VOICE OF THE ILWU

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ADDRESS LABEL

Bush takes aim at civilian defense workers

A coalition of five unions, representing several thousand unionized civilian workers employed by the U.S. Department of Defense, have formed a coalition to protect their rights and protest a plan they say would destroy the federal civil service system.

Hundreds of Hawaii defense workers circled the Prince Kuhio Federal Building on Ala Moana Blvd. to protest a Bush administration plan that threatens thousands of civilian workers employed by the U.S. Department of Defense. The rally was held on June 25, 2003.

The Defense Transformation for the 21st Century Act, submitted to Congress by Bush's Secretary of Defense Donald Rumsfeld, proposes sweeping changes to how the Department of Defense (DoD) would operate. The proposed plan takes power away from Congress, from the commanders of the armed services, and from unionized defense workers and concentrates the power in Rumsfeld's hands, as Secretary of Defense. Language that gives Rumsfeld "sole and unreviewable discretion" or "sole and exclusive discretion" appears no less than 12 times in the document.

U.S. Representative Neil Abercrombie, who serves on the House Committee on Armed Services, called the Rumsfeld plan, ". . . a direct attack on thousands of Hawaii working men and women. Congress is being asked to give its blessing to a scheme that undermines the principles of civil service, the right to a living wage, and—ultimately—collective bargaining itself. It's no secret that once the Bush Administration imposes these conditions on DoD, it wants to extend these changes to the entire federal work force.

"These folks are our family, friends, and neighbors," Abercrombie said in a press release on June 13, 2003. "What happens to them affects thousands of island families. It will affect our state economy in the form of smaller paychecks, declining retail spending, and hard times for the businesses that depend on their patronage. In short, this affects all of us in Hawaii.

"These policies also weaken the support infrastructure for our military forces. Defense workers perform important work that contributes directly to military readiness. The effectiveness of America's Armed Forces benefits directly and materially from the dedication, skill and expertise provided by an experienced, professional work force. Reducing the quality of this national defense asset is a disservice to the nation and the men and women in uniform," Abercrombie noted.

Unions protest

The Hawaii Coalition of Federal Defense Unions asked other unions to support their cause in a letter dated June 20, 2003:

Dear Brothers and Sisters,

The federal Department of Defense unions and workers are the latest target of the Bush Administration.

We are being attacked by the "Rumsfeld Plan" which, if passed by Congress, would give Secretary of Defense Rumsfeld dictator-like control over all Department of Defense (DoD) personnel matters.

Under this plan, Rumsfeld would be able to set up whatever personnel and labor relations rules he wants, and would seriously weaken, if not destroy, the federal civil service system. Pay will no longer be determined by community standards, but on the basis of the supervisor's subjective annual appraisals.

There would be no guarantee of vacation or sick leave, and workers would not be sure what their family's health care coverage would be. Workers could be laid off at a moment's notice with no seniority rights and federal DoD unions could be a thing of the past. The new policy is simple Rumsfeld gets to decide!

We federal DoD unions know that only labor solidarity will give us a chance to defeat this terrible plan. We have united as the "Hawaii Coalition of Federal Defense Unions" and intend to fight this attack!

The five unions are: International Association of Machinist, Lodge 1998; International Brotherhood of Electrical Workers, Local 1186; American Federation of Government Employees, Local 1213; Hawaii Federal Employees Metal Trades Council; and National Association of Government Employees-SEIU, Local 556.

Your right to overtime is protected

ILWU members are lucky to have a union

Under new rules proposed by the Bush administration, millions of non-union workers could lose overtime pay. Federal law requires employers to pay overtime to workers who work more than 40 hours a week. The existing law also allows employers to deny overtime pay to certain managerial, administrative, and professional workers who are paid a salary.

The old rules contained two important safeguards to determine if such workers could be exempt—they had to: 1) Customarily and regularly exercise discretionary powers; and 2) could not devote more than 20 percent (40 percent in retail or service establishments) of time to activities that are not directly and closely related to exempt work.

However, the new rules proposed by Bush's Secretary of Labor Elaine Chao eliminates these safeguards and allows new exemptions for computer, administrative, and skilled workers. These changes gives management the discretion to exempt millions of additional workers from overtime protection.

Under the new rules, an office worker can be exempt from overtime as an administrative worker if they hold a "position of responsibility," defined as either performing work of substantial importance or performing work requiring a high level of skill or training. Skilled workers can be reclassified as "learned professionals" and exempt from overtime for skills they learn on the job.

In addition, the new rules eliminate the 20 or 40 percent limit on non-exempt work. This allows management to give an employee the title of assistant manager, exempt that employee from overtime, and have that employee take work away from hourly workers who are covered

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INTERNATIONAL PRESIDENT'S REPORT

ILWU advocates health care for all

By James Spinosa
ILWU International President

One issue dominating union contract negotiations in every industry around the country—healthcare benefits. No one has anything like security in their lives if a sudden illness or catastrophic accident can wipe out their family's savings or they can't get the medical attention they need and face death because they can't afford help.

Union members attempt to achieve three types of security in bargaining their contracts—job security, retirement security and health care security. When we bargain for health security, we bump head-on into the structural problems of the U.S. health system.

Although most people would agree that health care is a right, this system treats it as a privilege for those who can afford it or those whose unions are strong enough to bargain for it.

Under this privatized, profit-driven healthcare delivery system the HMOs and the PPOs focus on making money instead of making people well. They do this by raising prices and cutting corners, especially with their labor force.

The end result is a costly and inefficient medical system reflecting the country's economic class divisions of haves and have nots. More than 40 million Americans have no health insurance at all and nearly another 40 million have only partial and inadequate coverage. Here in the wealthiest country on the planet, in the world's only superpower, people still suffer and die from treatable conditions and diseases.

