

DAVID Y. IGE  
GOVERNOR



JAMES K. NISHIMOTO  
DIRECTOR

RANDY BALDEMOR  
DEPUTY DIRECTOR

**STATE OF HAWAII**  
**DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT**  
235 S. BERETANIA STREET  
HONOLULU, HAWAII 96813-2437

February 9, 2015

**TESTIMONY TO THE  
SENATE COMMITTEES ON HEALTH,  
PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS, AND  
JUDICIARY AND LABOR**

For Hearing on Wednesday, February 11, 2015  
1:20 p.m., Conference Room 414

BY

JAMES K. NISHIMOTO  
DIRECTOR

**Senate Bill No. 675  
Relating to Firefighters**

**WRITTEN TESTIMONY ONLY**

TO CHAIRPERSONS JOSH GREEN, WILL ESPERO, AND GILBERT KEITH-AGARAN  
AND MEMBERS OF THE COMMITTEES:

Thank you for the opportunity to provide comments on S.B. 675.

The purposes of S.B. 675 are to provide firefighters with comprehensive medical coverage through workers compensation benefits by establishing a rebuttable presumption that a firefighter who suffers from cancer, blood-borne infectious disease, or exposure to biochemical substances contracted the condition in the course of employment; and to require the Hawaii State Fire Council to develop standards and procedures to ensure health and safety of firefighters who may be exposed to hazardous materials in the course of their duties.

The Department of Human Resources Development (DHRD) has a fiduciary duty to administer the State's self-insured workers' compensation program and its expenditure of public funds. In that regard, DHRD respectfully submits these comments on the bill.

First, Section 386-85, HRS, already contains a presumption that a claim for workers' compensation benefits is for a covered work injury. Section 386-3, HRS, is broadly construed and includes personal injury either by accident arising out of and in the course of the employment or by disease proximately caused by or resulting from the nature of the employment. These provisions would also apply to a firefighter's claim for cancer, leukemia, blood-borne infectious disease, or methicillin-resistant staphylococcus aureus skin infection.

Second, Section 386-85, HRS, already provides that the presumption of compensability can only be rebutted by "substantial evidence to the contrary." As demonstrated in legions of Disability Compensation Division, Labor and Industrial Relations Appeals Board, Hawaii Intermediate Court of Appeals decisions, and the 2014 Hawaii Supreme Court decision involving a vog-related claim for workers' compensation benefits, this "substantial evidence" standard is a very high standard for employers to overcome.

Finally, Section 386-82, HRS, already exempts certain exposure-type claims from the normal two-year statute of limitations for filing a workers' compensation claim. This exemption applies to claims for injury caused by occupational exposure to minerals or substances with carcinogenic properties and exposure to radioactive substances. Claims for such injuries can be filed up to two years after knowledge that the injury was proximately caused by, or resulted from the nature of, the employment. This provides an added safeguard for injured employees or their families to file claims when the work-relatedness of such injuries is not readily apparent.



STATE OF HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS  
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February 11, 2015

To: The Honorable Josh Green, Chair,  
The Honorable Glenn Wakai, Vice Chair, and  
Members of the Senate Committee on Health

The Honorable Will Espero, Chair,  
The Honorable Rosalyn H. Baker, Vice Chair, and  
Members of the Senate Committee on Public Safety, Intergovernmental  
And Military Affairs

The Honorable Gilbert S.C. Keith-Agaran, Chair,  
The Honorable Maile S.L. Shimabukuro, Vice Chair, and  
Members of the Senate Committee on Judiciary and Labor

Date: Wednesday, February 11, 2015  
Time: 1:20 p.m.  
Place: Conference Room 414, State Capitol

From: Elaine N. Young, Acting Director  
Department of Labor and Industrial Relations (DLIR)

**Re: S.B. No. 675 Relating to Firefighters**

**I. OVERVIEW OF PROPOSED LEGISLATION**

SB675 proposes to add a new section in chapter 386, Hawaii Revised Statutes (HRS). Section 2 of the proposal states that this bill will provide firefighters with comprehensive medical coverage through workers' compensation benefits by establishing a rebuttable presumption that a firefighter who suffers from cancer, blood-borne infectious disease, or exposure to biochemical substances contracted the condition in the course of employment. Section 3 requires the Hawaii State Fire Council to develop standards and procedures to ensure health and safety of firefighters who may be exposed to hazardous materials in the course of their duties.

The DLIR notes that this measure may be unnecessary as the Workers' Compensation law already provides a rebuttable presumption and both health and safety laws already require the county and state fire departments to have standards.

