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The Impact of Civil Unions on Hawaiʻi's Economy and Government

BY

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Abstract

This report provides quantitative and qualitative measures of the impact of same-sex civil unions on the Hawai`i economy, Hawai`i businesses, and the State of Hawai`i's budget. More specifically, we examine the effect of civil unions on tourism arrivals to Hawai`i; state government revenues and expenditures; employer provision of health insurance to civil union partners and their dependents; and the family with civil union partners. We conclude that the legalization of civil unions in Hawai`i will have only a very minimal impact on any aspect of Hawai`i's economy and state government operations.

JEL Codes: J12, K36, I18

Keywords: civil union, health insurance, visitor arrivals, Hawai`i

Summary
This report provides quantitative and qualitative estimates of the potential impact of same-sex civil unions on the Hawai`i economy, Hawai`i businesses, and the State of Hawai`i's budget. More specifically, we examine the potential effect of civil unions on tourism arrivals to Hawai`i; state government revenues and expenditures; employer provision of health insurance to civil union partners and their dependents; and the family with civil union partners. We conclude that the legalization of civil unions in Hawai`i will have only a very minimal impact on any aspect of Hawai`i's economy and state government operations.

Background
Five states—Connecticut, Iowa, Massachusetts, New Hampshire, and Vermont—and the District of Columbia allow same-sex couples to marry.[1] Six more states allow same-sex couples to enter into a domestic partnership (California, Nevada, Oregon, and Washington) or a civil union (Illinois and New Jersey) that provides couples with substantially the same set of rights and responsibilities provided to married couples under state law.[2] The marriages, civil unions, and domestic partnerships provided to same-sex couples in these eleven states provide fewer rights and responsibilities than traditional opposite-sex marriages because they are not recognized by the U.S. government. Partners in these relationships are denied rights granted to spouses of veterans, federal employees, and military personnel; they are not eligible for federal housing, food stamps, or social security benefits provided to spouses; and they are not treated by the federal government as spouses for tax purposes, bankruptcy, inheritance, student loans, and agricultural loans.

The two civil union bills (SB 232 and HB 1453) being considered by the Hawaii State Legislature in its 2011 session follow New Jersey in providing civil unions, rather than domestic partnerships, to same-sex couples who are both at least 18 years of age. Hawai`i couples who would like to enter into a civil union would be required to apply for a license. A civil union differs from an otherwise equivalent domestic partnership by its requirement of a ceremony after the license has been issued and its status as a vital event recorded in a state registry that is not accessible by the general public. SB 232 follows Nevada in allowing opposite-sex partners to enter into a civil union, while HB 1453 only allows same-sex partners to enter into a civil union. Our report focuses on the economic impact of same-sex civil unions.

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[1] California recognizes same-sex marriages performed in California between May 15, 2008 (when the California Supreme Court issued a decision legalizing same-sex marriage) and November 4, 2008 (when California voters approved Proposition 8 which amended the California Constitution to prohibit same-sex marriage).

[2] Several rights provided by the state to married couples are often not provided to same-sex couples by civil unions and domestic partnerships. The California Supreme Court recently noted eight differences between the rights granted by the state to domestic partnerships and to married spouses. See In re Marriage Cases, 43 Cal.4th 757 (2008), footnote 24.

Three states which now allow same-sex couples to marry had previously allowed same-sex couples to enter into a civil union. These states are Connecticut, New Hampshire, and Vermont. This allows us to draw upon their experiences with civil unions as well experiences from New Jersey, a state that currently provides civil unions.[3] We draw upon these experiences to answer a critical question: How many same-sex couples in Hawai`i will likely choose to become civil union partners? The answer to this question is particularly important, as the size of the impact of civil union legislation is often related to the number of couples choosing this relationship.

Vermont's 2000-2009 experience with civil unions provides a good benchmark for Hawai`i, as there are many similarities between the two states. Vermont is a small, rural state, with 638,000 people. Like Hawai`i, Vermont has a state income tax, a state sales tax, a large tourism industry, an agricultural sector in transition, and great natural beauty.[4] In April 2000, the Governor of Vermont signed legislation authorizing civil unions, effective 1 July 2000. The Vermont Secretary of State reports that between July 2000 and August 2006, the Secretary of State's office registered 1,286 civil unions of Vermont same-sex couples and 8,058 civil unions of out-of-state same-sex couples. The 2,572 Vermont residents who entered into civil unions during the relationship contract's first six years represented just 6/10th of 1 percent of the state's 2005 population between the ages of 18 and 65.

If Hawai`i residents have the same propensity to enter into civil unions as Vermont residents, then the State of Hawai`i's Department of Health would register 2,292 civil unions of Hawai`i same-sex couples between July 2011 and August 2017.[5] This would translate to 382 civil unions per year, with more civil unions occurring towards the beginning of the period. A cross-check of this estimate comes from U.S. Census data which indicate that 3,262 self-declared same-sex couples resided in Hawai`i in 2005 (American Community Survey, 2005). If 50 percent of the 3,262 same-sex couples entered into civil unions between July 2011 and August 2017, this would amount to 1,631 same-sex civil unions. If, however, legalization of civil unions causes more same-sex couples to become more public about their relationship, then the estimate derived from the Vermont experience could be more plausible. For the rest of this report, we use an average of these two estimates (1,962) as our estimate of the number of civil unions that the State of Hawai`i will register between July 2011 and August 2017 for same-sex couples residing in Hawai`i.