But this is not an insoluble problem. Nearly all the other industrialized countries and even many developing nations have some form of a national healthcare system. Elsewhere societies and governments understand that the physical well-being of their citizens is a basic pillar of society and the responsibility of everyone—and they allocate their resources accordingly. But not in the U.S.

Here the ideology of the free market is so revered and corporations' "right" to make profits is held so sacred that government officials would rather watch their own population die than attempt anything so "socialist" as extending health care to everyone. This has to change and it has to change very soon.

The rank and file of the ILWU understands this completely. Locals from all over the Coast and Hawaii came to our International Convention a couple of months ago with resolutions aimed in that direction and the delegates passed them all enthusiastically. The International Convention, the highest decision-making body in the ILWU, declared a national single-payer heathcare program to be the union's top legislative priority. The Convention also decided the union would in the meantime work for progressive incremental advances that would provide more health care to more people. In that spirit Convention delegates also supported a bill in the California legislature (SB2) that would required employers to purchase healthcare coverage for their employees or pay a fee into a state fund that would purchase such coverage for the uninsured.

Even though union workers have some of the best health insurance in the country, organized labor must take a leading role in the fight for universal coverage. In every contract we negotiate, the ever-escalating costs of health care make keeping the benefits we have more and more difficult. For example, in the West Coast longshore contract we settled last year, the cost to the employers to maintain our level of benefits will more than double over the life of the agreement.

Even though union workers have some of the best health insurance in the country, organized labor must take a leading role in the fight for universal coverage.

Employers complain that these rising costs make them less and less competitive with non-union companies and try to use that to cut back on our benefits or increase our copays. Or we end up accepting lower wage increases or reductions in other benefits to keep our health coverage. But if we are able to take that issue off the bargaining table, we stand a better chance of making gains on other items.

The biggest obstacle to making any progress on this, of course, is the Bush administration and the Republican Congress. As ILWU Legislative Director Lindsay McLaughlin points out, we can get more than a glimpse of the Republican take on health care by examining the Medicare prescription drug plan Congress just passed. It will give minimal price relief to the vast majority of seniors and maximize private health insurers' and drug companies' profits by putting no control on drug prices. The House version of the plan actually calls for converting Medicare into privatized voucher system in six years.

The Bush-Republican Congress agenda clearly is the most vicious anti-working-family plan the American labor movement has faced in more than a century. Every week it seems they trash one more right or program workers have fought hard for, from the right of government workers to unionize to the guarantee of overtime pay, piling attacks one on top of another to suffocate any hope of resistance. Sometimes it seems they get little gain from some of their attacks, as if they do it just to be cruel, just because they can.

The Bush and Republican record shows their agenda is the devastation of all worker political power in this country, yet they continue to ride high in the polls. We still have more than a year to turn that around, but it's not too early to begin an "anyone but Bush" campaign. He's already tried to destroy our union once. He, his pals and his policies need to be taken out now.

Important Notice on ILWU Political Action Fund

Delegates to the 30th Convention of the ILWU, meeting in Honolulu, Hawaii, April 7-11, 1997, amended Article X of the International Constitution to read:

"SECTION 2. The International shall establish a Political Action Fund which shall consist exclusively of voluntary contributions. The union will not favor or disadvantage any member because of the amount of his/her contribution or the decision not to contribute. In no case will a member be required to pay more than his/her pro rata share of the union's collective bargaining expenses. Reports on the status of the fund and the uses to which the voluntary contributions of the members are put will be made to the International Executive Board.

"The voluntary contributions to the Political Action Fund shall be collected as follows:

"Up to One Dollar and Fifty Cents ($1.50) of each March and July's per capita payment to the International Union shall be diverted to the Political Action Fund where it will be used in connection with federal, state and local elections. These deductions are suggestions only, and individual members are free to contribute more or less than that guideline suggests. The diverted funds will be contributed only on behalf of those members who voluntarily permit that portion of their per capita payment to be used for that purpose. The Titled Officers may suspend either or both diversions if, in their judgement, the financial condition of the International warrants suspension.

"For three consecutive months prior to each diversion each dues paying member of the union shall be advised of his/her right to withhold the contribution or any portion thereof otherwise made in March and July. Those members expressing such a desire, on a form provided by the International Union, shall be sent a check in the amount of the contribution or less if they so desire, in advance of the member making his/her dues payment to the local union for the month in which the diversion occurs.

"Those members who do not wish to have any portion of their per capita payment diverted to the Political Action Fund, but wish to make political contributions directly to either the Political Action Fund or their local union, may do so in any amounts whenever they wish."

❑ No contribution - I do not wish to contribute to the ILWU Political Action Fund. I understand that the International will send me a check in the amount of $1.50 prior to July 1, 2003.

❑ Less than $1.50 - I do not wish to contribute the entire $1.50 to the ILWU Political Action Fund. I will contribute_____. I understand that the International will send me a check for the difference between my contribution and $1.50 prior to July 1, 2003.

❑ More than $1.50 - I wish to contribute more than the minimum voluntary contribution of $1.50 to the ILWU Political Action Fund. Enclosed please find my check for $_____.

_____
Signature

_____
Name

_____
Address

_____
Local # Unit #

Return to: ILWU, 1188 Franklin Street • San Francisco, CA 94109
NOTE: CONTRIBUTIONS ARE NOT DEDUCTIBLE AS CHARITABLE CONTRIBUTIONS

Bush administration overtime takeaway

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by overtime protection. This has the potential of displacing millions of hourly workers.

Lucky you have a union

Fortunately for you, these rules will not directly affect union workers. Union members have a contract which provides overtime protection beyond what the law requires. Most unon contracts requires overtime after 8 hours in a day and 40 hours a week. In addition, most union contracts require overtime for work on holidays and days of rest—a benefit which is not required by law.

Union members, however, can be affected if management tries to take advantage of the new rules to take work opportunity away from union workers. Management may try to avoid paying overtime by sending union workers home after 8 hours a day, or 40 hours a week, and use exempt employees like supervisors to finish the work. Management may also deliberately schedule less then the needed number of workers and use supervisors to cover the shortage.

