

Honolulu, Hawaii

MAR 04 2016

RE: S.B. No. 2961
S.D. 2

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committees on Judiciary and Labor and Ways and Means, to which was referred S.B. No. 2961, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO FAMILY LEAVE,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Establish a family leave insurance program that is funded through wage withholdings of employees each pay period and transmitted by the employer into a trust fund to be used to provide employees with family leave insurance benefits to care for a designated person;
- (2) Expand the reach of employees subject to the family leave law and provide a total of twelve weeks, rather than four weeks, of family leave to care for children and family members; and
- (3) Appropriate funds to the Department of Labor and Industrial Relations for the hiring of staff to administer the family leave trust fund.

Your Committees received testimony in support of this measure from the Hawaii State Commission on the Status of Women, Planned Parenthood Votes Northwest and Hawaii, Hawaii Family Caregiver Coalition, Policy Advisory Board for Elder Affairs, Family Programs Hawaii, Hawaii Women's Coalition, Women's Caucus of the Democratic Party of Hawai'i, Healthy Mothers Healthy Babies



Coalition of Hawaii, Hawaii Children's Action Network, American Association of University Women of Hawaii, Hawai'i Public Health Institute, and twelve individuals. Your Committees received testimony in opposition to this measure from the Department of Budget and Finance; International Longshore Warehouse Union, Local 142; Society for Human Resource Management-Hawaii Chapter; NFIB; Hawaii Credit Union League; and Building Industry Association of Hawaii. Your Committees received comments on this measure from the Department of Labor and Industrial Relations.

Your Committees find that Hawaii's working families are not adequately supported during times of caregiving and illness. The majority of Hawaii's workforce cannot afford to take unpaid leave when needing to provide care to a newborn, bond with a new child, or care for a family member with a serious health condition. The federal Family Leave Act allows for unpaid leave with job protection for up to twelve weeks for employers with fifty or more employees; however, this leaves out forty percent of the workforce in the United States. The Hawaii Family Leave Act only applies to employers with one hundred or more employees and only allows for four weeks of unpaid leave with job protection. Only two percent of employers in the State are required to comply with the Hawaii Family Leave Act, thereby applying to only sixteen percent of the workforce.

Your Committees note the testimony submitted by the Hawaii Commission on the Status of Women indicating how paid family leave has been shown to benefit businesses in California, a state that has implemented paid family leave laws. Specifically, the paid family leave laws have resulted in reduced absenteeism, increased business revenue, retention of a better workforce, and reduction in turnover costs based on retention. Paid family leave also contributes to stronger employer-employee relations by building the bonds of trust and understanding during a time of work-life crisis or significant financial crossroads where most people in Hawaii now have to choose between losing wages or losing a job and taking care of an ill family member or tending to a newborn. This measure allows Hawaii to join other state jurisdictions with similar family leave laws and assists employees who must balance work and family commitments..

Your Committees further note the concerns raised in testimony submitted by the Department of Labor and Industrial Relations regarding the implementation, cost, coverage, and duplication of benefits that this measure may result in. The Department of



Budget and Finance recommended an actuarial study be conducted before this measure is implemented.

Accordingly, your Committees have amended this measure by:

- (1) Requiring employers to notify the Department of Labor and Industrial Relations of all designations and changed designations of designated persons made by covered individuals;
- (2) Requiring the Department of Labor and Industrial Relations to adopt rules to implement the process for covered individuals to make and change designations of designated persons and notify the Department of these designations;
- (3) Clarifying the eligibility requirements for family leave insurance benefits;
- (4) Deleting language that would have allowed a self-employed person to receive family leave insurance benefits;
- (5) Adding language that prohibits the duplication of other specified benefits if an employee is receiving family leave insurance benefits;
- (6) Inserting a blank number of employees under the definition of "employer" in section 398-1, Hawaii Revised Statutes (HRS);
- (7) Amending section 398-4, HRS, to allow benefits provided pursuant to a temporary disability benefits plan that constitute excess sick leave to be used for the purposes of the Hawaii Family Leave Act;
- (8) Clarifying that nothing in the family leave laws shall prevent a biological mother receiving temporary disability benefits for recovery from childbirth from applying for and receiving paid family leave for the purpose of caregiving and bonding with her child after the period during which temporary disability insurance benefits are compensable;



- (9) Establishing that an employee shall not earn wages during the period in which the employee receives paid family leave;
- (10) Inserting a blank appropriation to the Department of Labor and Industrial Relations for the hiring of staff to administer the family leave trust fund;
- (11) Adding language that requires the Department of Labor and Industrial Relations to submit a report to the Legislature regarding the implementation of the family leave insurance program, including the feasibility of extending family leave insurance benefits to self-employed persons, prior to the Regular Session of 2017;
- (12) Adding language that requires the Department of Budget and Finance, in collaboration with the Hawaii Commission on the Status of Women, to perform an actuarial study on the economic impact and operational requirements of providing family leave insurance benefits and submit the study to the Legislature prior to the Regular Session of 2017;
- (13) Inserting an effective date for the family leave insurance program and its conforming amendments to chapter 398, HRS, of July 1, 2017;
- (14) Inserting an effective date of January 7, 2059, to encourage further discussion; and
- (15) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

Your Committees note that the Department of Labor and Industrial Relations requires an appropriation of \$300,000 for fiscal year 2016-2017 for the hiring of staff to administer the family leave trust fund.

As affirmed by the records of votes of the members of your Committees on Judiciary and Labor and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2961, S.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as S.B. No. 2961, S.D. 2.



Respectfully submitted on
behalf of the members of the
Committees on Judiciary and
Labor and Ways and Means,



JILL N. TOKUDA, Chair

GILBERT S.C. KEITH-AGARAN, Chair

The Senate
Twenty-Eighth Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* SB 2961 SD1	Committee Referral: HMS/CPH, JDL/WAM	Date: 3/1/16		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="text-align: center;"> <input type="checkbox"/> Pass, unamended 2312 </div> <div style="text-align: center;"> <input checked="" type="checkbox"/> Pass, with amendments 2311 </div> <div style="text-align: center;"> <input type="checkbox"/> Hold 2310 </div> <div style="text-align: center;"> <input type="checkbox"/> Recommit 2313 </div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
KEITH-AGARAN, Gilbert S.C. (C)	/			
SHIMABUKURO, Maile S.L. (VC)	/			
GABBARD, Mike				/
KAHELE, Kaiali'i	/			
KIM, Donna Mercado				/
THIELEN, Laura H.	/			
SLOM, Sam			/	/
TOTAL	4	0	1	2
Recommendation: <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted </div>				
Chair's or Designee's Signature:				
Distribution: <div style="display: flex; justify-content: space-between; font-size: small; margin-top: 5px;"> Original File with Committee Report Yellow Clerk's Office Pink Drafting Agency Goldenrod Committee File Copy </div>				

***Only one measure per Record of Votes**

Record of Votes
Committee on Ways and Means
WAM

*Only one measure per Record of Votes