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[3] We could also draw upon experiences from the four western states with domestic partnerships that offer rights and responsibilities that are substantially the same as those of marriage. The two main differences between domestic partnerships and civil unions are that (1) a civil union is valid only upon completion of a solemnization by a licensed person and (2) a domestic partnership is registered in a public registry.

[4] Unlike Hawai`i, Vermont has a large (declining) manufacturing sector and the ethnic composition of its population is overwhelmingly Caucasian.

[5] This assumes that many Hawai`i same-sex couples, like Vermont same-sex couples, will not immediately choose a civil union relationship. It also assumes that the "backlog" of existing couples that ultimately decide to enter into a civil union will clear within six years.

Impact of Civil Unions on Tourism Arrivals to Vermont and Hawai`i

There are two main channels by which legalization of civil unions in Hawai`i could affect visitor arrivals to Hawai`i.

First, tourism flows could be affected by the change in the character of the destination, e.g., that it has become more supportive of same-sex couples and gay, lesbian, and bisexual residents. However, the passage of civil rights legislation for gays and lesbians in such cities as Los Angeles, Seattle, San Francisco, Boston, and New York City has not been associated with declines in visitor arrivals or the growth rate of visitor arrivals in these cities. The rise of a more visible gay community in Singapore has also not been associated with declines in visitor arrivals or the growth rate of visitor arrivals. The absence of bad news associated with gay and lesbian civil rights legislation is significant, as each of these cities hosts over ten million tourists annually.

To date, there is also no evidence that the legalization of same-sex marriages (Connecticut, Iowa, Massachusetts, New Hampshire, Vermont, and the District of Columbia) or the recognition of same-sex marriages performed in other states (New York, Rhode Island, and Maryland) or the recognition of civil unions and domestic partnerships (California, Illinois, Nevada, New Jersey, Oregon, and Washington) have adversely affected tourism arrivals to any of these states.

Second, the legal recognition of civil unions in Hawai`i will motivate some same-sex couples residing in other states that recognize civil unions or their domestic partnership equivalent to visit Hawai`i for their civil union or domestic partner commitment ceremonies rather than to have them in the dreary Oregon rain or Washington sleet or Nevada heat. Many will be accompanied by relatives and friends. Similarly, some civil union ceremonies for resident same-sex couples will bring off-island relatives and friends to Hawai`i for their civil union ceremony, just as family and friends accompany opposite-sex couples for their wedding ceremonies.

How many more visitors should Hawai`i expect if it legalizes same-sex civil unions?[6] In 2007, the number of visitor days from visitors coming to Hawai`i to get married totaled 1.17 million days. In 2007, the number of visitor days from visitors coming to Hawai`i for a honeymoon totaled 3.82 million. Over 43 percent of the visitors coming to Hawai`i to get married and over 49 percent of the visitors coming to Hawai`i for honeymoons were from the United States. Consider that civil unions are currently legal in states with 19 percent of the U.S. population. If Hawai`i received even 1 percent more visitors from these states consisting of same-sex couples coming to Hawai`i for a civil union or a civil honeymoon, then 9,500 additional visitor days would be generated. Assuming that each visitor spends $152 per day, this would generate $1.4 million. Visitors who come to Hawai`i to enter into a civil union are likely to spend additional resources on their ceremonies and celebrations. Using data from *The Wedding Report* (published by a wedding industry research group), Christopher Ramos, Associate Professor Lee Badgett,

[6] All visitor data are from the *2007 Annual Visitor Research Report, DBEDT*, State of Hawai`i. Population data are from the U.S. Census.

and Brad Sears estimated that additional wedding expenditures by same-sex couples would amount to at least $2,181, or one-tenth of the expenditures of an opposite-sex couple. If 1,000 couples visited Hawai`i each year to engage in civil unions, then there would be additional spending of $2.2 million dollars. Honeymoon couples are also likely to generate additional spending. "Multiplier effects"—additional spending generated by recipients of visitor spending--would lead to additional expenditures (See the analysis in the next section for estimates of these impacts).

Impact of Civil Union on Hawai`i State Government Revenues

Opposite-sex Hawai`i couples who choose to marry often find that they are subjected to a marriage tax penalty, i.e., their joint state and federal income tax obligations increase. Politicians regularly pledge that they will eliminate the marriage tax penalty, yet inevitably learn that when the state income tax is a progressive tax,[7] the marriage tax can only be eliminated by creating other inequities in the tax code.[8]

The civil union bills being considered by the 2011 Hawai`i State Legislature generally provide parties to civil unions with the same rights and responsibilities as married couples. Thus, parties to a civil union would file joint state income tax returns and be subject to the same tax rules and rates as married couples. Because the Hawai`i income tax is a progressive income tax, some individuals choosing to become civil union partners will pay more in state income taxes than if they remained single, i.e., they will be subject to a civil union tax penalty. So under what circumstances will a couple choosing to become parties to a civil union pay more state income taxes? Married and civil union couples are more likely to pay a "civil union" tax penalty in Hawai`i when (1) both parties are working, (2) their incomes are similar, and (3) they both earn incomes that are taxed at less than the maximum marginal tax rate. Alternatively, if only one party is working, the two parties' incomes are very different, and one party is already being taxed at the highest marginal tax rate, then the civil union couple will likely receive a civil union subsidy, i.e., the couple's joint tax bill will fall due to their decision to enter into a civil union. In Hawai`i, most same-sex couples entering into a civil union are likely to pay a civil union tax due to the high percentage of individuals in same-sex couples (77 percent) who are employed (American Community Survey, 2005). Our very tentative conclusion is that enactment of civil union legislation is likely to increase state income tax revenues due to a civil union tax penalty. But any increase in income tax revenues is likely to be very small and difficult to estimate with any precision.

