



STATE OF HAWAII  
DEPARTMENT OF HUMAN SERVICES  
P. O. Box 339  
Honolulu, Hawaii 96809-0339

April 1, 2018

TO: The Honorable Senator Donovan M. Dela Cruz, Chair  
Senate Committee on Ways and Means

FROM: Pankaj Bhanot, Director

SUBJECT: **HB 1647 HD2 – RELATING TO HEALTH**

Hearing: Wednesday, April 4, 2018, 10:30 a.m.  
Conference Room 211, State Capitol

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

Since the first hearing in the House, Directors of DHS and the Department of Labor and Industrial Relations (DLIR) have discussed this measure and are investigating available data points to match to comply with this measure. The departments will require one or more memorandum of understanding to conduct the data match, and DHS is informed that expenses associated with the data match DHS will require an appropriation.

Since the hearing before House Finance, we received a preliminary cost estimate from DLIR of \$25,000 to \$50,000; this is the potential amount DHS would be required to reimburse DLIR.

DHS will also require IT modifications to run the match, and depending upon whether the legislature requests data matching for financial program recipients and Medicaid recipients, the preliminary estimate for DHS is approximately \$100,000; DHS may be able to access federal matching funds through Medicaid, if the match is made for purposes of system or program improvement. DHS and DLIR will continue to discuss the estimated appropriation amount to accomplish this task.

At this time we request that this proposal not be codified in statute, and instead the legislature mandate through a session law, DHS to determine the 50 employers with the highest number of employees receiving public assistance and make the necessary appropriation and spending provisions. If the legislature prefers to codify the mandate, then DHS requests that the requirement to match, compile, and report the findings to the legislature be subject to available funding.

Lastly, DHS requests the effective date to be some time in 2019, to give DHS and DLIR requisite time to address data sharing memorandum and system adjustments.

**PURPOSE:** The purpose of the bill requires DHS to compile information regarding employers with employees who receive public assistance. Requires DHS to submit an annual report to legislature on the 50 employers with the highest number of employees receiving public assistance. Requires DLIR to share employment data.

DHS agrees that understanding and containing the state's health care costs are issues that the Legislature and the public would benefit from a deeper understanding, in addition to appreciating the complexities of underemployment, poverty wages, and economic impacts on society, business, and the state budget.

This session DHS has two legislative proposals that address similar concerns: HB2361 (now HB694 HD1) Relating to Health Analytics that establishes the Health Analytics Program in the Med-QUEST Division of the DHS and authorizes DHS to maintain an all-payers medical claims data base, and SB7923 SD2/HB2366 (now HB1926 HD1) Relating to Poverty that requires DHS to use an integrated and multigenerational approach to delivering human services to reduce the incidence of intergenerational poverty and dependence on public benefits.

It is correct that many of our adult recipients of public benefits are employed. Most program rules require adults who do not have a disability to be employed or in an activity that will lead to employment, or if minors, to be in school or be employed. However, please note:

- Employer information is not required for program eligibility and is not currently captured by our IT systems on a consistent basis. Additionally, for some

programs, such as Medicaid, we cannot require applicants to provide information that is not required for program eligibility;

- Consequently, while we do receive income verification information from various sources, we are not currently able to retrieve employer information consistently to compile such a report;
- With regard to minor children who are employed, and who are also receiving medical insurance coverage through Medicaid/CHIP, the children may be in families with household incomes up to 308 percent of the federal poverty level, which is \$72,324 for a family of four; and
- As a condition of receiving medical insurance coverage, Medicaid is always the payer of last resort; that is if there are primary medical insurance coverages available to the recipient through employment for example, the primary insurance coverage pays first before Medicaid pays.

From a different policy perspective that supports employment, DHS has established programs with employers to hire public benefit recipients, many of whom are just entering the work force and benefit from the employment experience toward income progression. Limited employer information is collected from employers who hire First-To-Work (FTW) Program participants for positions subsidized with Temporary Assistance for Needy Families (TANF) funds; however, the limited data does not include other employees hired for unsubsidized positions, information that would be required to compare hiring or other business practices.

We have concerns that this proposal may negatively impact programs that support employment opportunities for recipients as employers may be discouraged from hiring recipients to fill vacancies and discontinue their partnership with DHS.

