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To: The Honorable Angus McKelvey, Chair  
and Members of the House Committee on  
Economic Revitalization, Business, and Military Affairs

Date: Tuesday, March 17, 2009  
Time: 7:30 a.m.  
Place: Conference Room 312  
State Capitol

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

**Re: S.B. 614 - Relating to Family Leave**

**I. OVERVIEW OF PROPOSED LEGISLATION**

S.B. 614 proposes to amend the Hawaii Family Leave Law, Chapter 398, Hawaii Revised Statutes ("HRS") by allowing individuals to take Hawaii Family Leave when their child, spouse, parent, or reciprocal beneficiary is on military deployment.

This Act would take effect on July 1, 2009.

**II. CURRENT LAW**

The Hawaii Family Leave Law applies only for the birth or adoption of child, or the care of a child, spouse, parent, or reciprocal beneficiary with a serious health condition. The law applies to employers with at least 100 employees.

The federal Family Medical Leave Act provides 12 weeks of family leave and applies to employers with at least 50 employees.

**III. SENATE BILL**

**The Department opposes this measure because it is unnecessary.**

1. The Department recognizes the many challenges that military families face when a loved one is deployed abroad. However, the Department is concerned that this legislation may place an extra burden on businesses during these difficult economic times. The loss of productivity due to the absence of an employee for reasons not related to his or her own inability to work may prove too costly for Hawaii businesses to absorb.
2. It is important to note that the Hawaii Family Leave Act, coupled with the federal Family Medical Leave Act (FMLA), already provides generous benefits to all families across the State. We must all assess the costs and benefits of expanding these programs during such difficult economic times.

LINDA LINGLE  
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March 13, 2009

TESTIMONY TO THE  
HOUSE COMMITTEE ON ECONOMIC REVITALIZATION,  
BUSINESS, AND MILITARY AFFAIRS  
For Hearing on Tuesday, March 17, 2009  
7:30 AM, Conference Room 312

BY  
MARIE C. LADERTA, DIRECTOR

**Senate Bill No. 614  
Relating to Family Leave**

**WRITTEN TESTIMONY ONLY**

TO CHAIRPERSON McKELVEY AND MEMBERS OF THE COMMITTEE:

This bill proposes to amend Section 398-3 of the Hawaii Revised Statutes to grant family leave to an employee during any calendar year to provide family care and support during the military deployment of the employee's child, spouse, or reciprocal beneficiary, or parent. It also requires an employee to provide proof of military deployment and defines "military deployment."

The Department of Human Resources Development understands the intent of this bill and deeply appreciates our military troops and their families for their daily sacrifices; however, **this bill is unnecessary**, as the federal Family and Medical Leave Act of 1993 (FMLA) was recently amended to provide eligible employees with generous military family leave entitlements. In addition, legislating new provisions in the Hawaii Family Leave Law through this bill that are different from the FMLA will cause confusion for the employers and employees.

In light of the above concerns, we respectfully recommend that the measure be **HELD**. Thank you for the opportunity to testify on this matter.

STATE OF HAWAII  
DEPARTMENT OF DEFENSE

TESTIMONY ON SENATE BILL 614  
A BILL FOR AN ACT RELATING TO FAMILY LEAVE

PRESENTATION TO THE  
HOUSE COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS,  
AND MILITARY AFFAIRS

BY

MAJOR GENERAL ROBERT G. F. LEE  
ADJUTANT GENERAL  
March 17, 2009

Chair McKelvey, Vice-Chair Choy, and Members of the Committee:

I am Major General Robert G. F. Lee, State Adjutant General. I am testifying on Senate Bill 614. This bill grants family leave to an employee during any calendar year during a military deployment.

We support the intent of Senate Bill 614, however are concerned about the impact on Hawaii business. Additionally, State and federal laws provides family leave up to twelve weeks and applies to employers that have fifty or more employees. Expansion of additional leave benefits to current laws may not be appropriate during such difficult economic situation in our nation and state.

Chair McKelvey, thank you for the opportunity to provide this testimony. Are there any questions?



**Testimony to the House Committee on Economic Development, Business, and Military  
Affairs  
Tuesday, March 17, 2009  
7:30 AM  
Conference Room 312**

**RE: SENATE BILL NO. 614 RELATING TO FAMILY LEAVE**

**Chair McKelvey, Vice Chair Choy, and members of the committee.**

My name is Charles Ota and I am the Vice President for the Military Affairs Committee of The Chamber of Commerce of Hawaii (The Chamber). I am here to state The Chamber's support of the intent of Senate Bill No. 614, Relating to Family Leave.

The Chamber's Military Affairs Council (MAC) serves as the liaison for the state in matters relating to the U.S. military and provides oversight for the State's multi-billion dollar defense industry.

The measure proposes to grant family leave to an employee during any calendar year to provide family care and support during the military deployment of the employee's child, spouse or reciprocal beneficiary, or parent. Requires an employee to provide proof of military deployment, and defines "military deployment".

I would specifically like to address SECTION 2, paragraph (a) (4) of this bill.

The MAC believes that this proposal was introduced to relieve serious family stresses for members of the Hawaii Army and Air National Guard units and Hawaii-based US military Reserve units that are being recalled to active duty to augment the over-burdened active duty force in the ongoing war against terrorism. Many of these National Guard and Reserve members, and their families, are facing extremely stressful situations that require strong family support. We support the intent of this proposal.

However, some employers have expressed that the verbiage in the above cited paragraph is broader than the federal law enacted by the Family and Medical Leave Act of 1993 (as amended) and could result in confusion for Hawaii employers, especially with the most recent changes that were prompted by the National Defense Authorization Act of FY 2008 on January 16, 2009.

In light of the above, we recommend revision to paragraph (a) (4) under SECTION 2 to include the following verbiage to avoid conflict with the federal policies cited above:

“(4) Any qualifying exigency (as provided by regulation 29 C.F.R 825.126) arising out of the fact that the spouse, reciprocal beneficiary, son, daughter, or parent of the employee is on active duty, or has been notified of an impending call or order to active duty, in the Armed Forces of the United States in support of a contingency operation.”

For these reasons, the MAC recommends the measure be held unless the proposal is reworded accordingly.

Thank you very much for the opportunity to testify.