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[7] An income tax is progressive when the income tax paid by an individual or a married couple or civil union parties increases as a percentage of income as their income increase. The federal income tax is progressive and most state income taxes are progressive.

[8] Public finance economists have convincingly demonstrated that a progressive income tax —such as the Hawai`i personal income tax—cannot ensure that couples with equal incomes pay equal taxes AND that a couple's tax bill will not rise solely as a consequence of their marriage. For a good discussion of the marriage penalty, see N. Gregory Mankiw, *Principles of Economics*, 5th ed., Thompson Learning Inc., pp. 257-259.

Civil unions will, however, generate additional revenue from the issuance of civil union licenses. At $60 per license (the current fee for a marriage license), an estimated 1,962 civil unions for Hawai`i residents will generate $117,720 between 2009 and 2015 and an estimated 4,000 to 8,000 civil unions for out-of-state visitors will generate $240,000 to $480,000 over the same six-year period.

Civil unions will also generate additional excise tax revenue from the additional spending on civil union ceremonies and celebrations by resident and visiting same-sex couples. Using average spending for U.S. visitors of $152 per person per day, the 9,500 additional visitor days generated from civil unions ceremonies would produce an additional $1.4 million in direct visitor spending. Using the implicit multiplier from the Hawai`i State Input Output study (1.94), total spending on civil union ceremonies is estimated at approximately $2.7 million.[9] The additional $2.2 million in expenditures on celebrations discussed in the section above would generate approximately $4.2 million in additional visitor spending. Therefore, the total impact from civil union ceremonies and celebrations would be approximately $6.9 million. Using a gross excise tax rate of 4.35%, this would generate excise tax revenues of approximately $300,000 annually.[10] We note that the additional income would also generate additional state income tax revenues.

These estimates do not take into account additional spending by in-state couples on in-state civil union ceremonies and/or in-state honeymoons by in-state couples. With respect to opposite-sex civil union couples, it seems highly unlikely that they would travel to Hawai`i to become bound by a relationship that is not recognized in their home state (except Nevada) and that precludes marriage of either party. Nor do we expect that in-state opposite-sex couples would celebrate a civil union relationship that is demonstrably inferior to a marriage recognized by both state and federal governments.

Impact on Hawai`i State Government Agencies

Two states—Vermont and New Jersey—have issued reports on the implementation of civil unions in these states. The Vermont Commission issued its second and final report, *Report of the Vermont Civil Union Review Commission,* in January 2002. The *Report* concluded that "Act 91 (Civil Unions) has had minimal impact on state government operations," a "negligible impact on state courts", and that "Act 91 is working as intended." In particular, the Commission observed that five important agencies had "reported minimal impact [on their operations]: the Department of Health, the Office of the Secretary of State, the Department of Banking, Insurance, Securities, and Health Care Administration, the Department of Personnel, and the Department of Taxes."

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[9] The implicit multiplier of 1.94 was calculated by the authors, based on the share of visitor expenditures reported in the 2005 Hawai`i Input-Output study, available at: http://hawaii.gov/dbedt/info/economic/data_reports/2005_state_io.

[10] The State of Hawai`i General Excise Tax is a 4 percent levy on receipts from sales of all final goods and services. The State of Hawai`i collects an additional 0.5 percent levy for the City and County of Honolulu that is dedicated to construction of the City's proposed rail transit system. Our use of a GET rate of 4.35 percent reflects a simple assumption that 70 percent of expenditures incurred by the new flow of civil union visitors will be on Oahu and 30 percent of expenditures on the Neighbor Islands.

The Final Report of the New Jersey Civil Union Review Commission, *The Legal, Medical, Economic & Social Consequences of New Jersey's Civil Union Law,* was issued in December 2008. "The State Departments testifying before the Commission unanimously confirmed that the implementation of the [NJ] Civil Union Act has resulted in minimal costs to the State" (p. 27). Administrators of these departments found that the transition was "seamless" and "smooth".

The main costs to Hawai`i's government would result from changes in forms, computer reprogramming, and training sessions for employees at the Dept. of Taxation, the Dept. of Health, and the Dept. of Labor. There is no reason to believe that government agencies in Hawai`i would bear higher costs than Vermont's agencies to implement relevant provisions of HB 232. In fact, there are a number of reasons why Hawai`i state and local officials and agencies should have lower adjustment costs to civil unions: They can learn from vital statistics forms, tax forms, and real estate forms already produced in other civil union states; and they can consult with New Jersey officials who have extensive and recent experience in resolving problems with implementation of civil union legislation and with California, Oregon, Nevada, and Washington officials who have recently implemented domestic partnership legislation.