Further, the title of the measure may be overbroad and unconstitutional pursuant to article III, section 14 of the State Constitution as there are multiple subjects in the bill, and the current bill language pertains to chapter 346, Hawaii Revised Statutes, which relate to DHS rather than the Department of Health as the title suggests.

However, as noted above, the departments are investigating available data points to match to comply with this measure. Depending on specific program data sharing

requirements, the departments may require one or more memorandum of understanding to conduct the data match, and DHS is informed that expenses associated with the data match will require an appropriation. As session progresses, we will have a better understanding of the program requirements and necessary appropriation to accomplish this task.

At this time we respectfully ask the legislature to consider that instead of codifying this new mandate in statute, that the legislature proceed through session law to mandate DHS determine the 50 employers with the highest number of employees receiving public assistance, and make the necessary appropriation and spending provisions.

If the legislature prefers to codify the mandate, then DHS requests that the requirement to match, compile, and report the findings to the legislature be subject to available funding.

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



**WRITTEN TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-NINTH LEGISLATURE, 2018**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 1647, H.D. 2, RELATING TO HEALTH.

**BEFORE THE:**

SENATE COMMITTEE ON WAYS AND MEANS

**DATE:** Wednesday, April 4, 2018

**TIME:** 10:30 a.m.

**LOCATION:** State Capitol, Room 211

**TESTIFIER(S):** **WRITTEN TESTIMONY ONLY.**

(For more information, contact Heidi M. Rian,  
Supervising Deputy Attorney General, at 587-3050)

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Chair Dela Cruz and Members of the Committee:

The Department of the Attorney General provides the following comments.

The purpose of this bill is to require the Department of Human Services (DHS) to compile data and identify employers that have employees enrolled in the public assistance programs administered by the DHS, so the Legislature and other policy makers will have a deeper understanding of the causes and sources of underemployment, poverty wages, and the economic impacts on society, business, and the state budget. The bill proposes adding a new section to chapter 346, Hawaii Revised Statutes, requiring the DHS to compile information relating to employers with employees who receive public assistance, and requires the Department of Labor and Industrial Relations to assist by sharing employment data with the DHS.

Article III, section 14, of the Hawaii State Constitution provides in relevant part that "No law shall be passed except by bill. Each Law shall embrace but one subject, which shall be expressed in its title." Thus, a bill that addresses subjects outside its single subject title violates article III, section 14, of the Hawaii State Constitution.

Here, the title of the bill properly refers to one subject, and section 1 indicates that this Act may be cited as the "Fair Share Health Care Disclosure Act." The bill's purpose of requiring the DHS to compile the data is "so that the legislature and other policy makers will have a deeper understanding of the causes and sources of

underemployment, poverty wages, and the economic impacts on society, business, and the state budget.” Requiring the DHS to compile data regarding an employer with employees receiving benefits from all other public assistance programs administered by the DHS, unrelated to health or health care, appears to be beyond the scope of the title of this bill. Thus, the bill may be subject to challenge as violative of article III, section 14, of the Hawai'i Constitution.

Recently, related to this bill, the Senate Committees on Human Services and Labor recognized in Senate Standing Committee Report No. 3057, dated March 22, 2018, that the various public benefits and services administered by the DHS have direct implications for the health and well-being of individuals receiving those benefits and services, and a better understanding of the use of these programs will result in more prudent decisions to preserve and enhance these important programs for Hawaii's residents. However, the bill itself was not amended to include this information, which clearly connects the bill's purpose to the subject of health.

We suggest amending section 2 of the bill by inserting the underscored text, similar to the wording in Senate Standing Committee Report No. 3057, after the stated purpose at page 2, lines 6-12, to explain how compilation of the data relating to the various public assistance programs administered by DHS relates to health, as follows:

The purpose of this Act is to require the department of human services to compile data and identify employers that have numerous employees enrolled in public assistance programs so that the legislature and other policy makers will have a deeper understanding of the causes and sources of underemployment, poverty wages, and the economic impacts on society, business, and the state budget. The Legislature recognizes that the public assistance programs administered by the department of human services have direct implications for the health and well-being of individuals and families who receive benefits and services, and a better understanding of the use of these programs will help the legislature to address issues to preserve and enhance these important programs.

We respectfully ask the Committee to make the suggested changes. Thank you for the opportunity to provide these comments.