Union members need to challenge management and file a grievance whenever this happens. Members also need to look at negotiating stronger contract language that limits or prohibits management from taking work opportunity and overtime away from union workers.

See the Washington Report on page 3 for more information on the Bush attack on overtime.

WASHINGTON D.C. REPORT

Stop the attack on overtime

By Lindsay McLaughlin, Legislative Director and Brian Davidson, Legislative Assistant

On March 31, 2003, the Department of Labor (DOL) proposed a regulation that would make millions of workers ineligible for overtime pay under the Fair Labor Standards Act. DOL plans to issue a final regulation later this year. Legislation introduced by Representatives Peter King and George Miller would stop the Administration from implementing any regulation that takes away workers' right to overtime pay.

The entire labor movement is waging an aggressive lobbying effort over the next weeks to secure co-sponsors to the King-Miller legislation. Please call members of your Congressional delegation and if possible meet with them to secure their support. Following are talking points that outline the reasons for Labor's opposition to the DOL rule and reasons for your Members of Congress to support the King/Miller legislation.

The DOL proposal would make it much easier for employers to reclassify workers as "white collar" employees ineligible for overtime.

The Fair Labor Standards Act (FLSA) of 1938 requires employers to pay their employees a cash premium for overtime work, but provides a narrow exception for white collar employees in "executive," "administrative," and "professional" positions. The DOL proposal would make it much easier for businesses to avoid paying workers anything for overtime work by dramatically loosening the criteria for these exceptions. DOL would also create a new exception for "highly compensated employees," effectively denying overtime protection to workers earning more than $65,000 (not indexed to inflation).

The DOL proposal would strip overtime rights from more than 8 million workers.

The Economic Policy Institute (EPI) has concluded that the proposed regulation would strip overtime rights from over 8 million workers in the 78 job titles EPI examined. Given that EPI examined only 78 of more than 250 white collar job titles, the total number of workers affected would be much higher. A representative for the Society of Human Resource Management (SHRM), an employer organization, says, "This is going to affect every workplace, every employee, and every professional."

"I am reporting terrorist activity... the administration's economic policy has me living in financial terror."

The DOL proposal would strip overtime rights from many kinds of workers in many industries.

The DOL proposal would exclude from overtime protection large numbers of workers in the aerospace, defense, health care, and high tech industries. Workers likely to lose their eligibility for overtime pay include mid-level office workers, lower-level supervisors, licensed practical nurses, newspaper reporters, policemen, firefighters, EMTs, paramedics, cooks, secretaries, dental hygienists, air traffic controllers, social workers, occupational therapists, dieticians, physical therapists, administrative support, computer support, drafters, surveyors, designers, graphic artists, engineering technicians, planners, assistant and associate architects, health technicians, and paralegals.

The DOL proposal would fail to guarantee overtime eligibility for low-income workers.

Under current law, workers are automatically eligible for overtime pay if their income is lower than a minimum salary threshold. This threshold, last adjusted in 1975, would be $26,520 today if adjusted for inflation. The DOL proposal would raise the minimum threshold to only $22,100, leaving workers worse off than they were in 1975. DOL claims that raising the salary threshold to $22,100 would make 1.3 million more lower-income workers automatically eligible for overtime pay, but over time fewer and fewer workers would be protected because the proposed regulation does not index the threshold to inflation. Moreover, the DOL proposal itself coaches employers how to avoid any pay increase for these lower-income workers.

The DOL proposal would undermine the 40-hour workweek.

The many millions of workers denied overtime protection under the DOL proposal would no longer be paid *anything* for their overtime work. If employers no longer have to pay extra for overtime, they will have an incentive to demand longer hours, and workers will have less time to spend with their families.

The DOL proposal would be a pay cut.

Millions of workers depend on overtime pay to make ends meet, and in 2000 overtime pay accounted for about 25% of the income of workers who worked overtime. Workers stripped of their overtime protection would end up working longer hours for less pay. The DOL proposal would even cut the pay of workers not excluded from overtime protection because employers would naturally shift overtime assignments to the millions of workers no longer entitled to overtime pay.

There is no justification for taking away workers' overtime rights.

There is broad consensus that an adjustment of the minimum salary threshold for inflation is long overdue. But "updating" the white collar regulations does not require stripping any workers of their overtime protection. The proposed regulation does not even accomplish its purported objective of clarifying the criteria for the white collar exclusions and avoiding litigation: it would make the rules more confusing by replacing well-established standards with vague and ambiguous language, and would spawn litigation over the meaning of these new rules. According to the Chicago Tribune, "The Labor Department's [Tammy] McCutchen predicts a deluge of lawsuits as employees and employers press for clarifications once the new rules go into effect."

"Okay, you win. I'll agree to a forty hour work week and time and a half for overtime."

DOL has no statutory authority to exclude millions of workers from overtime protection.

DOL does not have statutory authority to implement such a drastic cutback in overtime eligibility absent congressional action. The proposed regulation even creates a new exception ("highly compensated employees") not found in the FLSA—and precisely the type of limitation Congress rejected in 1938.

Legislation is necessary to stop the DOL proposal.

Rep. Peter King has introduced legislation to stop the Administration from stripping any workers of their overtime protection. This legislation would not stop the Administration from raising the minimum salary threshold, however, or from clarifying the criteria for the white collar exceptions in ways that do not take away workers' overtime rights. Members of Congress who oppose stripping millions of workers of their eligibility for overtime pay should cosponsor the King bill, or parallel legislation to be introduced in the Senate.

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New law allows sick leave use for family leave

A new law passed by the Hawaii State Legislature allows workers to use their own sick leave days to care for their seriously ill child or other family member. The law took effect on July 1, 2003, and applies to all employers with 100 or more employees.

