

STAND. COM. REP. NO. 1734

Honolulu, Hawaii

April 9, 2009

RE: S.B. No. 1621
S.D. 2
H.D. 2

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

Sir:

Your Committee on Finance, to which was referred S.B. No. 1621, S.D. 2, H.D. 1, 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) Allowing a labor organization that provides representational services related to collective bargaining to bring a civil action in circuit court for nonpayment of union dues by members and agency fees by persons covered by a collective bargaining agreement;
- (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;

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- (4) 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;
- (5) 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; and
- (6) Clarifying that the immunity from civil liability provided to unions for participating in a labor dispute is limited to lawful participation.

The Hawaii Government Employees Association; 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; Hawaii Alliance for Retired Americans; the International Brotherhood of Electrical Workers; and the Hawaii Carpenters' Union testified in support of this bill.

The Department of Labor and Industrial Relations; the Department of Agriculture; the Small Business Regulatory Review Board; The Chamber of Commerce of Hawaii; the Kona-Kohala Chamber of Commerce; the Hawaii Hotel & Lodging Association; the Hawaii Crop Improvement Association; the National Federation of Independent Business; the Society for Human Resource Management; the Hawaii Business Roundtable; the Hawaii Automobile Dealers Association; the Building Industry Association of Hawaii; the Hawaii Credit Union League; Outrigger Hotels; the Maui Chamber of Commerce; KTA Super Stores; General Contractors Association of Hawaii; Hawaii Island Contractors' Association; CP Kona Realty; Kauai Chamber of Commerce; Universal Construction, Inc.; Hawaii Farm Bureau Federation; Kona Transportation Company; Down to Earth ALL VEGEATARIAN Organic and Natural; Hawaiian Dredging Construction Company; Aloha Tofu Factory, Inc.; Fernandez Events; Sugarland Farms; Barnett Consulting Group; James Tucker Associates, Inc.; Global Odor Control Technologies of Hawaii, Inc.; Wilson Homecare; City Mill Company Ltd.; Hawaii Restaurant Association; Akimeka, LLC; Monsanto in Hawaii; Ocean Network; Cafe Laufer; Pacific



LightNet; Integration Technologies, Inc.; Administrative Solutions, Inc.; Meadow Gold Dairies, Hawaii; and numerous concerned individuals testified in opposition to this measure.

The Department of the Attorney General and the Ilima Hotel provided comments.

After further consideration, your Committee has amended this measure by deleting its contents and replacing it with language contained in H.B. No. 952, H.D. 1. As amended, this measure:

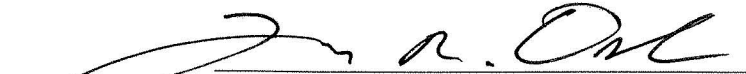
- (1) Streamlines the process to certify union representation by requiring the Hawaii Labor Relations Board (Board) to certify an exclusive representative if a majority of the employees in a unit not currently represented has signed valid authorizations designating a bargaining representative, instead of doing so through an election process;
- (2) Authorizes the Board to make rules governing the certification of an exclusive representative and final determinations regarding the eligibility of employees and the validity of an employee's signature on an authorization card;
- (3) Establishes a process that facilitates the initial collective bargaining agreement process between an employer and a newly certified employee representative; and
- (4) Requires the Board to refer disputes to an arbitration panel if a conciliator is not able to bring parties to an agreement by conciliation within a specified time period.

Your Committee has further amended this bill by changing its effective date to July 1, 2020, to encourage further discussion.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1621, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1621, S.D. 2, H.D. 2.



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


MARCUS R. OSHIRO, Chair