Impact on Healthcare Insurance Coverage

The enactment of civil union legislation in Hawai`i is unlikely to lead to a substantial increase in the percentage of Hawai`i's population covered by health insurance. The primary channel by which overall health insurance coverage could increase when one party did not have access to health insurance coverage prior to the civil union but becomes eligible for and elects to pay for coverage under the civil union partner's employer-provided health insurance. Three factors serve to limit the number of civil union parties receiving coverage via this channel: (1) the small number of same-sex couples in Hawai`i who are likely to choose civil unions, (2) the high percentage of Hawai`i's population already covered either by government or private health insurance plans, and (3) the small percentage of same-sex couples who sign up their partners for health insurance when it is offered by their employer. Our analysis shows that the number of civil union parties who could obtain health insurance via this channel is 20 to 40.[11]

We use a three-part analysis to estimate the number of civil union parties who are likely to obtain health insurance coverage from their civil union party. **First,** we use our earlier estimate (p. 2) that 1,962 in-state same-sex couples will choose to enter into civil unions between July 2011 and August 2017. For one civil union party to obtain health insurance via the second party's employer-provided plan, the second party must already have health insurance coverage. For purposes of our analysis, this sets a ceiling of 1,962 people who could possibly obtain coverage by entering into a civil union.

[11] See p. 11 for this calculation.

Second, the ceiling of 1,962 people is derived under the unrealistic assumption that all in-state same-sex civil unions will have one party without health insurance and the second party with employer-provided health insurance. When two parties enter into a civil union, the civil union will not lead to an increase in health insurance coverage if (1) neither party to the civil union has employer-provided health coverage or (2) both parties have employer-provided coverage or (3) the party with employer-provided coverage works for a company or government that provides benefits to domestic partners without a formal legal relationship with the employee or (4) the party with employer-provided health coverage works for a company that self-insures its health insurance program for its employees under the federal ERISA law and, therefore, may not be required to offer health insurance to civil union partners (who are not recognized by ERISA). Consider now the types of couples that would fall into each category.

1. Neither party has employer-provided health insurance. (1) If both parties are retired from the workforce and are over 65, then each party receives almost complete health insurance via enrollment in the federal government's Medicare program both before and after they enter into a civil union; their civil union would not affect the number of people covered by health insurance. A similar reasoning applies if just one party is retired and has coverage via Medicare. The Current Population Survey of the U.S. Census for 2008 shows that 90.1 percent of Hawai`i's population over the age of 65 is covered by Medicare.[12] In 2008, Hawai`i population had 190,067 people over the age of 65; that is 19.0 percent of the adult (over 18 years) population of 1,002,955.[13] (2) If both parties are working and each works less than 20 hours per week (e.g., two 25-year old graduate students), then neither party is likely to have employer-provided health insurance; their civil unions would not affect the number of people covered by health insurance. (3) If neither party is working, then neither party can claim employer-provided health benefits.

2. Both civil union parties have employer-provided health insurance benefits. When both parties have employer-provided health insurance benefits, their civil union will not change the number of people with health insurance.

It is, of course, possible that after these two parties enter into a civil union, one party will choose to be covered by the other party's employer rather than by their own employer. Some employers even provide supplementary insurance to cover gaps in coverage obtained from a spouse's employer. While a switch to a spouse's insurance carrier is a common occurrence when an opposite-sex couple marries, it almost never happens when a same-sex couple marries or enters into a civil union and both parties continue to work full-time jobs. The limited switching is due to the higher effective price of insurance paid

[12] Current Population Survey, U.S. Census Bureau, Table HI05. Health Insurance Coverage Status and Type of Coverage by State and Age for All People: 2008. Available on-line at http://www.census.gov/hhes/www/cpstables/032009/health/h05_000.htm.

[13] Population Division, U.S. Census Bureau, Estimates of the Resident Population by Selected Age Groups for the United States, States, and Puerto Rico: July 1, 2008 (SC-EST2008-01), Table 1.

by the employee to cover a domestic partner rather than a spouse. This price gap is primarily due to federal, and in some cases, state, policies specifying how employer provided fringe benefits are treated by federal and state tax authorities. Federal law allows the employee to pay premiums on employer-provided health insurance for the employee, spouse, and dependents from the employee's pre-tax income, but premiums paid for the employee's civil union party and the party's dependents must be paid from the employee's after-tax income.

How much would this increase the price paid an employee for employer-provided health insurance for the employee's civil union party vis-à-vis an identical employee's opposite-sex married spouse? Employers are required to report the fair market value of the employer's financial contribution towards health insurance coverage for non-dependent same-sex partners as taxable wages earned for the employee. In addition, the employee's financial contribution must be paid from the employee's after-tax income. The combined effect of these policies is that the cost of the civil union partner's health insurance to the employee is higher relative to a married spouse by an amount equal to the additional federal and state income taxes, social security tax and Medicare tax on the full premium. In a 2007 study, Lee Badgett found that employees with domestic partners "pay on average $1,069 per year more in taxes than would a married employee with the same coverage."[14] A Hawai`i employee earning $80,000 would face a marginal federal income tax rate of 28 percent, a marginal Hawai`i income tax rate of 8.25 percent, a social security tax rate of 6.2 percent, and a Medicare tax rate of 1.45 percent.[15] Since some of these taxes are deductible against one another, consider an overall marginal rate for the Hawai`i employee of 35 percent. In 2008, the additional cost of a family premium in Hawai`i (which covers a partner and dependents) was $7,213.[16] At a 35 percent tax rate, the additional taxes due would be $2,525.

