

STAND. COM. REP. NO. 1205

Honolulu, Hawaii

March 25, 2009

RE: S.B. No. 1183
S.D. 2
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Sir:

Your Committee on Labor & Public Employment, to which was referred S.B. No. 1183, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO DISCRIMINATORY PRACTICES,"

begs leave to report as follows:

The purpose of this bill is to provide increased protections for persons with disabilities from discrimination in employment by requiring the Hawai'i Civil Rights Commission to adopt administrative rules to conform protections afforded by state law to recently amended federal law that strengthens protections against disability discrimination in employment.

The Hawai'i Civil Rights Commission (HCRC) testified in support of this bill. The Disability and Communication Access Board and State Council on Developmental Disabilities supported the intent of this measure.

Hawaii has had a long-standing policy to protect against discrimination in the workplace, including discrimination based upon a person's disability and has, in many respects, provided protections stronger than federal law. However, in 2005, federal law was amended to address certain Supreme Court decisions that Congress found interpreted definitions of disability inconsistently with legislative intent. This bill requires the HCRC to adopt administrative rules to minimally conform terms used

SB1183 HD1 HSCR LAB HMS 2009-3265



in state law to define "disability" to recent changes in federal law.

However, your Committee notes that HCRC recommended additional changes to this measure to better conform the administrative rules to federal law. Accordingly, your Committee has amended this bill by:

- (1) Deleting the definitions of the terms "low-vision devices" and "ordinary eyeglasses or contact lenses" as these terms relate to the matter of determining whether an impairment substantially limits a major life activity without regard to mitigating measures and state law is currently stronger than federal law on this issue;
- (2) Including the term "substantially limits" as one of the terms the HCRC is to define because State law is currently narrower and in conflict with the broader protections provided under the amended federal law;
- (3) Providing the HCRC an additional year to complete the rulemaking process; and
- (4) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1183, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1183, S.D. 2, H.D. 1, and be referred to the Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Labor & Public
Employment,

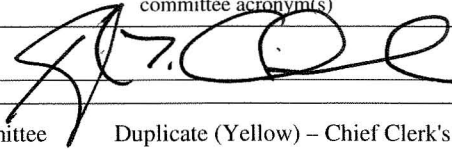


KARL RHOADS, Chair



State of Hawaii
House of Representatives
The Twenty-fifth Legislature

Record of Votes of the Committee on Labor & Public Employment

Bill/Resolution No.: SB 1183, SD2	Committee Referral: LAB, JUD	Date: 3-20-09		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
LAB Members	Ayes	Ayes (WR)	Nays	Excused
1. RHOADS, Karl (C)	✓			
2. YAMASHITA, Kyle T. (VC)	✓			
3. AQUINO, Henry J.C.	✓			
4. AWANA, Karen Leinani	✓			
5. HANOHANO, Faye P.	✓			
6. KEITH-AGARAN, Gilbert S.C.	✓			
7. LEE, Marilyn B.	✓			
8. NAKASHIMA, Mark M.	✓			
9. SAIKI, Scott K.	✓			
10. SOUKI, Joseph M.				✓
11. TAKUMI, Roy M.	✓			
12. PINE, Kymberly Marcos	✓			
TOTAL (12)	11	—	—	1
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <small>committee acronym(s)</small>				
Vice Chair's or designee's signature: 				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				