

STAND. COM. REP. NO. 1240

Honolulu, Hawaii

March 27, 2009

RE: S.B. No. 1621
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. 1621, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING,"

begs leave to report as follows:

The purpose of this bill is to protect an employee's right to organize and allow both public and private sector employees easier access to union representation by, among other things:

- (1) Setting the procedures for establishing an initial agreement for collective bargaining following certification or recognition of a labor organization as a representative;
- (2) Clarifying that a duly certified labor organization that represents employees for the purpose of collective bargaining has a privilege to refuse to disclose and to prevent any other person from disclosing confidential information and communications made for the purpose of facilitating the rendition of union representational services to employees through the collective bargaining process;
- (3) Allowing a labor organization that provides representational services related to collective bargaining to bring a civil action in circuit court for

SB1621 HD1 HSCR LAB HMS 2009-3388



nonpayment of union dues by members and agency fees by persons covered by a collective bargaining agreement;

- (4) Establishing that it is a complete defense to prosecution for trespass and offenses against public order, where a person or persons are engaged in a labor dispute to publicize the existence of the dispute on the pathways, sidewalks, and areas adjacent to the entry ways or exits used by customers or employees, or both, to gain access to the establishment gained in the dispute;
- (5) Allowing for the use of signed valid authorizations designating an individual or labor organization designated in the petition for representation, so that no election is to be directed by the Hawaii Labor Relations Board; and
- (6) Making it a violation for an employer to wilfully or repeatedly commit unfair or prohibited practices interfering with an employee's statutory rights or discriminating against an employee for exercising protected conduct.

The Hawaii Government Employees Association; the International Brotherhood of Electrical Workers; the Laborers' International Union of North America Local 368; the Hawaii Teamsters and Allied Workers, Local 996; the International Brotherhood of Electrical Workers, Local 1186; the Hawaii Building and Construction Trades Council, AFL-CIO; the Hawaii State AFL-CIO; the Screen Actors Guild Hawaii Branch; the ILWU Local 142; Pride At Work Hawaii; Ironworkers Stabilization Fund Local 625; the United Public Workers, AFSCME, Local 646, AFL-CIO; Hawaii Carpenters Union; Hawaii Alliance for Retired Americans; United Filipino Council of Hawaii; Filipino Coalition for Solidarity; and Filipinos for Affirmative Action testified in support of this bill.

The Department of Labor and Industrial Relations; the Department of the Attorney General; the Department of Human Resources Development; the Department of Agriculture; the Small Business Regulatory Review Board; The Chamber of Commerce of Hawaii; the Kauai Chamber of Commerce; the Kona-Kohala Chamber of Commerce; the Hawaii Hotel & Lodging Association; Retail Merchants of Hawaii; the Hawaii Crop Improvement Association; the National Federation of Independent Business; Hawaii Farm Bureau Federation;



the Society for Human Resource Management; the Hawaii Restaurant Association; the Hawaii Business Roundtable; the Hawaii Automobile Dealers Association; the American Public Works Association Hawaii Chapter; the Building Industry Association of Hawaii; the Healthcare Association of Hawaii; the Hawaii Credit Union League; the American Council of Engineering Companies of Hawaii; Grace Pacific Corporation; Monsanto Hawaii; the Associated Builders and Contractors Hawaii; Ocean Tourism Coalition; Star of Honolulu Cruises and Events; Mauna Lani Resort; Wyndham Vacation Ownership; The Arc of Kona; Down to Earth ALL VEGETARIAN *Organic and Natural*; Gentry Homes, Ltd.; Aloun Farms, Inc.; ABC Stores; the Maui Chamber of Commerce; Hawaiian Airlines; Valluzzi-Poteet Building Co., LLC; VES INC.; Mokolua Contracting LLC; Frogman Charters; Lindemann Construction, Inc.; Kona Pacific View; AMV AIR CONDITIONING INC.; Wilson Homecare; The Peter Anderson Co.; Meadow Gold Dairies, Hawaii; New Penny Cleaning Service LLC; Best Publishing-Big Island; Deep Seawater International, Inc.; Kauai Coast Resort; Barnett Consulting Group; Pacific LightNet; Maunalani Nursing & Rehab Center; Kukio Golf & Beach Club; Ward Research; R.M. Towill Corporation; AT & AMP - T Mobility; Integration Technologies, Inc.; Doubletree Alana Hotel Waikiki; Four Seasons Resort Hualalai; Intergrated ComTel, Inc.; Steiner Hawaii Inc. dba Alsco; Gytaku Japanese Restaurants; Sergio's LLC; Glenn Co. Hawaii Inc.; Wailana Coffee House; E & J Lounge Operating Co., Inc.; Tanaka of Tokyo Restaurants Ltd., Corporate Offices; Highway Inn Inc.; and numerous individuals testified in opposition to this measure.

American Income Life Insurance Company and a concerned individual commented on this bill.

Historically, the unionization of workers has resulted in increased wages, the lessening of race and gender pay gaps, decreased workplace discrimination, and increases in job safety standards. These changes not only affect unionized workers but have had a positive effect for all working people.

Although many employees have been allowed to legally exercise their right to organize, some employers still try to deny workers the freedom to form a union. This measure attempts to provide workers seeking to organize a more level playing field by streamlining the union certification process and enabling workers to form unions when a majority of the workers sign union authorization cards.



Your Committee has amended this bill by:

- (1) Removing language stipulating that that a duly certified labor organization that represents employees for the purpose of collective bargaining has a privilege to refuse to disclose and to prevent any other person from disclosing confidential information and communications made for the purpose of facilitating the rendition of union representational services to employees through the collective bargaining process;
- (2) Removing language that establishes that it is a complete defense to prosecution for trespass and offenses against public order, where a person or persons are engaged in a labor dispute to publicize the existence of the dispute on the pathways, sidewalks, and areas adjacent to the entry ways or exits used by customers or employees, or both, to gain access to the establishment gained in the dispute;
- (3) Providing a right for persons to take part in union organizing activities such as holding placards and passing out literature on the pathways, sidewalks, and areas adjacent to the entry ways or exits used by customers or employees, including on private property, but not within the premises of an establishment;
- (4) Clarifying that the immunity from civil liability provided to unions for participating in a labor dispute is limited to lawful participation;
- (5) Changing its effective date to July 1, 2010; and
- (6) 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. 1621, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1621, S.D. 2, H.D. 1, and be referred to the Committee on Finance.



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

Karl Rhoads

KARL RHOADS, Chair



State of Hawaii
House of Representatives
The Twenty-fifth Legislature

HSCR 12460

Record of Votes of the Committee on Labor & Public Employment

Bill/Resolution No.: SB 1621 SD2	Committee Referral: LAB, FIN	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)	10	- 1	-	1
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. _____ committee acronym(s)				
Vice Chair's or designee's signature:				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				