## **II. CURRENT LAW**

Section 386-3, HRS, defines injury and provides that the employee's employer shall pay compensation to the employee or the employee's dependents as provided in chapter 386 if an employee suffers personal injury either by accident arising out of and in the course of the employment, or by disease proximately caused by or resulting from the nature of the employment.

Section 386-85, HRS, provides that there is a presumption that a claim for compensation is for a covered work injury. Section 386-85, HRS, provides that in any proceeding for the enforcement of a claim for compensation under this chapter, it shall be presumed, in the absence of substantial evidence to the contrary:

- (1) That the claim is for a covered work injury;
- (2) That sufficient notice of such injury has been given;
- (3) That the injury was not caused by the intoxication of the injured employee;  
and
- (4) That the injury was not caused by the willful intention of the injured employee to injure oneself or another.

## **III. COMMENTS ON THE SENATE BILL**

Section 2, paragraph (b) references a "rebuttable" presumption. The current Section 386-85, HRS, already has provisions for presumption and rebuttal.

Section 2, paragraph (b) (page 3, lines 8-9) reads, in part, as follows, "Unless so controverted, the appeals board is bound to find in accordance with the presumption." The DLIR notes that claims are first adjudicated at the Disability Compensation Division, therefore, if this proposal moves forward the department recommends that this sentence be deleted.

The department understands the concerns raised in this measure that the litigious environment of the workers' compensation (WC) system and the difficulty of finding a physician who will accept a WC claimant may prevent firefighters from filing for and/or pursuing a WC claim in order to receive timely, complex, and expensive medical treatments due them under the WC law.

The department, however, recognizes that these individuals can still pursue their diagnosis and treatment through their health plan (e.g. Employer-Union Health Benefits Trust Fund – EUTF). In the event of a controverted workers' compensation claim, section 12-12-45 (Controverted workers' compensation claims), Hawaii Administrative Rules, provides for the health care contractor to pay or provide for the medical services in accordance with the health care contract. If WC liability is later established, the health care contractor shall be reimbursed by the WC carrier.

The department is also concerned that these individuals may not file for or pursue their WC claim because of a lack of knowledge of their eligibility or to avoid the litigious and lengthy process of the WC system. If the individual later succumbs to the injury or illness and has not filed for WC, survivors of the claimant may not be eligible to receive benefits that would have been due them (386-41 through 386-44, HRS).

Lastly, regarding section 3 of the bill, the DLIR notes that current HIOSH and OSHA standards apply to all employers, public and private. HIOSH standards already require employers to develop, implement and maintain safety programs, which include hazard assessment, training and re-training as necessary.

DEPARTMENT OF HUMAN RESOURCES  
CITY AND COUNTY OF HONOLULU  
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KIRK CALDWELL  
MAYOR



CAROLEE C. KUBO  
DIRECTOR

NOEL T. ONO  
ASSISTANT DIRECTOR

February 11, 2015

The Honorable Josh Green, Chair  
and Members of the Committee  
on Health  
The Honorable Will Espero, Chair  
and Members of the Committee  
on Public Safety, Intergovernmental and Military Affairs  
The Honorable Gilbert S.C. Keith-Agaran, Chair  
and Members of the Committee  
on Judiciary and Labor  
The Senate  
State Capitol, Room 414  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chairs Green, Espero, and Keith-Agaran and Members of the Committees:

SUBJECT: Senate Bill No. 675  
Relating to Firefighters

The purpose of S.B. 675, is to provide firefighters with comprehensive medical coverage by establishing a rebuttable presumption under workers' compensation for cancer, blood-borne infectious diseases, and staphylococcus aureus skin infections. The City and County of Honolulu offers the following comments with respect to the bill.

Hawaii Revised Statutes Section 386-85 currently provides that injuries sustained under the conditions set forth in the measure are presumed covered for workers' compensation purposes in the absence of substantial evidence to the contrary. As a result, the amendments set forth in Section 2 are duplicative and unnecessary.

We also question the need to include a specific standard for overcoming the presumption given the "substantial evidence" standard already set forth in the law. Adding a different standard for a limited set of injuries sustained by a finite group of individuals is therefore inessential and excessive. Moreover, the standard proposed by the bill fails to account for individual employees who may develop cancer due to their voluntary use of tobacco.

The Honorable Josh Green, Chair  
The Honorable Will Espero, Chair  
The Honorable Gilbert S.C. Keith-Agaran, Chair  
and Members of the Committees  
The Senate  
Page 2  
February 11, 2015

Finally, the City takes no position with respect to Section 3, which mandates that the State Fire Council develop minimum standards and procedures to ensure the health and safety of our firefighters and first responders, except to note that subsection 3.(d) should be amended to indicate that the report should be submitted "no later than twenty days prior to the convening of the regular session of 2016."