The law improves upon the existing Hawaii Family Leave Act, passed in 1991, by allowing employees to use up to 10 days of their current or accrued sick leave days for qualified family leave purposes. Previously, most employers only allow workers to take sick leave for their own illness or disability and time taken off work for family leave was unpaid. The new law will require employers to change this practice.

The legislature felt that requiring workers to take leave without pay "creates an economic hardship for employees who cannot afford to take unpaid family leave to care for sick family members." The law passed by the legislature tries to balance the needs of the workplace with that of the family.

The ILWU and other unions strongly supported this improvement. Business groups like the Chamber of Commerce of Hawaii, the Hawaii Business League, and the Retail Merchants of Hawaii opposed the law. Governor Lingle allowed the bill to pass without her signature, but had her Department of Labor and Industrial Relations testify in opposition to the bill. Most of the Republicans in the House (Bukoski, Jernigan, Meyer, Ontai) and Senate (Hemmings, Hogue, Slom, Trimble, Whalen) voted against the bill.

ILWU members benefit

ILWU members can benefit under this law, as it also applies to workers with a union contract. If there is a conflict between the law and the union contract, then whichever gives the greater benefit will be applied. This means ILWU members who work for companies with 100 or more employees would be able to use up to 10 days of their paid sick leave for family leave purposes even if the contract language or company rules and policies say that sick leave is limited to the employee's own illness. The law also appears to allow workers to use paid sick leave starting from the first day of absence for family leave even if the contract has a waiting period or one or two days.

Unions are also free to negotiate better benefits then what the law requires. For example, a union may negotiate the use of more than 10 days of sick leave per year.

Workers can also take advantage of the federal Family Medical Leave Act which applies to companies with as little as 50 employees and provides up to 12 weeks of unpaid leave each year. To be covered under the federal law, you must have worked at least 1250 hours in the previous 12 months and have at least one-year seniority with the company. The federal law, however, does not require employers to allow the use of sick leave for family members if their policies do not already provide for this benefit.

Birth of child

An ILWU member at an auto company recently took 5 days vacation after the birth of a child. The company has more than 100 employees, and so is covered under both the Hawaii and Federal law. Both laws allow the use of family leave any time during the 12 month period following the birth of a child. Under the Hawaii law, the member can take another 5 days (up to 10 days) and use sick leave instead of vacation days. If the employer agrees, the member can use vacation or sick leave days beyond the 10 days required by state law.

If the member did not give notice that the first 5-day vacation was for family leave, it may be too late to have it converted to sick leave or count as family leave, unless the employer agrees. There is a requirement that workers give prior notice that they are taking family leave or no later than two business days after returning to work. However, it doesn't hurt to ask. Many provisions of the state and federal family leave law leave room for negotiations and mutual agreements. This is where members should get help from their union.

Discrimination prohibited

Some employers have no-fault absentee policies where workers are automatically disciplined for absences, including legitimate sick leave use. Such a policy may give a written warning after 6 absences, an automatic suspension on the 7th absence, and discharge on the 8th absence.

Both the Hawaii and federal law prohibit employers from counting family leave in such no-fault policy. Both laws prohibit any loss of employment benefits or discrimination against workers who exercise their right to family leave, which would include counting family leave as an absence in a no-fault policy.

The biggest problem in this area is that members forget or fail to tell their employer they are taking family leave. It is only days later, when the member is disciplined or when they finally get around to talking to a union steward, do they remember they are entitled to family leave. By then it is too late—the federal law requires you to notify your employer no later than two business days after returning to work.

Notice is required

Workers have the responsibility to notify their employer as much as 30 days in advance that they are taking family leave and employers may require the worker to have written certification or proof, which would usually be from a doctor or health care provider.

In some cases, advance notice is not possible. The flu or common cold can become a serious health condition if it incapacitates you for three or more calendar (not working days) and involves two or more treatments by your doctor. In this case, you should have your doctor certify the illness as a serious health condition, and you should notify your employer while you are on leave or no later than two days after returning to work.

One or two day absences due to a severe asthma, migraine, or arthritis attack and absences for the treatment of these conditions are also covered under family leave, because these are chronic serious health conditions. Again, you should consult with your doctor or health care provider who will need to certify that the condition is covered under the family medical leave law.

What yo to know family

Who is your "family"?

You can take family medical leave to care for a family member, but there's a big difference in how the Hawaii and federal law defines family. You should use the Hawaii law if your family leave involves a parent-in-law, a grandparent, a grandparent-in-law, or a "reciprocal beneficiary." The federal law cannot be used for these family members—especially for a reciprocal beneficiary.

Under Hawaii law, a reciprocal beneficiary relationship is a legal partnership between two people who are prohibited from marriage. Those persons entering into a reciprocal beneficiary relationship must register their relationship as reciprocal beneficiaries with the Department of Health. This will then give them certain rights and benefits which are presently available only to married couples—such as family medical leave.

See a union representative

Members who have questions about the family leave law can call the ILWU's Membership Services Coordinator Joanne Kealoha at 949-4161. Members disciplined for using family leave should consult with their union stewards or business agent.

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Legislature acts to help working families

Committee reports are a good source of information for the reasoning behind legislation passed by the State Legislature. The following excerpt is from the Senate Ways and Means Committee, chaired by Senator Brian Taniguchi:

Your Committee finds that the state family leave law does not require an employer to allow an employee to utilize sick leave to attend to the employee's child, parent, spouse, or reciprocal beneficiary with a serious health condition. This prohibition creates an economic hardship for employees who cannot afford to take unpaid family leave to care for sick family members.