3. Employer of one party provided health insurance to the employee's same-sex domestic partner prior to their civil union. Since 2006, all full-time (more than 20 hours per week) state and county employees in Hawai`i have had the option to purchase health insurance coverage for their "domestic partner" and their partner's dependents at the same premiums paid by a married employee to cover a spouse ("two-party coverage") or a spouse and dependent children ("family coverage"). Thus, if a state or county employee enters into a civil union with their "domestic partner" already covered by two-party or family medical insurance, the number of people with insurance coverage is

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[14] Lee Badgett (2007), *Unequal Taxes on Equal Benefits.* Los Angeles: The Williams Institute.

[15] Matching social security and medicare payroll taxes would also have to be paid by the employer on the employer's share of the premiums paid for the employee's partner.

[16] Data from Table II.D.1(2008) Average total family premium (in dollars) per enrolled employee at private-sector establishments that insurance by firm size and State: United States, 2008. Available on line at http://www.meps.ahrq.gov/mepsweb/data_stats/summ_tables/insr/state/series_2/2008/tiid1.pdf; and from Table II.C.1(2008) Average total single premium (in dollars) per enrolled employee at private-sector establishments that insurance by firm size and State: United States, 2008. Available on line at http://www.meps.ahrq.gov/mepsweb/data_stats/summ_tables/insr/state/series_2/2008/tiic1.pdf.

unlikely to change. In June 2009, the Hawai`i State Government employed approximately 76,000 people, while the four counties employed 18,900 people. Many of these 94,900 employees were part-time workers and thus were not eligible to participate in the state-sponsored medical insurance plans.[17] As of 30 June 2009, the Hawai`i Employer-Union Health Benefits Trust Fund (EUTF) reported 56,145 employees eligible for medical coverage, 11,301 waivers (often employees who found a better deal with a spouse's plan), and 44,844 employees enrolled in EUTF medical plans. The 37,270 retired state government workers who are enrolled in EUTF medical plans (as of 30 June 2009) are also eligible to add a domestic partner.[18]

As of June 2009, 293 of the Fortune 500 firms (59 percent) provided their full-time employees with an option to add a domestic partner and the partner's dependents to the health insurance plan provided by the firm to the employee.[19] This represents almost a 47 percent increase from the 200 of the Fortune 500 firms that provided medical benefits to partners of employees (eligible for medical benefits) in 2003. Many of these Fortune 500 firms employ substantial numbers of workers in Hawai`i, at small franchised retail outlets, large wholesale outlets and department stores, hotels, rental car operations, airlines, delivery services, health care providers, real estate services, automobile dealerships, and insurance companies.

Examples of Fortune 500 firms that employ Hawai`i residents include Aetna, Alaska Airlines, Apple Inc., AT&T, Avis Budget Group, Inc., C.B Richard Ellis Group, Chevron, Continental Airlines, Costco Wholesale Corp., Delta Airlines, Barnes & Noble, Best Buy Co., Inc., Fedex, Footlocker, Ford Motor Co., Gap, Inc., General Motors Corp., Herz Global Holdings Inc., Home Depot, IBM, Kaiser Permanente, Macy's, Inc., Marriott International, McDonald's Corp., Nordstrom, Office Depot, Inc., OfficeMax, Inc., Ross Stores, Sears Holdings Corp., Sprint Nextel Corp., Starbucks Corp., Starwood Hotels and Resorts Worldwide, Tesoro Corp., UAL Corp. (United Airlines), United Parcel Service (UPS), Verizon Communications, Inc., Walgreen Co., Walt Disney Co., Whole Foods Market, Inc., and Yumi Brands, Inc.

Many of Hawai`i's largest private employers (most of which are not Fortune 500 companies) also provide some domestic partner benefits. Between December 8, 2010, and January 14, 2011, we conducted a telephone survey of Hawaii's largest 200 firms. For our sample of firms, we used *Hawaii Business Magazine's* classification of the 250 largest Hawaii firms as ranked by sales in 2009. At least three attempts were made to

[17] Data is from U.S. Bureau of Labor Statistics at http://data.bls.gov/cgi-bin/dsrv.
[18] We note that most retired state workers are over 65 and are required by the State of Hawai`i to register for Medicare. About 25 percent of retired state workers are under the age of 65 and should be counted separately in coverage calculations. Data on medical coverage for current and retired state workers are from Hawaii Employer-Union Health Benefits Trust Fund, State of Hawaii, Annual Report: Fiscal Year 2008-2009, December 2009. Available at http://www.eutf.hawaii.gov/Annual_Reports/2009_ARpts/Final_Annual_Report_2008-09_rev_010410.pdf.

[19] Human Rights Campaign Foundation, *The State of the Workplace for Lesbian, Gay, Bisexual, and Transgender Americans: 2007-2008* for 2003 data. For preliminary 2009 data, see http://www.hrc.org/issues/workplace/benefits/domestic_partner_benefits.htm (2011).

contact company officers or personnel in human resources who could provide reliable answers to our single question: Does your business offer health insurance to the domestic partners of your employees? (Domestic partners could be male, female, or transgender.) Of the 200 firms contacted, 101 firms provided answers to our questions, with 42 firms offering health insurance coverage to domestic partners and 59 not providing access to coverage.[20] Firms providing health insurance to partners employed over 31,000 workers. Examples include such large employers as Bank of Hawaii, Hawaiian Air, Castle and Cooke and the Queen's Health System. A list of all employers surveyed and their responses to our question is provided at the end of the report.