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read "Carolee C. Kubo", with a long, sweeping horizontal line extending to the right.

Carolee C. Kubo  
Director

DAVID IGE  
GOVERNOR



Elaine Young  
Acting Director

SHAN TSUTSUI  
LIEUTENANT GOVERNOR

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

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February 10, 2015

The Honorable Josh Green, Chair  
Committee on Health  
The State Senate  
State Capitol, Room 407  
Honolulu, Hawaii 96813

The Honorable Will Espero, Chair  
Committee on Public Safety,  
Intergovernmental and Military Affairs  
The State Senate  
State Capitol, Room 206  
Honolulu, Hawaii 96813

The Honorable Gilbert Keith-Agaran, Chair  
Committee on Judiciary and Labor  
The State Senate  
State Capitol, Room 221  
Honolulu, Hawaii 96813

Dear Chairs Green, Espero, and Keith-Agaran:

Subject: Senate Bill (SB) 675 Relating to Firefighters

I am Manuel P. Neves, Chair of the Hawaii State Fire Council (SFC). The SFC supports SB 675 with the recommended revisions to Section 3, which proposes to provide fire fighters with comprehensive medical coverage through workers compensation benefits by establishing a rebuttable presumption that a fire fighter who suffers from cancer, a blood-borne infectious disease, or exposure to a biochemical substance contracted the condition in the course of their employment. Attached are the suggested revisions in track changes format. Further testimony on this bill will be submitted by the county fire departments.



The Honorable Josh Green, Chair  
The Honorable Will Espero, Chair  
The Honorable Gilbert Keith-Agaran, Chair  
Page 2  
February 10, 2015

Section 3 (a), (b), and (c) of the bill are the responsibilities of the county fire departments to be in compliance with federal and state health and safety laws. Current Hawaii Occupational Safety and Health standards already require employers to develop, implement, and maintain safety programs, which include hazard assessment, training, and retraining as necessary. We propose to delete the phrase "Hawaii state fire council" in Section 3 (a), (b), and (c) and replace it with "the county fire departments." We also propose a revision to Section 3 (a) to delete the phrase "develop minimum standards and procedures" and replace it with "implement and maintain safety programs." The SFC will agree to prepare a report that compiles the information from the county fire departments in Section 3 (d) with a revision stating "no later than twenty days prior to the convening of the regular session of 2016."

The health and safety of personnel are high priorities for each fire department. They are responsible for protecting life and property from the hazards of fire, hazardous materials, medical, and other emergencies. Education and training are a continuous part of the fire department's responsibilities in addition to protecting its personnel. National standards are incorporated into the fire department's policies and procedures. Purchasing of the most up-to-date protective equipment, apparatus, and tools, keeps pace with technological advances in these areas. Supervisory oversight ensures that policies and procedures are reinforced and complied with. Hawaii Occupational Safety and Health inspections provide additional oversight of the best safety practices for personnel and fire stations.

The SFC strongly urges your committees' support and passage of SB 675 with the recommended revisions to Section 3.

Should you have questions, please contact SFC Administrator Socrates Bratakos at 723-7105 or [sbratakos@honolulu.gov](mailto:sbratakos@honolulu.gov).

Sincerely,



MANUEL P. NEVES  
Chair

MPN/LR:clc

Attachment

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## A BILL FOR AN ACT

RELATING TO FIREFIGHTERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII

SECTION 3. (a) ~~The Hawaii state fire council~~county fire departments shall implement and maintain safety programs ~~develop~~ ~~minimum standards and procedures~~ to ensure the health and safety of firefighters and first responders who are or may be exposed to hazardous materials or situations in the course of their duties. ~~The Hawaii state fire council~~county fire departments shall take steps to ensure that personnel are trained regularly with regard to these minimum standards and procedures.

(b) ~~The Hawaii state fire council~~county fire departments shall ~~urge county fire departments to~~ conduct an inventory of fire stations to ensure that the fire stations meet environmental health and safety standards to mitigate the long-term health effects on their personnel.

(c) As part of the minimum standards and procedures, the ~~Hawaii state fire council~~county fire departments shall require each fire station to employ best practices that limit an employee's exposure to hazardous materials by isolating equipment and material exposed in the field, proper cleaning protocol, and regular testing of the station for contaminants.

(d) The Hawaii state fire council shall compile the above information from the county fire departments prepare a report that outlines ~~its~~the progress in accordance with this Act and submit the report to the legislature no later than twenty days prior to the convening of the regular session of ~~2015~~2016.