Women comprised nearly sixty percent* of Hawaii's workforce in 2000 and Hawaii has a very high rate of two-wage earner families. As a result, there often is no one at home to care for sick children, spouses, or aging parents. The high cost of living in Hawaii results in difficult choices for employees with a seriously ill family member. In addition to the state family leave law's current job protection, this measure will provide added assistance in helping employees balance workplace and family responsibilities, by allowing an employee to use paid sick leave to provide care for ill family members. *[*Actually, women comprise 48 percent of the workforce, but 60 percent of women are in the workforce.]*

House Labor Committee

Some of these reports review who testifies for and against the legislation and give some history on the legislation. The following excerpt is from the House Labor Committee, chaired by Representative Marcus Oshiro:

The Hawaii State AFL-CIO, ILWU Local 142, and concerned citizens testified in support of this measure. The Department of Labor and Industrial Relations, the Chamber of Commerce of Hawaii, the Hawaii Business League, the Hawaii Bankers Association, the Society of Human Resource Management, and the Retail Merchants of Hawaii testified in opposition to this measure.

Hawaii has long been viewed as a leader in the establishment of progressive social policy in the United States. One such law that has demonstrated Hawaii's leadership is Act 328, Session Laws of Hawaii 1991, the Hawaii Family Leave Act (HFLA), which was later codified as Chapter 398, Hawaii Revised Statutes (HRS).

Under this law, employers who employ more than one hundred or more employees for each working day during each of twenty or more calendar weeks in the current or preceding calendar year must provide up to four weeks of family leave during any calendar year upon the birth or adoption of a child, or to care for the employee's reciprocal beneficiary, child, spouse, or parent with a serious health condition.

HFLA served as the model for the federal Family and Medical Leave Act of 1993 (FMLA) — the first national policy aimed at helping working individuals meet both work and family obligations by balancing the demands of the workplace with the needs of families to promote the stability and economic security of families as well as the national interests in preserving family integrity.

Since the enactment of FMLA ten years ago, the complexity of family obligations for working families has grown considerably in terms of intricacy, intensity, and scope. For example, Hawaii's population is growing older, necessitating greater demands for long-term care and health insurance. The larger segment of Hawaii's workforce is female, the member of the family unit primarily responsible for child care and other everyday tasks for many of Hawaii's families. These trends have been found in most every state throughout our nation.

Subsequently, lawmakers across the United States have looked toward the enactment of state family leave laws to further ensure that the needs of the workplace and those of families are balanced. Over the past two years, 22 states have introduced legislation to either establish state family leave laws, or to amend these laws.

You can find the committee reports and information on legislation at http://www.capitol.hawaii.gov/. Click on "Bill Status and Docs" which brings you to a page where you can look up the bills passed by the legislature. Enter HB389 to look up the bill on family leave.

Chart 1: FMLA Serious Health Condition Definition

Understanding what is a serious health condition will help you get the most out of the family medical leave laws. The following table is based on the U.S. Family and Medical Leave Act (FMLA) of 1993. For more information, go to the U.S. Department of Labor website—http://www.dol.gov/esa/whd/fmla/index.htm.

Reason for Absence	Definition	Examples
Inpatient Care	Any period of incapacity from a condition requiring inpatient care including recovery from the condition	Hospitalization or Post surgery examinations
Incapacity for more than 3 consecutive days, including work and non work days	A condition requiring 2 or more treatments by a health care provider or an ongoing regimen or treatment	Examination to evaluate a condition plus a course of treatment such as antibiotics or physical therapy
	Period treatment for a condition that may cause episodic incapacity	Asthma, Diabetes
Conditions that are chronic, long-term or require multiple treatment	Incapacity due to a condition which is not curable but which requires medical supervision	Terminal illness, multiple sclerosis
	Absences to receive treatment for a chronic condition	Kidney Dialysis

Chart 2: Family Care Leave Definitions

The following table is based on the U.S. Family and Medical Leave Act (FMLA) of 1993. The Hawaii Family Leave Law includes family members not included in the federal law—such as parents and grandparent-in-laws, grandparents, and reciprocal beneficiaries.

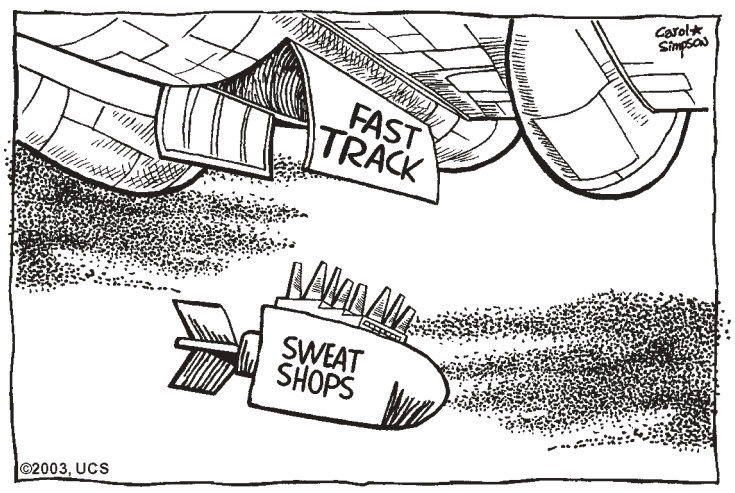
Reason for Absence	Definition
For A Child: Health Condition Requiring Treatment or Supervision	Any medical condition requiring treatment or medication that the child cannot self-administer;
	Any medical or mental health condition which would endanger child's safety or recovery without the presence of a parent or guardian; or
	Any condition warranting treatment or preventive health care such a physical, dental, optical or immunization services, when a parent must be present to authorize and when sick leave may otherwise be used for the employee's preventive health care.
Serious Health Condition	An illness, injury, or impairment, that involves any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, and any period of incapacity or subsequent treatment or recovery in connection with such inpatient care;
	Continuing treatment by or under the supervision of a health care provider or a provider of health care services and which includes any period of incapacity (i.e., inability to work, attend school or perform other regular daily activities).
Emergency Condition	A health condition that is a sudden, generally unexpected occurrance or set of circumstances related to one's health demanding immediate action, and is typically very short term in nature.
Incapable of Self-care	The individual requires active assistance or supervision to provide daily self-care in several of the "activities of daily living" (ADLs) or instrumental activities of daily living (IADLs).
	Activities of daily living include adaptive activities such as grooming and hygiene, bathing, dressing and eating.
	Instrumental activities of daily living include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc.
Physical or Mental Disability	A physical or mental impairment that limits one or more activities of daily living or instrumental activities of daily living.