4. **Private employer self-insures under ERISA.** It is somewhat unclear whether a Hawai`i company that self-insures a health insurance program for its employees will be required to offer health insurance to the civil union partners of its employees. The reason is that the self-insured health insurance plan of this company may be governed by provisions of the federal ERISA legislation rather than the State of Hawai`i's Prepaid Health Care Act. Since ERISA is a federal law, the federal Defense of Marriage Act may restrict provisions governing spouses and health insurance from being extended by HB 232 to civil union parties.

What percentage of civil union couples in Hawai`i will have one full-time employee eligible to elect coverage of a partner once civil union legislation is enacted AND one partner who is not already covered by private insurance or Medicare? The U.S. Census Bureau estimated that 92.7 percent of the Hawai`i population was covered by private or public health insurance in 2007. [21] For this 7.3 percent of couple partners to receive health insurance, they would need to be matched with a partner with a full time job who is eligible to add a civil union partner. Using a sample of all U.S. couples, Michael Ash and Lee Badgett (2006) have found that "about 90 percent of all couple types have at least one full-time worker" (p. 588). In Hawai`i during June 2009, 21.6 percent of workers worked for state, county or federal governments, and partners of these workers are already either eligible to draw medical insurance benefits or not eligible to draw them after civil unions (e.g., partners of federal workers). We deduct an additional 10 percent to account for partners of workers already covered or potentially covered by Fortune 500 firms or large Hawai`i employers with domestic partner benefits. Our answer is that we have 143 partners without insurance who have a 62 percent chance of being matched with a partner eligible to add a civil union partner to employer-provided health insurance coverage. In other words, about 89 partners would be eligible.

Third, how many of the 90 eligible civil union partners will elect to choose coverage under their partner's health insurance? The federal and state tax treatment of the partner's premium and dependent's premium (i.e., additional federal and state taxes must

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[20] Some corporations, such as Young Brothers, provide health insurance benefits to domestic partners of some types of employees (non-union front office) but not to other types of employees (union workers).

[21] Table 8, Current Population Reports P60-235, August 2008. See also http://www.census.gov/hhes/www/cpstables/032009/health/h05_000.htm

be paid on the employer's share of the additional premium and the employee must pay his share of the premium from after-tax dollars) raises the cost of the premium to the employee by 25-45 percent depending on the employee's income and corresponding federal and state marginal income tax rates. An employee may also be reluctant to choose partner coverage if there is a stigma attached to civil union status by his employer or other employees. Several studies have found that the take-up rate when such partner coverage is offered is very low. Lee Badgett, Research Director at the Williams Institute, UCLA School of Law and Associate Professor of Economics at the University of Massachusetts, and Mercer Human Resources Consulting have both independently found "that less than 1% of employees with a same-sex partner sign up for domestic partner benefits when a company offers them."[22]

Applying the one percent take-up rate to Hawai`i civil union partners yields just 1 civil union partner being added. It is, of course, possible that self-selection among civil union partners and an increasing acceptance of civil unions among the public and employers would lead to a higher take-up rate. Suppose that 20-40 percent of eligible employees with civil union partners elect employer-paid health insurance for their partners and dependents. This amounts to an additional 20-40 and 14-28 children to be covered by health insurance plans of private employers. (The State of Hawai`i is likely to spend less on its Medicaid program due to the transition of some family members to private health insurance coverage, e.g. fewer families would elect to cover eligible children under State Children's Health Insurance Program (SCHIP) plans or, alternatively, the partner's children would lose eligibility for the means tested SCHIP program once their parent has entered into a civil union. Even if we are to change some of our assumptions, it would be unlikely for more than 100 partners to be added to employer-provided health insurance plans.

In conclusion, passage of civil unions in Hawai`i is unlikely to substantially increase the percentage of the population covered by health insurance. Additional expenditures by private employers on employer-provided health insurance are likely to be relatively small given the small number of civil union partners likely to be covered and the higher share of health insurance premiums that spouses (and civil union partners) pay.

Impact of Civil Unions on Hawai`i's Labor Markets

Passage of civil unions in Hawai`i will provide a strong signal to Hawai`i residents, other U.S. citizens, and foreigners that Hawai`i is continuing to become a more tolerant, cosmopolitan society. The perception and the actualization of Hawai`i as a tolerant society are important for Hawai`i's future economic growth because more tolerant societies are typically able to retain and attract a wider variety of talented individuals, in particular entrepreneurial talent. Retention of native-born talent is particularly important for Hawai`i, as many Hawai`i-born gay and lesbian people leave Hawai`i for the

[22] "Separate and Unequal: The Effect of Unequal Access to Employment-Based Health Insurance on Same-sex and Unmarried Different-Sex Couples," Michael Ash and M. V. Lee Badgett, *Contemporary Economic Policy*, October 2006, Vol. 24, no. 4, pp 582-599.

mainland United States to participate in more inclusive, tolerant societies that offer more opportunities to them.