**William P. Kenoi**  
*Mayor*



**Darren J. Rosario**  
*Fire Chief*

**Renwick J. Victorino**  
*Deputy Fire Chief*

**County of Hawai'i**  
**HAWAII FIRE DEPARTMENT**  
25 Aupuni Street • Suite 2501 • Hilo, Hawai'i 96720  
(808) 932-2900 • Fax (808) 932-2928

February 9, 2015

The Honorable Josh Green, Chair  
Committee on Health  
The State Senate  
State Capitol, Room 407  
Honolulu, Hawai'i 96813

The Honorable Will Espero, Chair  
Committee on Public Safety, Intergovernmental and Military Affairs  
The State Senate  
State Capitol, Room 206  
Honolulu, Hawai'i 96813

The Honorable Gilbert Keith-Agaran, Chair  
Committee on Judiciary and Labor  
The State Senate  
State Capitol, Room 221  
Honolulu, Hawai'i 96813

Dear Chairs Green, Espero, and Keith-Agaran:

**Subject: S.B. 675 Relating to Firefighters**

I am Darren J. Rosario, Fire Chief of the Hawai'i Fire Department of the County of Hawai'i (HCFD). The HCFD supports S.B. 675, which proposes to provide fire fighters with comprehensive medical coverage through workers compensation benefits by establishing a rebuttable presumption that a fire fighter who suffers from cancer, blood-borne infectious disease, or exposure to biochemical substance contracted the condition in the course of their employment, with recommended revisions. The revisions to Sections 1 and 2 are attached in track changes format.

The proposed revisions to Sections 1 and 2 are to provide consistent terminology found in Hawaii Revised Statutes (HRS) §386. We also propose that the last sentence in Section 2 (b) be deleted because it shortens the time limitations for exposures to carcinogenic substances as already provided in HRS §386-82. We suggest that the below sentence be substituted as follows:



“The claim for cancer by the firefighter shall be presumed to have occurred during the course of employment and the requirement to state in ordinary language the time, place, nature and cause of the cancer does not apply.”

Requiring a firefighter to provide a specific time, place and cause of the cancer would be problematic, when exposures to carcinogenic, blood-borne, or biochemical substances were not documented in a medical report and no immediate ill effects or symptoms were realized. The nature of the various types of exposures may have occurred during the course of a fire fighter's entire career. We further propose that Section 2 (c) be deleted as it is already stated in HRS §386-3.

Thirty-three states and eight Canadian provinces currently have cancer presumptive laws that provide fire fighters with workers compensation, medical, and service-connected disability benefits. Numerous studies have proven that the risk of being diagnosed with cancer is higher among fire fighters than the general population. A study of male firefighters in Massachusetts from 1987 to 2003 found an increased risk for numerous cancers, including colon and brain cancer. The University of Cincinnati's 2006 study found that on-the-job exposure to soot and toxins creates an increased risk of various cancers among fire fighters. A federal government study conducted during the development of an Occupational Safety and Health Administration Bloodborne Pathogen Standard showed that 98 percent of emergency medical technicians and 80 percent of fire fighters are exposed to blood-borne infectious diseases on the job. Fire fighters are exposed to many compounds designated as carcinogens by the International Agency for Research on Cancer, including benzene, diesel engine exhaust, chloroform, soot, styrene, and formaldehyde. These substances can be inhaled or absorbed through the skin, and the fire fighter's protective equipment does not always prevent exposures.

Cancer treatment may take years and costs may exceed the financial resources of fire fighters and their families. In the unfortunate event that a fire fighter cannot return to duty, this bill will provide much needed benefits. Although the language of the current workman's compensation law presumes a broad coverage of any injury or illness to be work related, the current system provides the employer with the right to deny claims and extend the process for several years. A fire fighter who is diagnosed with cancer and undergoes treatment is faced with a life and death struggle that he, as well as his family must battle.

The HCFD strongly urge your support and passage of S.B. 675 with the recommended revisions.

Should you have questions, please contact me at 932-2903 [darren.rosario@hawaiicounty.gov](mailto:darren.rosario@hawaiicounty.gov).

Sincerely,



DARREN J. ROSARIO  
Fire Chief

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## A BILL FOR AN ACT

RELATING TO FIREFIGHTERS.