New trade deal threatens Hawaii sugar, pineapple jobs

George Bush and his administration are pushing another trade deal which threatens to destroy more U.S. jobs. The "Free Trade Area of the Americas" is expected to be finalized in 2004 and be fully implemented by the end of 2005. The agreement is with 31 countries of North, South, Central America and the Caribbean (Cuba was not invited to participate).

The "Free Trade Area of the Americas" (FTAA), like the North American Free Trade Agreement (NAFTA), is an investment and business agreement that primarily benefits big business and will hurt working people and farmers.

FTAA deals mainly with protecting business by enforcing patents and trademarks, by protecting private property and investments, by guaranteeing the free movement of capital and profits by business, by allowing for unrestricted movement of business persons within the countries of the FTAA, by removing and finally eliminating tariffs on agricultural products and duties on goods, by prohibiting governments from favoring domestic companies or discriminating against companies from other countries of the FTAA.



There is nothing in the FTAA that protects the rights of workers, consumers, and the environment.

FTAA will destroy U.S. jobs

FTAA will lead to the elimination of more jobs in the U.S. as companies increase investments and expand production in the lower wage countries of South and Central America. This happened after NAFTA was passed and we can expect the same thing to happen with the FTAA.

Within four years after NAFTA was passed in 1993, tens of thousands of U.S. manufacturing jobs were lost. A study by the Economic Policy Institute, *NAFTA at Seven*, reports that the United States lost 766,030 jobs, while Canada has seen 276,000 jobs disappear as the result of NAFTA.

Cheap labor—high social cost

Most of the job losses were in the manufacturing of motor vehicles, textiles and apparel, computers and electrical appliances. These products are now being manufactured by U.S. controlled Mexican *maquiladora* companies, that employ mostly young, female workers and brutally suppress union organizing.

Take an example from the food processing industry. In the four years after NAFTA, U.S. food companies more than doubled their investments in Mexico—from $2.3 billion in 1993 to $5.0 billion in 1997. U.S. food giants like Cargill, Smithfield Foods, Coca Cola, Campbell Soup, General Mills, Ralston Purina, and Tyson bought out Mexican food processors or set up their own factories in Mexico, taking advantage of the cheaper labor and secure in the knowledge that NAFTA will protect their investments and profits. Today, U.S. companies account for almost half of all direct foreign investments in Mexico.

In Hawaii, eight sugar companies shut down and 3,000 sugar jobs were lost after NAFTA was passed in 1993. Hilo Coast Processing Company, Hamakua Sugar Company, Oahu Sugar, Wailuku Ag, Ka'u Sugar, Waialua Sugar, McBryde Sugar, and Amfac Sugar Kauai are now history.

Investor dream, worker nightmare

The passage of FTAA will open up the entire Western Hemisphere for the expansion of U.S. companies and investments by the rich. Jobs will be created in Costa Rica, Brazil, Columbia, and elsewhere is South and Central America, while jobs will be lost in the U.S. FTAA reduces, then eliminates, tariffs on plant and food products from South and Central America, which will probably mean the end of Hawaii's sugar, pineapple, and macadamia industries.

The ILWU and the U.S. labor movement is working to defeat the passage of the FTAA. The agreement is still being finalized and must be ratified by the U.S. Congress. The labor movement is planning protest demonstrations at the next big meeting of the trade ministers from the U.S. and the 31 countries of the FTAA which is scheduled to meet in Miami, Florida, in November 2003.

Pineapple sales up

Hawaii pineapple sales for 2002 is estimated at $100.6 million, an increase of 4.4 percent over 2001 crop value of $96.3 million. The increase is the result of more of the pineapple crop going to the higher value fresh market where growers can get about $624 per ton of pineapple, compared to $136 per ton when the fruit is canned or juiced.

Hawaii's 2002 pineapple production is estimated at 320,000 tons, 1 percent lower than 2001. Fresh sales increased to 117,000 tons in 2001, 6 percent higher then the 110,000 in 2001. Processed pineapple dropped to 203,000 tons, a 5 percent drop from the 213,000 tons in 2001.

Total area decreased 5 percent to 19,100 acres. Weather conditions were normal and the crop fair. Market conditions for fresh fruit were reported good in 2002.

Sugar prices stable

World sugar prices have been holding well above 6 cents per pound and has averaged 8.3 cents per pound this year. When world prices drop to around 6 cents per pound, it puts economic and political pressure on our domestic sugar program as the big industrial users try to get their hands on the cheaper sugar.

There has been no dramatic change in the fundamental supply and demand picture underlying the market. More Brazilian sugarcane used for ethanol, a smaller Cuban crop, and lower EU acreage should offset higher production in Thailand, China and South Africa, making for firm prices in the current range for the next 18 months. F.O. Licht predicts that world production and consumption will return to balance in 2003/04, following a production surplus of around 3.5 million tons in 2002/03. However, there will still be large surplus stocks overhanging the market.

The U.S. domestic raw sugar price from Jan-May 2003 has been 21.89 cents per pound. This is up from the 2002 average of 20.87 cents.

Hawaii sugar companies have extended the contract with the C&H Sugar Refinery in Crockett, California for another year. The long-term contract was due to expire this year. Under this contract, C&H refines and sells all sugar produced in Hawaii.

Del Monte Fresh boasts record profits

Fresh Del Monte Produce Inc., the parent company of Del Monte pineapple operations on Oahu, reported record sales and profits for the first quarter of 2003. In a press release issued on April 29, 2003, the company announced a record breaking $107 million in gross profits from sales of $643.8 million in the first quarter of 2003.