Labor economists have identified the "co-location problem" as one of the most significant problems facing small cities in the United States. The co-location problem involves the difficulties that two highly educated partners or spouses each encounter in finding jobs in a small city that satisfy each of their career objectives. The legalization of civil unions in Hawai`i would help to reduce the co-location problem for Hawai`i couples.

Civil Unions, Personal Responsibility, and Hawai`i's Economy

Civil unions entail increased responsibilities for the two partners entering into the union. Each partner has a responsibility to support the other partner during good and bad times. Each partner is liable for the debts of the other partner. There is likely to be less reliance on the State of Hawai`i's Medicaid and welfare programs because means tests for these programs consider resources available to both partners rather than just one partner. A civil union establishes a responsibility for both partners to support children. It establishes a legal framework for provision of alimony and child support if the relationship between the two partners ends. By establishing these responsibilities, civil unions provide a framework for more responsible, structured personal relationships that will contribute to social stability and economic growth in Hawai`i.

Conclusions

- A reasonable expectation from the experience of other states enacting civil unions is that the State of Hawai`i's adjustment to the passage of civil union legislation will be smooth and cost little.
- There is likely to be a small increase in visitor arrivals and spending by same-sex couples from other states recognizing civil unions who travel to Hawai`i to enter into and to celebrate their civil unions.
- Passage of civil union legislation is unlikely to lead to substantial increases in the percentage of the state's population covered by public and private health insurance or substantial increases in health insurance expenditures by either public or private employers.
- Passage of civil union legislation is likely to lead to small increases in state revenues via civil union registration fees, excise taxes, and state income taxes stemming from new spending on civil union ceremonies and celebrations by both visitors and residents.

The views expressed in this paper are those of Sumner La Croix and Kimberly Burnett and are not the official views of the University of Hawai`i, the University of Hawai`i Economic Research Organization or the University of Hawai`i- Mānoa Department of Economics.

Appendix: Response by Hawaii's Top 200 Employers (by Sales in 2009) To Survey Regarding Provision of Medical Benefits for Domestic Partners

Hawaii's Employers: Medical Benefits **Provided** to Employee Domestic Partners

Alexander & Baldwin Inc.
AlohaCare
AT&T Mobility
Bank of Hawaii Corp.
Board of Water Supply
Castle & Cooke Hawaii
Cheeseburger Restaurants
Fairmont Hotels Hawai'i
Forest City Residential Group Inc.
Genuine Parts Company (dba NAPA Auto Parts)
Goodsill Anderson Quinn & Stifel LLP
Grand Wailea
Hale Makua Health Services
Hawaii Preparatory Academy
Hawaiian Airlines Inc.
Hawaiian Electric Industries Inc.
Hilton Hawaii
Honolulu Ford, Lincoln, Mercury
Kiewit Building Group Inc.
Maryl Group Inc.
Maui Land & Pineapple Co. Inc.
Maui Medical Group Inc.
Metcalf West LLC
Mid Pac Petroleum LLC
Mike McKenna's Windward Ford
Morgan Stanley Smith Barney LLC
Na Hoku - Hawaii's Finest Jewelers Since 1924
Pepsi Beverages Company
Pleasant Holidays LLC
Punahou School
Ralph S. Inouye Co. Ltd.
Roberts Hawaii Inc.
S&M Sakamoto Inc.
Servco Pacific Inc.
Sunetric
Sunrise Construction Inc.
The Queen's Health Systems
The Sports Authority
University of Hawaii
Wasa Electrical Service Inc.
Wimberly Allison Tong & Goo (WATG)

Xerox Hawaii
Young Brothers Ltd.

Hawaii's Employers: Medical Benefits **Not Provided** to Employee Domestic Partners

AES Hawaii, Inc.
Albert C. Kobayashi Inc.
Allied Builders System
Aloha Air Cargo
Aloha Pacific Federal Credit Union
Aloha Petroleum Ltd.
American Electric Co. LLC
American Machinery
Anthology Marketing Group Inc.
Army Hawaii Family Housing LLC
Associated Steel Workers Ltd.
Atlantis Submarines Hawaii LLC
Avalon Health Care - Hawaii
Bacon Universal Co. Inc.
Better Brands
C. S. Wo & Sons Ltd.
Castle Medical Center
Catholic Charities Hawaii
Center for Cultural and Technical Interchange Between East and West Inc.
Central Pacific Financial Corp.
Chaminade University of Honolulu
Continental Mechanical of the Pacific
Delta Construction Corp.
DTRIC Insurance Co. Ltd.
First Hawaiian Bank
Halekulani Corporation
Hardware Hawaii
Hawaii Dental Service
Hawaii Employers' Mutual Insurance Co.
Hawaii Medical Service Association (HMSA)
Hawaii National Bank
Hawaii Pacific University
Hawaii Petroleum Inc.
Hawaii State Federal Credit Union
Hawaiian Dredging Construction Co. Inc.
Honolulu Builders
Inter Pacific Motors Inc.
Kamehameha Schools
King Food Service Inc.
Koga Engineering & Construction Inc.
Love's Bakery Inc.