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

SECTION 1. The legislature finds that risk of being diagnosed with cancer is higher among firefighters than the general population. In a three-year study completed in ~~2005~~ 2006 by the University of Cincinnati, researchers concluded that firefighters face a higher risk of cancer than the general population. Statistics from this study show that when compared to the general population, the risk for firefighters is:

- (1) One hundred two per cent higher for testicular cancer;
- (2) Fifty-three per cent higher for multiple myeloma;
- (3) Fifty-one per cent higher for non-Hodgkin's lymphoma;
- (4) Thirty-nine per cent higher for skin cancer;
- (5) Thirty-two per cent higher for brain and malignant melanoma;

- (5) Twenty-nine per cent higher for rectal cancer;
- (6) Twenty-eight per cent higher for prostate cancer;
- (7) Twenty-four per cent higher for buccal cavity and pharynx cancer;
- (8) Twenty-two per cent higher for stomach cancer;
- (9) Twenty-one per cent higher for colon cancer; and
- (10) Fourteen per cent higher for leukemia.

Firefighters face a greater risk of contracting blood-borne infectious diseases and illnesses associated with exposures to patient care and biochemical substances ~~due to~~ from exposures to hazardous materials. ~~bioterreism.~~

The purpose of this Act is to provide firefighters with comprehensive medical coverage, one-hundred percent average weekly wages, and ~~service-connected~~ disability indemnity and death retirement benefits through a presumptive law for cancer, blood-borne infections diseases, and exposure to biochemical substances contracted ~~the condition~~ in the course of employment.

SECTION 2. Chapter 386, Hawaii Revised Statutes, is amended to read as follows:

**§386- Injuries covered; firefighters.** (a) In addition to the injuries covered pursuant to section 386, if a firefighter develops cancer or leukemia, ~~suffers from~~ develops a blood-borne infectious disease, or develops methicillin-resistant

staphylococcus aureus skin infection during a period that the firefighter is in the course of employment, the cancer, leukemia, blood-borne infectious disease, or methicillin resistant staphylococcus aureus skin infection shall be presumed to arise out of and in the course of the employment.

(b) This presumption under subsection (a) is rebuttable and may be rebutted by evidence that the primary site of the cancer has been established and that the carcinogen to which the member has demonstrated exposure is not reasonably linked to the disabling cancer. Unless so controverted, the appeals board is bound to find in accordance with the presumption. This presumption shall be extended to a member following termination of service for a period of three calendar months for each full year of requisite service, but not to exceed sixty months in any circumstance, commencing with the last date actually worked in the specified capacity.

(c) No compensation shall be allowed for an injury incurred by an employee's wilful intention to injure oneself or another by actively engaging in any unprovoked non-work related physical altercation other than in self-defense, or by the employee's intoxication."

**Report Title:**



~~Service-connected disability and medical coverage~~Relating to  
Firefighters

**Description:**

Includes ~~service-connected disability retirement~~comprehensive  
medical coverage, one-hundred percent average weekly wages,  
disability indemnity and death benefits ~~and full medical~~  
~~compensation for the treatment of~~ through a presumptive law for  
cancer, or a blood-borne infectious diseases, or an exposure to  
biochemical ~~exposure for firefighters~~substances. The nature of  
the employment is presumed to be the cause of the illness so  
contracted, ~~unless rebutted by clear and convincing evidence.~~  
Effective July 1, ~~2014~~2015.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

## **TESTIMONY OF JANICE FUKUDA**

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COMMITTEE ON HEALTH  
Senator Josh Green, Chair  
Senator Glenn Wakai, Vice Chair

COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL  
AND MILITARY AFFAIRS  
Senator Will Espero, Chair  
Senator Rosalyn H. Baker, Vice Chair

COMMITTEE ON JUDICIARY AND LABOR  
Senator Gilbert S.C. Keith-Agaran, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair

Wednesday, February 11, 2015  
1:20 p.m.

### **SB 675**

Chairs Green, Espero and Keith-Agaran, Vice Chairs Wakai, Baker and Shimabukuro and members of the Committees, my name is Janice Fukuda, Assistant Vice President, Workers' Compensation Claims at First Insurance, testifying on behalf of Hawaii Insurers Council. Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately thirty-six percent of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **opposes** this bill.

The proposed language specifies descriptive conditions under which a firefighter would be entitled to Workers Compensation benefits. This bill also attempts to establish a special statute of limitations to file a claim.

HRS 386-3 Injuries covered states that “If an employee suffers personal injury either by accident arising out of and in the course of the employment or by disease proximately caused by or resulting from the nature of the employment, the employee’s employer or the special compensation fund shall pay compensation to the employee or the employee’s dependents as provided in this chapter.” We believe this language addresses illnesses referenced in this bill that may arise in the course and scope of employment.