In fact, the company has been making strong profits since 1997, with record high profits in 1998, 2001, and 2002. In 2002, the company's gross profits hit an all-time high of $337 million on worldwide sales of over $2 billion.

Profits have been so good, that the company has issued three cash dividends totaling $.25 per share this year. For the Abu-Ghazaleh family, which own 56.6 percent of Fresh Del Monte stocks, these dividends add up to a little over $8 million in cash. The largest individual stockholder is Mohammad Abu-Ghazaleh, who is also the Chairman and CEO of the company. He holds 8.7 percent of Del Monteís stocks, which gives him a cash bonus of more than $1.2 million.

Pineapples and bananas

Operating under the commercial name of Del Monte Fresh Produce, the company is the world's largest marketer of fresh pineapples, third in the world for bananas, and leads in melons and grapes in the U.S. The company also has a growing share of the fresh-cut fruit and vegetables market in the U.S. and Europe.

About half of the company's sales have come from bananas, but for the past five years, 86 percent of the profits have come from pineapples, other produce, and fresh-cut items. As a result, the company has focused on diversifying away from bananas and expanding its fresh produce and fresh-cut products.

Del Monte Fresh is vertically integrated, in that it grows, transports and markets many of its own products. The company operates its own farms, ships, processing and distribution centers.

The company grows pineapples on 9,400 acres in Hawaii and bananas and pineapples on 20,000 acres in Costa Rica. The company also has extensive acreage in Guatemala, Brazil, and Chile where it grows bananas, melons, grapes, and non-tropical fruits.

North America continues to be Del Monte Fresh Produce's biggest market, which accounts for 50 percent of its sales. Europe accounts for 31 percent of the sales, followed by Asia and the Pacific with 17 percent of sales.

Del Monte Brand

Del Monte Fresh Produce sells its products under the Del Monte brand, with its familiar red and yellow design which looks a lot like a tomato. But it is only one of six separate companies that use the Del Monte label to distribute and sell a wide-variety of food products.

The name itself is owned by the Del Monte Corporation (dba Del Monte Foods), headquartered in San Francisco, which has granted perpetual, exclusive, royalty-free licenses for the use of the Del Monte name and trademarks to these other companies. Each of the companies have the exclusive right to use the Del Monte trademark in their territories or product category.

Del Monte Foods sells processed foods and beverages in the U.S. and South America under the brand name. Del Monte Fresh Produce has the right to use the label on fresh produce worldwide. Del Monte Pacific Limited owns the Del Monte trademark in the Philippines and the brand rights for the India subcontinent. Del Monte Asia/Kikkoman has the Asia and Pacific markets (except for the Philippines and the Indian subcontinent). Cirio Del Monte sells Del Monte processed foods and beverages in Europe, the Middle East, and Africa. Kraft Canada sells Del Monte products in Canada.

Japanese are big shoppers; outspend other visitors

HONOLULU—Japanese visitors continue to outspend all other visitors by $70 a day, according to the latest research data available from the State of Hawaii. The State collects the data by asking visitors from various areas to fill out a daily diary of all their spending which includes hotel, food, entertainment, travel, gifts, and everything else.

In the first quarter of 2003, Japanese visitors spent an average of $242 a day, compared to Mainland visitors from the East Coast, who spent an average of $163 a day. Interestingly, West Coast Mainland visitors spent only $151 a day, significantly less than the East Coast visitor. Europeans spent an average of $162 a day and Canadians spent an average of $123 a day. (The table below is for the year 2001 and shows a much higher figure for Canadians.)

Shopping is the big difference

The biggest difference in spending patterns is that the Japanese spend much more shopping—particularly for leather goods, fashion and clothing, and souvenirs. Details from the 2001 study revealed the average Japanese visitor spent $86 a day shopping, compared to the $26 in shopping for Mainland visitors. In other categories such as food at restaurants, transportation, and lodging, the Japanese spent about the same as other visitors. Entertainment spending was the exception, where the Japanese spent less than $4 a day compared with $11 for Mainland visitors.

The preliminary report is available at the Department of Business, Economic Development and Tourism's website at:

http://www.hawaii.gov/dbedt/monthly/index.html

Look for the "2001 Annual Visitor Research Report" for detailed spending by categories.

How Visitors Spend Their Money - 2001

	Japan	*Europe*	*Canada*	*East Coast*	*West Coast*
Grand Total	**$245.1**	**$179.8**	**$165.5**	**$173.6**	**$162.4**
Food & Beverage	32.6	31.5	33.2	38.3	37.8
Entertainment and Recreation	3.7	5.3	6.2	11.8	10.8
Transportation	11.8	17.6	22.7	16.6	14.6
Shopping Expenditures	85.7	15.8	18.0	26.7	24.9
Lodging	71.9	76.2	67.1	67.1	65.3

Hawaii Visitor Counts for Spring 2003

	Occupancy		Room Rates		Revenues per Room	
	March 03	*March 02*	*March 03*	*March 02*	*March 03*	*March 02*
State	73.8%	72.8%	$146.81	$147.65	$103.84	$107.42
Oahu	71.9%	71.3%	$113.71	$112.22	$81.76	$80.01
Maui	78.6%	77.4%	$198.71	$200.83	$156.19	$155.44
Big Island	73.1%	70.8%	$160.71	$169.90	$117.48	$120.29
Kauai	72.6%	71.4%	$157.89	$159.48	$114.63	$113.87

Corporate bankruptcies are on the rise

A weak economy, accounting irregularities like overstating profits, too much debt, and growing too rapidly has led to record levels of corporate bankruptcies in 2001 and 2002. There were 257 corporate bankruptcies in 2001, a record for the largest number of bankruptcy filings in a single year. In 2002, there were only 187 filings but the value of the assets involved, $368 billion, set a new record. Five of the 10 largest bankruptcies of all time occurred in 2002—WorldCom, Global Crossing, Kmart, Conseco, Adephia Communications, and UAL Corp. Two of the largest occurred in 2001—Enron and Pacific Gas and Electric.