Maui Economic Opportunity Inc.
Maui Petroleum Inc.
Mauna Lani Resort (Operation) Inc.
Nan, Inc.
New York Life Insurance Co.
Nordic PCL Construction, Inc.
North Hawaii Community Hospital
Outrigger Enterprises Group
Pacific Marine & Supply Co.
Paradise Beverages Inc.
Parents and Children Together
Polynesian Cultural Center
Rehabilitation Hospital of the Pacific Inc. (REHAB)
RESCO Inc.
Sea Life Park
Shioi Construction Inc.
Shirokiya Inc.
Star of Honolulu Cruises & Events
State Farm Insurance Co.
T S Restaurants of Hawaii & California
Territorial Savings Bank
Tony Hawaii Automotive Group Ltd. (dba Tony Group)
UHA (University Health Alliance)
Watts Constructors
Watumull Brothers Ltd.
WESCO Distribution Inc.

<u>Hawaii Employers: No Response to Survey Inquiry or Didn't Know</u>

Alaka`i Mechanical Corp.
Aloha Auto Group Ltd.
Ameron Hawaii
Anheuser-Busch Sales of Hawaii Inc.
Architects Hawaii
Aston Hotels & Resorts, LLC
BAE Systems Hawaii Shipyards
Barnwell Industries Inc.
Belt Collins Hawaii Ltd.
BOMAT Ltd.
Booz Allen Hamilton
Cades Schutte LLP
Cafe Hawaii Partners
Child & Family Service
City Mill Co. Ltd.
Clinical Laboratories of Hawaii, LLP
Coastal Construction Co. Inc.

Coca-Cola Bottling Co. of Hawaii
Coldwell Banker Pacific Properties LLC
Commercial Data Systems Inc.
CommonWealth REIT
Covanta Honolulu Resource Recovery Venture (H-Power)
Cutter Management Co.
D.R. Horton - Schuler Homes LLC (dba Schuler Homes)
dck pacific construction LLC
Dorvin D. Leis Co. Inc.
Fairmont Specialty, Part of Crum & Forster Group
Farmers Insurance Hawaii, Inc.
Fernandez Entertainment Inc.
Finance Factors Ltd.
First Insurance Co. of Hawaii Ltd.
Fresenius Medical Care North America - Hawaii
Gay & Robinson Inc.
Geico
Gentry Cos.
Goodwill Industries of Hawaii
Grace Pacific Corp.
Group Builders Inc.
Hale Koa Hotel
Hawaii Auto Group - Cadillac, GMC, Buick of Honolulu
Hawaii Community Foundation
Hawaii Foodbank Inc.
Hawaii Foodservice Alliance LLC
Hawaii Health Systems Corp.
Hawaii Island Air Inc.
Hawaii Medical Assurance Association (HMAA)
Hawaii Pacific Health
Hawaiian Cement
Hawaiian Hotels and Resorts
Hawaiian Insurance And Guaranty Co. Ltd.
Hawaiian Isles Enterprises Inc.
Hawaiian Sun Products Inc.
Hawaiian Telcom
HawaiiUSA Federal Credit Union
Hawk Tree International
Hawthorne Pacific Corp.
Heide & Cook Ltd.
HFS Federal Credit Union
HIE Holdings Inc.
Hopaco OfficeMax Inc.
I. Kitagawa and Co. Ltd.
Iolani School
Isemoto Contracting Co. Ltd.

Island Insurance Cos.
Jalpak International Hawaii Inc.
James Campbell Company LLC
Japan Airlines International Co. Ltd.
JBG Corp.
Jim Falk Automotive Group
JN Group Inc.
John Hancock Life (USA)
Jones Hawaii Acquisition Co. LLC
JTB Hawaii Inc.
Kauai Island Utility Cooperative
Kawailoa Development LLP
Kazi Foods Corp. of Hawaii
Keaki Technologies
King Auto Center Inc.
Koa Properties, Land & Homes, LLC
Kuakini Health System
Kyo-ya Company LLC
L&L Drive-Inn and L&L Hawaiian Barbecue
Ledcor Construction Hawaii LLC
Marukai Corp.
Maui Divers of Hawaii Ltd.
Maui Toyota/Scion
Maui Varieties Ltd.
Meadow Gold Dairies
Merrill Lynch Wealth Management
Mid-Pacific Institute
Minit Stop Stores
New City Nissan/Rosebridge LLC
Oahu Transit Services Inc.
Oceanic Time Warner Cable
Pacific Guardian Life Insurance Co. Ltd.
Palama Holdings LLC (dba Palama Meat Company & H&W Food Service)
Parker Ranch Foundation Trust
Parsons
PEMCO Ltd.
Pflueger Automotive Group
Pharmacare Hawaii Inc.
ProService Hawaii Business Development Corporation
Puna Plantation Hawaii Ltd.
Queen Liliuokalani Trust
R & C Hawaii Tours Inc.
Royal Contracting Co. Ltd.
Securitas Security Services USA, Inc.
Sen Plex Corp.
Seven-Eleven Hawaii Inc.

Sony Hawaii Company
St. Francis Healthcare System of Hawaii
Stoebner Holdings Inc.
Suisan Group Inc.
TD Food Group Inc.
The Gas Co. LLC
United Laundry Services Inc.
Unlimited Construction Services Inc
VIP Foodservice
Waianae District Comprehensive Health & Hospital Board Inc.
Warabeya USA Inc.
Webco Hawaii Inc.
Wells Fargo Home Mortgage of Hawaii LLC
Wyndham Vacation Ownership
Y. Hata & Company Ltd.
YMCA of Honolulu
Zephyr Insurance Co. Inc.