The provision in HRS 386-85 Presumptions requires the employer to provide substantial evidence to the contrary to refute whether an injury or illness arose in the course and scope of employment. The proposed language in this bill regarding presumption conflicts with the presumption clause and dictates the decision making authority of the Appeals Board. This denies the employer due process to challenge a claim for compensation.

HRS 386-82 Claim for Compensation; limitation of time specifically addresses exposures to carcinogens and does not require years of service as a prerequisite to file a claim.

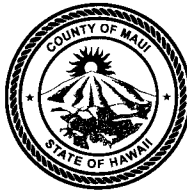
We believe the concern this bill attempts to address is already covered in HRS 386 and that the provisions in this bill is problematic due to conflicts with various other sections in HRS 386.

Sec. 3 contains a technical error in a report due-date that is past.

For these reasons we ask that this bill be held.

Thank you for the opportunity to testify.

ALAN M. ARAKAWA  
MAYOR



JEFFREY A. MURRAY  
CHIEF

ROBERT M. SHIMADA  
DEPUTY CHIEF

**COUNTY OF MAUI**  
**DEPARTMENT OF FIRE AND PUBLIC SAFETY**

200 DAIRY ROAD  
KAHULUI, MAUI, HAWAII 96732  
(808) 270-7561  
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EMAIL: fire.dept@mauicounty.gov

February 10, 2015

The Honorable Josh Green, Chair  
Committee on Health  
The State Senate  
State Capitol, Room 407  
Honolulu, Hawaii 96813

The Honorable Will Espero, Chair  
Committee on Public Safety,  
Intergovernmental and Military Affairs  
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State Capitol, Room 206  
Honolulu, Hawaii 96813

The Honorable Gilbert Keith-Agaran, Chair  
Committee on Judiciary and Labor  
The State Senate  
State Capitol, Room 221  
Honolulu, Hawaii 96813

Dear Chairs Green, Espero, and Keith-Agaran:

Subject: Senate Bill (SB) 675 Relating to Firefighters

I am Jeffrey A. Murray, Member of the Hawaii State Fire Council (SFC) and Fire Chief of the County of Maui, Department of Fire & Public Safety. The SFC and MFD support SB 675 with the recommended revisions to Section 3, which proposes to provide fire fighters with comprehensive medical coverage through workers compensation benefits by establishing a rebuttable presumption that a fire fighter who suffers from cancer, a blood-borne infectious disease, or exposure to a biochemical substance contracted the condition in the course of their employment. Attached are the suggested revisions in track changes format.

The Honorable Josh Green, Chair  
The Honorable Will Espero, Chair  
The Honorable Gilbert Keith-Agaran, Chair

Page 2

February 10, 2015

Section 3 (a), (b), and (c) of the bill are the responsibilities of the county fire departments to be in compliance with federal and state health and safety laws. Current Hawaii Occupational Safety and Health Standards already require employers to develop, implement, and maintain safety programs, which include hazard assessment, training, and re-training as necessary. We propose to delete the phrase "Hawaii state fire council" in Section 3 (a), (b), and (c) and be replaced with "the county fire departments." We propose a revision to Section 3 (a) to delete the phrase "develop minimum standards and procedures" and be replaced with "implement and maintain safety programs". The SFC will agree to prepare a report that compiles the information from the county fire departments in Section 3 (d), with a revision stating "no later than twenty days prior to the convening of the regular session of 2016."

The health and safety of personnel are high priorities for each fire department. They are responsible for protecting life and property from the hazards of fire, hazardous materials, medical, and other emergencies. Education and training are a continuous part of the fire department's responsibilities in addition to protecting its personnel. National standards are incorporated into the fire department's policies and procedures. Purchasing of the most up-to-date protective equipment, apparatus, and tools, keeps pace with technological advances in these areas. Supervisory oversight ensures that policies and procedures are reinforced and complied with. Hawaii Occupational Safety and Health inspections provide additional oversight of the best safety practices for personnel and fire stations.

The SFC and MFD strongly urge your committees' support and passage of SB 675 with the recommended revisions to Section 3.

Should you have questions, please contact SFC Administrator Socrates Bratakos at 723-7105 or [sbratakos@honolulu.gov](mailto:sbratakos@honolulu.gov).

Sincerely,



JEFFREY A. MURRAY  
Fire Chief

Attachment

---

## A BILL FOR AN ACT

RELATING TO FIREFIGHTERS.

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

SECTION 3. (a) The ~~Hawaii state fire council~~county fire departments shall implement and maintain safety programs ~~develop minimum standards and procedures~~ to ensure the health and safety of firefighters and first responders who are or may be exposed to hazardous materials or situations in the course of their duties. The ~~Hawaii state fire council~~county fire departments shall take steps to ensure that personnel are trained regularly with regard to these minimum standards and procedures.

