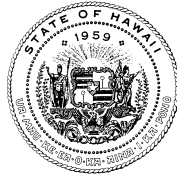


TESTIMONY

HB319 HD1

LINDA LINGLE
GOVERNOR



DARWIN L.D. CHING
DIRECTOR

COLLEEN Y. LaCLAIR
DEPUTY DIRECTOR

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

830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813
www.hawaii.gov/labor
Phone: (808) 586-8842 / Fax: (808) 586-9099
Email: dlir.director@hawaii.gov

March 17, 2009

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 224
State Capitol

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

Re: H.B. 319, H.D. 1 - Relating to Family Leave

I. OVERVIEW OF PROPOSED LEGISLATION

H.B. 319, H.D. 1, amends the Hawaii Family Leave Law ("HFLL"), Chapter 398, Hawaii Revised Statutes ("HRS") to require employers to post notification of the employees' rights under HFLL, particularly with respect to the caring of a seriously ill member.

This legislation requires the notice to inform the employee of any possible adverse impacts to any other employee rights as a result of taking leave under HFLL.

This Act would take effect upon approval.

II. CURRENT LAW

HFLL does not currently require any posting requirements by the employer.

Hawaii Administrative Rule 12-27-10 (a) does require employers covered by the statute to "notify employees in writing at the time of hire of their rights and responsibilities, including any employer policy regarding the statute."

III. HOUSE BILL

The Department has the following concerns regarding H.B. 319, H.D. 1:

1. The Department supports the posting requirement of the employee rights under the HFLL, and currently includes the following statement on their free poster, NOTICE TO EMPLOYEES (available at <http://dlir.state.hi.us/labor/law/poster/2006/wage.pdf>)

“**Hawaii Family Leave Law:** You have the right to receive up to 4 weeks of unpaid, job-protected leave for the birth or adoption of your child, or to care for your child, parent, spouse, or reciprocal beneficiary with a serious health condition. You are eligible only if you have at least 6 consecutive months of service and your employer has 100 or more employees. Accrued paid leaves may be substituted for any part of the 4-week period. If your employer provides for paid sick leave, you may use 10 days of your accrued and available sick leave per year unless a collective bargaining agreement provides for more than 10 days.”

2. The Department **does not support** two phrases included in the posting requirement. The first phrase on line 6 to 7 particularly with respect to caring for a seriously ill family member singles out one area of family leave and introduces the undefined term of “family member”. We believe the notice should address the entire law equally and not cause confusion as to who a “family member” would include.

The second phrase the Department **does not support** because it is vague and ambiguous appears on lines 7 to 9.

“and also providing information relating to possible adverse impacts that the taking of family leave may have on any other employee rights, entitlements, or benefits provided by the employer or required by law.”

The purpose of the HFLL is to protect employee rights with no negative impact when taking family leave. “Providing information relating to possible adverse impacts” concerns the Department because it appears to require the notice to list all possible ways an employer can escape their obligation and that there is a problem with the law. Of the over 15,000 inquiries per year received by the Wage Standards Division responsible for enforcing HFLL, only 3% relate to the HFLL. Of the more than 800 complaints filed in Fiscal Year 2007-2008 only 4 involved family leave.

We respectfully ask you to remove these two phrases from the notice requirement as we believe the current language used on the free poster more appropriately protects and informs employees of their rights.

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. 319, HD1
RELATING TO FAMILY LEAVE**

The ILWU Local 142 supports an amendment to H.B. 319, HD1, which requires employers to notify employees of their entitlement to family leave, as well as the possible adverse impact of taking family leave by posting a notice.

Informing workers about their employment rights is always a good thing. If laws are enacted to provide workers with protections and benefits, the workers should know about those laws. Employers will have more resources at their disposal to inform workers about their rights under the law as well as possible consequences of exercising those rights.

Workers with aged and disabled parents will want to know and be reminded about their rights under the family leave law. However, they should also know that taking such leave may have an adverse impact on benefits, seniority rights, promotions, etc. With full knowledge, the worker can then make an informed decision about whether to take family leave or not.

As Hawaii's aged population increases, more and more workers will need to take advantage of family leave laws to provide care to their parents. The problem will only escalate as the first baby boomers are reach 65 in just two years. The care that workers can provide to aged parents will help to prevent institutionalization and avert potentially huge costs to taxpayers.

