



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Written Testimony for the
House Committee on Judiciary
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By
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HB 272 RELATING TO WORKPLACE PRACTICES

Chair Rhoads, Vice Chair Har and Members of House Committee on Judiciary, I am respectfully submitting written testimony on behalf of the University of Hawai'i regarding House Bill 272 – Relating to Workplace Practices which proposes to make "abusive conduct" against a public employee a workplace safety and health violation; a recognized work injury under the State's workers' compensation law; and allows an appeal for judicial enforcement.

The University of Hawai'i has strong reservations about the proposed bill and therefore **opposes** its passage.

The University of Hawai'i sincerely values our public employee workforce and employs close to 10,000 public employees each academic year. The UH is committed to providing and maintaining a safe and harmonious work environment which is achieved and realized by setting forth expectations of treating all employees with civility, dignity, and respect. We have executive policies and administrative procedures in effect that set forth these expectations and forewarn all employees of the possible consequences and actions that may occur if unprofessional and unwarranted conduct, such as bullying and harassment, are found to have occurred. These policies among others allow UH to self govern and enforce our expectations to not only foster and promote a productive and healthy work environment, but also to ensure compliance with applicable laws and rules, including but not limited to, OSHA's general duty clause.

While we agree with the Legislature *"that healthy and productive employees are cornerstones of successful businesses and a prosperous economy,"* we respectfully oppose the proposed legislation on the following basis:

1. Definitions of "abusive conduct" and "abusive work environment". We have concerns that the definitions of these terms are overly broad in scope and application. The UH continues to review court decisions and orders regarding policy definitions and make appropriate changes as necessary. In addition, we

have concerns that there will be difficulty in the application and administration of the new standard.

2. DHRD's authority over UH. Although UH is not a separate jurisdiction and part of the State's executive branch, DHRD does not have authority over UH employees similar to that of the State's DOE. The UH has its own internal complaint procedures and conducts its own education programs over subject matters, separate and apart from DHRD. The UH has treated these complaints as serious matters resulting in the investigations of complaints for alleged violations of UH policies and has taken appropriate corrective actions, including adverse actions against its employees when warranted.
3. Workers' compensation revisions. Existing workers' compensation law (HRS, Chapter 386) provides a mechanism for the review of claims under a jurisdiction and the UH takes the position that regardless of whether abusive conduct is determined, a claim for injury should be investigated and examined on its own merits to determine its compensability. We have concerns that claims should not automatically be qualified as a recognized work injury for which workers' compensation benefits may be paid.
4. Inclusion of civil remedies in lieu of workers' compensation benefits. The workers' compensation benefits are already the exclusive remedy for employees who suffer a work related injury with some limited exceptions. The proposed language appears to elevate "abusive conduct" injuries over existing and recognized work related injuries. Furthermore, we have concerns that an option to pursue civil remedies will expand the scope of potential liabilities against public employees.

The UH acknowledges and recognizes the Legislature's intent to protect public employees from an abusive work environment and that all workplaces should be safe and hazard free. We believe that we have the policies and procedures in force and effect; that we have experienced and trained personnel to deal with such matters; that we have a strong emphasis and focus on training and education; and that we are committed to provide our employees with a safe and harmonious working environment.

Based on the above, we respectfully request that this measure be held. Thank you for the opportunity to testify on this bill.