(b) The ~~Hawaii state fire council~~county fire departments shall ~~urge county fire departments to~~ conduct an inventory of fire stations to ensure that the fire stations meet environmental health and safety standards to mitigate the long-term health effects on their personnel.

(c) As part of the minimum standards and procedures, the ~~Hawaii state fire council~~county fire departments shall require each fire station to employ best practices that limit an employee's exposure to hazardous materials by isolating equipment and material exposed in the field, proper cleaning protocol, and regular testing of the station for contaminants.

(d) The Hawaii state fire council shall compile the above information from the county fire departments prepare a report that outlines ~~its~~the progress in accordance with this Act and submit the report to the legislature no later than twenty days prior to the convening of the regular session of 20152016.

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [HTHTestimony](#)  
**Cc:** [dwschangattorney@gmail.com](mailto:dwschangattorney@gmail.com)  
**Subject:** Submitted testimony for SB675 on Feb 11, 2015 13:20PM  
**Date:** Monday, February 09, 2015 7:39:29 PM  
**Attachments:** [SB 675 Relating to Firefighters 02092015.wpd](#)

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**SB675**

Submitted on: 2/9/2015

Testimony for HTH/JDL/PSM on Feb 11, 2015 13:20PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
Dennis W S Chang	Individual	Support	Yes

Comments:

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**William P. Kenoi**  
*Mayor*



**Darren J. Rosario**  
*Fire Chief*

**Renwick J. Victorino**  
*Deputy Fire Chief*

**County of Hawai'i**  
**HAWAI'I FIRE DEPARTMENT**  
25 Aupuni Street • Suite 2501 • Hilo, Hawai'i 96720  
(808) 932-2900 • Fax (808) 932-2928

February 10, 2015

The Honorable Josh Green, Chair  
Committee on Health  
The State Senate  
State Capitol, Room 407  
Honolulu, Hawai'i 96813

The Honorable Will Espero, Chair  
Committee on Public Safety,  
Intergovernmental and Military Affairs  
The State Senate  
State Capitol, Room 206  
Honolulu, Hawai'i 96813

The Honorable Gilbert Keith-Agaran, Chair  
Committee on Judiciary and Labor  
The State Senate  
State Capitol, Room 221  
Honolulu, Hawai'i 96813

Dear Chairs Green, Espero, and Keith-Agaran:

**Subject: Senate Bill (SB) 675 Relating to Fire Fighters**

I am Darren J. Rosario, Member of the Hawai'i State Fire Council (SFC). The SFC supports SB 675 with the recommended revisions to Section 3, which proposes to provide fire fighters with comprehensive medical coverage through workers compensation benefits by establishing a rebuttable presumption that a fire fighter who suffers from cancer, a blood-borne infectious disease, or exposure to a biochemical substance contracted the condition in the course of their employment. Attached are the suggested revisions in track changes format. Further testimony on this bill will be submitted by the county fire departments.

Section 3 (a), (b), and (c) of the bill are the responsibilities of the county fire departments to be in compliance with federal and state health and safety laws. Current Hawai'i Occupational Safety and Health Standards already require employers to develop, implement, and maintain safety programs, which include hazard assessment, training, and re-training as necessary. We propose to delete the phrase "Hawai'i state fire council" in Section 3 (a), (b), and (c) and be replaced with "the county fire departments." We propose a revision to Section 3 (a) to



The Honorable Josh Green, Will Espero, Gilbert Keith-Agaran, Chairs  
February 10, 2015  
Page 2

delete the phrase “develop minimum standards and procedures” and be replaced with “implement and maintain safety programs”. The SFC will agree to prepare a report that compiles the information from the county fire departments in Section 3 (d), with a revision stating “no later than twenty days prior to the convening of the regular session of 2016.”

The health and safety of personnel are high priorities for each fire department. They are responsible for protecting life and property from the hazards of fire, hazardous materials, medical, and other emergencies. Education and training are a continuous part of the fire department’s responsibilities in addition to protecting its personnel. National standards are incorporated into the fire department’s policies and procedures. Purchasing of the most up-to-date protective equipment, apparatus, and tools, keeps pace with technological advances in these areas. Supervisory oversight ensures that policies and procedures are reinforced and complied with. Hawai‘i Occupational Safety and Health inspections provide additional oversight of the best safety practices for personnel and fire stations.

The SFC strongly urges your committees’ support and passage of SB 675 with the recommended revisions to Section 3.

Should you have questions, please contact SFC Administrator Socrates Bratakos at 723-7105 or [sbratakos@honolulu.gov](mailto:sbratakos@honolulu.gov).