The ILWU prefers the original bill, which requires employers to discuss possible adverse impacts with their employees instead of simply posting a notice. Notices, while easy enough for employers to post, are not always the best vehicle to provide information to workers, especially about their rights. Notices are especially troublesome for workers who cannot read or are not fluent in the English language.

We recommend that the bill be amended to require that the notice outline all possible adverse impacts of taking family leave and also invite the worker to discuss his or her particular situation with the employer. Each worker's situation is different and the worker must understand the consequences of taking family leave to his present and future benefits and entitlements.

With this amendment, the ILWU supports passage of H.B. 319, HD1. Thank you for the opportunity to share our views on this issue.

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: HB 319 HD1

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

POSITION: Support of HB 319 HD 1

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 319 is a Bill that benefits the employees and is at little or no cost to an employer. It is so important that the work force, which is being tasked with family care giving, know what is available to them so that they can plan should the need to take leave occurs. This segment of the work force is going to dramatically increase over the next 10-20 years.

Your support of this bill will show that you care about the families of our State and especially our Kupuna

Eudice R. Schick, Chair PABEA Legislative Committee

1065 Ahua Street
Honolulu, HI 96819
Phone: 808-833-1681 FAX: 839-4167
Email: info@gcawhawaii.org
Website: www.gcawhawaii.org



GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

March 17, 2009

TO: THE HONORABLE SENATOR DWIGHT Y. TAKAMINE, CHAIR AND
MEMBERS OF THE COMMITTEE ON LABOR

SUBJECT: H.B.319, HD1, RELATING TO FAMILY LEAVE

NOTICE OF HEARING

DATE: Thursday, March 19, 2009
TIME: 2:45 p.m.
PLACE: Conference Room 224

Dear Chair Takamine and Members of the Committee:

The General Contractors Association (GCA), an organization comprised of over five hundred and sixty (560) general contractors, subcontractors, and construction related firms, **is opposed** to the passage of H. B. 319, HD1, Relating To Family Leave.

H.B. 319, HD1, would require employers to post a notice informing employees of their rights under the Family Leave Law, Chapter 398, HRS, and to provide information relating to possible adverse impacts of taking family leave.

The GCA believes that posting of notices similar to those required under the Workers Compensation statutes may prove helpful to the employee and not require additional work for the employers. We are, however, opposed to the requirement to inform each employee of the possible adverse impacts that taking family leave may have on the employees rights, entitlements or benefits provided by the employer because the impacts on each employee may be different and will add additional cost and burdens on the employer to provide this additional information. We are also concerned that there may be potential liability and litigation if the information provided leaves out some adverse impacts unique to the individual employee or is in some way incorrect or inaccurate.

The GCA is opposed to passage of H.B.319, HD1 and request that the bill not be passed.

Thank you for the opportunity to provide our views on this issue.

The Senate
The Twenty-Fifth Legislature
Regular Session of 2009

Committee on Labor

Senator Dwight Takamine, Chair
Senator Brian T. Taniguchi, Vice Chair

DATE: Thursday, Maarch 19, 2009
TIME: 2:45 p.m.
PLACE: Conference Room 224

**TESTIMONY OF THE UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO
ON H.B. 319, HD1, RELATING TO FAMILY LEAVE**

HB 319, HD1, requires employers to notify employees of their entitlement to family leave, as well as possible adverse impact of taking family leave by posting a notice. **The United**

Public Workers, Local 646, supports the intent and purpose of this measure.

Recent surveys conducted by the Executive Office of Aging (“Eldercare Policies in the Workplace”) and the Joint Legislative Committee on Family Caregiving (“State of Hawaii Family Caregiver Needs Assessment”) demonstrate a major discrepancy between the types of eldercare policies and benefits that employers offer and what working caregivers believe to be offered. For example, while eighty percent of employers offered paid bereavement leave, only 4.7 percent of employed caregivers knew of this benefit.

Extended life spans and the increase in our aged population will significantly exacerbate the time and stress placed on working caregivers. It is incumbent upon employers to inform their employees of the possible benefits as well as adverse effects of taking family leave so workers can decide best how to utilize their options. For this reason we urge the passage of HB 319, HD1.