Honolulu, Hawaii

Feb 28, 2008

RE: H.B. No. 2557
      H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 2557 entitled:

"A BILL FOR AN ACT RELATING TO EVIDENCE,"

begs leave to report as follows:

The purpose of this bill is to establish a limited privilege for persons involved in news gathering and reporting against compelled disclosure of sources and unpublished information to a legislative, executive, or judicial officer or body, or to any other person with the power to compel testimony.

The League of Women Voters of Hawaii, Honolulu Community Media Council, and several concerned individuals supported this bill. The Screen Actors Guild Hawaii Branch, American Federation of Musicians, and Local 677 supported the intent of this measure. The Society of Professional Journalists – Hawaii Chapter and several concerned individuals supported this measure with amendments. The Judiciary and Department of the Prosecuting Attorney of the City and County of Honolulu opposed this bill. The Department of the Attorney General and several concerned individuals submitted comments.

Your Committee has amended this bill by:

(1)   Requiring that a journalist or newscaster not employed by a media organization be at least professionally associated with such an organization;

(2)   Clarifying that the limited privilege granted to
      journalists and newscasters by this measure may also be
      claimed by other persons who can credibly establish that
      they were involved in the collection of news or
      information of substantial public interest for
      dissemination to the general public;

(3)   Expanding the exceptions to the limited privilege
      established by this measure to include situations in
      which a source has consented to disclosure, and in which
      a person seeking disclosure in civil litigation can show
      clear and convincing evidence that the source or
      information sought is unavailable despite exhaustion of
      all reasonable alternative sources, noncumulative, and
      necessary and relevant to a claim or defense asserted;
      and

(4)   Clarifying that the prohibition against fines and
      imprisonment, applies to all persons who qualify for the
      privilege.

     As affirmed by the record of votes of the members of your
Committee on Judiciary that is attached to this report, your
Committee is in accord with the intent and purpose of H.B. No.
2557, as amended herein, and recommends that it pass Second
Reading in the form attached hereto as H.B. No. 2557, H.D. 1, and
be placed on the calendar for Third Reading.

                              Respectfully submitted on
                              behalf of the members of the
                              Committee on Judiciary,

                              _____
                              TOMMY WATERS, Chair

HB2557 HD1 HSCR JUD HMS 2008-2634

State of Hawaii
House of Representatives
The Twenty-fourth Legislature

Record of Votes of the Committee on Judiciary

Bill/Resolution No.:	Committee Referral:	Date:
HB 2557	JUD	2/26/08

☑ The committee is reconsidering its previous decision on the measure.

The recommendation is to: ☐ Pass, unamended (as is)   ☑ Pass, with amendments (HD)   ☐ Hold
☐ Pass short form bill with HD to recommit for future public hearing (recommit)

JUD Members	Ayes	Ayes (WR)	Nays	Excused
1. WATERS, Tommy (C)	/			
2. OSHIRO, Blake K. (VC)	/			
3. EVANS, Cindy				/
4. GREEN, Josh, M.D.				/
5. ITO, Ken	/			
6. LUKE, Sylvia	/			
7. McKELVEY, Angus L.K.				/
8. MORITA, Hermina M.				/
9. SONSON, Alex M.				/
10. SOUKI, Joseph M.	-	/		
11. TSUJI, Clift	/			
12. YAMANE, Ryan I.	/			
13. YAMASHITA, Kyle T.	/			
14. MARUMOTO, Barbara C.	/			
15. PINE, Kymberly Marcos	/			
16. THIELEN, Cynthia				/
TOTAL (16)	9	1		6

The recommendation is: ☑ Adopted   ☐ Not Adopted

If joint referral, _____ did not support recommendation.
committee acronym(s)

Vice Chair's or designee's signature: _____

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