Sincerely,



DARREN J. ROSARIO  
Fire Chief  
State Fire Council Member

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## A BILL FOR AN ACT

RELATING TO FIREFIGHTERS.

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

SECTION 3. (a) The ~~Hawaii state fire council~~county fire departments shall implement and maintain safety programs ~~develop minimum standards and procedures~~ to ensure the health and safety of firefighters and first responders who are or may be exposed to hazardous materials or situations in the course of their duties. The ~~Hawaii state fire council~~county fire departments shall take steps to ensure that personnel are trained regularly with regard to these minimum standards and procedures.

(b) The ~~Hawaii state fire council~~county fire departments shall ~~urge county fire departments to~~ conduct an inventory of fire stations to ensure that the fire stations meet environmental health and safety standards to mitigate the long-term health effects on their personnel.

(c) As part of the minimum standards and procedures, the ~~Hawaii state fire council~~county fire departments shall require each fire station to employ best practices that limit an employee's exposure to hazardous materials by isolating equipment and material exposed in the field, proper cleaning protocol, and regular testing of the station for contaminants.

(d) The Hawaii state fire council shall compile the above information from the county fire departments prepare a report that outlines ~~its~~the progress in accordance with this Act and submit the report to the legislature no later than twenty days prior to the convening of the regular session of ~~2015~~2016.

# SHOPO



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**VICE PRESIDENT**

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TO:

The Honorable Josh Green, Chair  
Senate Committee on Health

The Honorable Glenn Wakai, Vice Chair  
Senate Committee on Health

Members of the Senate Committee on Health

The Honorable Will Espero, Chair  
Senate Committee on Public Safety, Intergovernmental  
and Military Affairs

The Honorable Rosalyn H. Baker, Vice Chair  
Senate Committee on Public Safety, Intergovernmental  
and Military Affairs

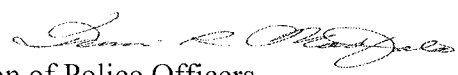
Members of the Senate Committee on Public Safety,  
Intergovernmental and Military Affairs

The Honorable Gilbert S.C. Keith-Agaran, Chair  
Senate Committee on Judiciary and Labor

The Honorable Maile S.L. Shimabukuro, Vice Chair  
Senate Committee on Judiciary and Labor

Members of the Senate Committee on Judiciary and Labor

FROM:

Tenari Ma'afala, President   
State of Hawaii Organization of Police Officers

DATE:

February 10, 2015

SUBJECT:

Testimony on S.B. No. 675, Relating to Firefighters

HEARING DATE:

Wednesday, February 11, 2015  
1:20 p.m. Conference Room 414

This bill creates a rebuttable presumption for workers compensation benefits for firefighters in regards to certain diseases and exposure to biochemical substances. The State of Hawaii Organization of Police Officers ("SHOPO") supports this bill with amendments to extend its applicability to county police officers.

Workers compensation claims for Hawaii's county police officers demonstrate exposure to biochemical hazards when arriving as first responders at fires and other hazardous materials events. Police have been known many times to search burning buildings and to bring injured victims to safety, at the same time being exposed to hazardous fumes.

Additionally, county police officers are exposed to infectious diseases on a regular basis when making arrests and other situations where officers have to come into physical contact with various members of the public, who may be contagious and/or infected.

While the University of Cincinnati study focuses on the meta-analysis of 32 studies regarding firefighter exposure to “various mixtures of particulates, gases, mists, fumes of an organic and/or inorganic nature and the resultant pyrolysis products” at fire scenes (Cancer Risk Among Firefighters: A Review and Meta-analysis of 32 Studies, Grace K. LeMasters, Ph.D. et al., 2005), it must be remembered that police officers are also present at these scenes.

SHOPO proposes amendments as follows:

§386- Injuries covered; firefighters, county police officers. (a) In addition to the injuries covered pursuant to section 386-3, if a firefighter or county police officer develops cancer or leukemia ....

We strongly ask your support for our proposed amendments which would include county police officers in the coverage of this bill, and for passage of this bill.

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [HTHTestimony](#)  
**Cc:** [wusstig@gmail.com](mailto:wusstig@gmail.com)  
**Subject:** \*Submitted testimony for SB675 on Feb 11, 2015 13:20PM\*  
**Date:** Tuesday, February 10, 2015 9:13:26 AM

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**SB675**

Submitted on: 2/10/2015

Testimony for HTH/JDL/PSM on Feb 11, 2015 13:20PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
Kenny Wusstig	Individual	Support	No

**Comments:**

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