
9 individuals will be aged 60 or older, and an individual's need
10 for personal care assistance due to physical, sensory,
11 cognitive, and self-care disabilities increases with age.

12 The legislature finds that given the preliminary needs
13 assessment data, wage replacement benefits are an appropriate
14 and effective means of supporting family caregivers. The data
15 indicates that the average age of family caregivers is 54 years
16 old, well below the age of retirement. Over 55 per cent of the
17 family caregivers are employed, and of these, over 26 per cent
18 indicate that their employment is affected by their caregiving
19 responsibilities. Reduction in work hours was an often-cited
20 effect, followed by turning down promotions and taking leaves of
21 absence. Nearly all of the family caregivers stated that they



1 frequently rearrange their work schedules, and over 77 per cent
2 take time off from work to deal with caregiving
3 responsibilities. The most startling effect is that over 96 per
4 cent of the unemployed family caregivers indicated that they
5 retired to deal with family caregiving responsibilities.

6 Over the years, Hawaii has experienced a labor shortage
7 that threatens to debilitate some areas of the economy.
8 According to United States Census Bureau projections, one out of
9 six workers in Hawaii is at least 55 years old and nearing
10 retirement. With the current unemployment rate below three per
11 cent, Hawaii employers need to do more than increase salaries to
12 retain employees. More emphasis should be placed on
13 accommodating employees' family needs in a way that encourages
14 and enables employees to participate in the workforce.

15 When polled for the needs assessment, most family
16 caregivers indicated that no family caregiving benefits were
17 offered by their employers. Overwhelmingly, family caregivers
18 are in favor of public policies that support family caregiving.
19 Women are significantly more likely than men to support public
20 policies, which closely reflects the estimate that over 73 per
21 cent of family caregivers are women.



1 The current temporary disability insurance law provides an
2 eligible employee with up to 26 weeks of temporary disability
3 benefits if the employee suffers a qualifying disability that
4 prevents the employee from working. Employers are responsible
5 for providing temporary disability insurance coverage to
6 eligible employees but may deduct and withhold contributions
7 from each employee of one-half the cost of providing the
8 coverage as long as the contributions do not exceed one-half per
9 cent of the weekly wages earned by the employee.

10 The purpose of this Act is to require the joint legislative
11 committee on aging in place to explore the provision of wage
12 replacement benefits to employees who need to take time off from
13 work to care for a family member with a serious health
14 condition.

15 SECTION 2. (a) There is established a working group, as
16 part of and reporting to the joint legislative committee on
17 aging in place, which shall explore the provision of wage
18 replacement benefits to employees who need time off from work to
19 care for a family member with a serious health condition.

20 (b) The working group shall:



- 1 (1) Explore funding mechanisms for a paid family leave
2 program, including but not limited to income tax
3 credits, temporary disability insurance benefits, and
4 unemployment benefits;
- 5 (2) Review the research findings of the joint legislative
6 committee on family caregiving that was conducted
7 during the 2007 legislative interim as it relates to a
8 paid family leave program;
- 9 (3) Analyze the caregiver needs assessment to determine
10 the factors affecting the well-being of employed
11 family caregivers;
- 12 (4) Review the contents of House Bill No. 2520, House
13 Draft 3, which was introduced during the regular
14 session of 2008;
- 15 (5) Review paid family leave bills in California,
16 Washington, and New Jersey;
- 17 (6) Consider drafting legislation for introduction in the
18 regular session of 2009 that addresses wage
19 replacement for caregivers of a family member with a
20 serious health condition; and



1 (7) Inventory the eldercare policies and practices that
2 currently exist in the workplace and the extent to
3 which they exist.

4 (c) The members of the working group shall include a
5 representative of each of the following entities as appointed by
6 the director, or the equivalent, of that entity;

7 (1) Department of taxation;

8 (2) Department of labor and industrial relations;

9 (3) Department of human services;

10 (4) Department of health, executive office on aging;

11 (5) University of Hawaii, department of economics;

12 (6) National Federation of Independent Business;

13 (7) The Chamber of Commerce of Hawaii;

14 (8) Society for Human Resource Management;

15 (9) International Longshore & Warehouse Union Local 142;

16 (10) Hawaii Teamsters and Allied Workers;

17 (11) Policy advisory board for elder affairs;

18 (12) Hawaii Government Employees Association;

19 (13) Hawaii Family Caregiver Coalition;

20 (14) Kokua Council; and

21 (15) International Brotherhood of Electrical Workers.



1 (d) The members of the working group shall designate a
2 chair from among its members.

3 (e) The working group shall serve without compensation and
4 shall receive no reimbursements for expenses. After making its
5 report to the joint legislative committee on aging in place, the
6 working group shall cease to exist on June 30, 2009.

7 (f) The department of labor and industrial relations shall
8 provide administrative support for the working group. The
9 legislative reference bureau shall provide legislative drafting
10 services for the working group.

11 (g) The joint legislative committee on aging in place
12 shall report the findings and recommendations of the working
13 group, including any proposed legislation, to the legislature no
14 later than twenty days prior to the convening of the regular
15 session of 2009.

16 SECTION 3. This Act shall take effect upon its approval.

APPROVED this day of , 2008

GOVERNOR OF THE STATE OF HAWAII