Like falling dominos, the failure of corporate giants sends a ripple effect through the economy that can bring down other companies and change the lives of tens of thousands of workers. Economist predict that many more companies will go down in 2003 as the result of the bankruptcies of 2001 and 2002.

That ripple effect has finally caught up with 140 ILWU members at Fleming Hawaii, who now face a new and uncertain future as Fleming Companies Inc. finalizes the sale of its wholesale grocery business in an effort to reorganize under a Chapter 11 bankruptcy.

A slowdown in the grocery business, credit and financing problems, and the loss of its biggest customer—Kmart—led to a complete turn around in the economic fortunes for Fleming, which filed for Chapter 11 bankruptcy on April 1, 2003. To cut costs, the company plans to focus on its core business as a package goods distributor and sell off its retail stores and wholesale grocery operations.

On July 8, 2003, Fleming signed a purchase agreement to sell its wholesale grocery business for $400 million to C&S Wholesale Grocers. C&S is the 11th largest privately owned company in the U.S. with 7,500 employees and revenues around $9.7 billion. The sale includes the Hawaii operation and a Fleming center in West Sacramento where 350 workers are represented by ILWU Local 17 and Teamsters Local 150. The sale is subject to the approval of the Bankruptcy Court.

Like falling dominos, the failure of corporate giants sends a ripple effect through the economy that can bring down other companies and change the lives of tens of thousands of workers.

Change of fortune

Two years ago, the Texas based Fleming Companies Inc. was riding high as one of the nation's largest wholesale food and package goods distributor, supplying over 7,000 supermarkets, convenience stores, and supercenters with merchandise. Business was good and the company was growing rapidly—annual sales was over $15 billion and increasing by the billions, profits were up, and the company was paying dividends to its stockholders. In February 2001, Fleming thought it hit the jackpot with a 10-year deal worth $4.5 billion as the primary supplier of food and consumable products for all 2,100 Kmart stores. Kmart quickly became Fleming's largest and most important customer and accounted for 20 percent of Fleming's business.

But within a year, in January 2002, it became clear that Kmart was in serious financial trouble when it failed to make a weekly payment of $76 million to Fleming for merchandise already delivered. On January 21, 2002, Fleming announced it was temporarily suspending shipments to Kmart. The next day, Kmart filed for Chapter 11 bankruptcy and petitioned the bankruptcy court to authorize payment of the $76 million owed and to name Fleming a critical vendor. Fleming resumed shipments and would continue to supply Kmart stores.

To cut costs, Kmart looked at its 2,114 stores and simply closed down 323 stores that were underperforming and not meeting profit requirements. Over 25,000 workers will lose their jobs. Kmart also reached an agreement with Fleming to terminate their 10-year supply agreement as of March 8, 2003. Fleming had initially sought $1.5 billion in damages but settled for about $37 million in cash and $350 million in Kmart stocks. Kmart emerged from Chapter 11 bankruptcy on May 5, 2003.

The termination of the Kmart contract had a major negative impact on Fleming, and the company was forced to file for Chapter 11 bankruptcy on April 1, 2003.

What is a Chapter 11 Bankruptcy?

There are two ways a company can declare bankruptcy under U.S. laws—Chapter 11, where a company tries to recover from crippling debt or Chapter 7, where a company goes out of business.

If a company declares bankruptcy under Chapter 11 of the Bankruptcy Code, it will attempt to reorganize. The company is protected from its creditors but must have a plan to pay back the debt and become profitable. Management may continue to run the day-to-day business operations, but the bankruptcy court must approve all significant business decisions.

ILWU members at Fleming are lucky they are organized and have a union, because a union is usually the only protection American workers have when a business changes ownership.

A company also can file for bankruptcy under Chapter 7 if it intends to stop all operations and go completely out of business. The bankruptcy court will then appoint a trustee to liquidate the company's assets to pay off the debt, which may include debts to creditors and investors.

Workers need protection

ILWU members at Fleming are lucky they are organized and have a union, because a union is usually the only protection American workers have when a business changes ownership. Being unionized gives Fleming workers the right and power to bargain over their wages, benefits, and conditions of employment with both their former employer and the new employer. This benefits both the new employer and workers by making the transition as smooth as possible.

Surprisingly, non-union workers have little or no rights when a company changes ownership. The new owner buys the business and material assets, not the workforce. The new owner can hire a completely new workforce and all the existing workers can lose their jobs. In addition, even if the former workers are retained, the new owner can change wages, benefits, and working conditions and ignore a worker's seniority.

While many European countries have many laws that protect workers, the U.S. has no law that requires a new owner to retain any part of the old workforce. ILWU attempts to get such legislation, in the form of SB364 introduced by Senator Brian Kanno, have not been successful and have been strongly opposed by the Republicans in both the House and Senate.

Better bankruptcy laws needed

ILWU members have learned through bitter experience that bankruptcy laws fall short in protecting workers' economic interests. Under current law only a small portion of wages and benefits owed to employees is given priority over other unsecured creditors—the amount is capped at $4,650 and only reaches back to the 90-day period prior to a company's filing for bankruptcy—and wages, severance, vacation, and other benefits owed to employees above this cap is given low priority as a general, unsecured claim.

Because of this cap, members with high seniority at Grayline Hawaii received only a portion of what the bankrupt company owed them. More recently, the union has been helping members at the Hawaiian Waikiki Beach Hotel in their claim for money owed them from bankrupt Otaka, Inc.

A resolution passed by the 30th ILWU International Convention in San Francisco, urged ILWU members—"to be vigilant of their own employers concerning the timely payment of insurance bills, pension contributions, and union dues checkoff, particularly when employers are experiencing financial difficulty; and . . . to work for legislation that requires successor employers to retain all workers and to recognize and bargain with the incumbent union."

Members can safeguard their own interests by alerting the union when their employers appear to be in financial trouble.

TWO TIER JUSTICE