

STAND. COM. REP. NO. 1610

Honolulu, Hawaii

April 9, 2009

RE: S.B. No. 1678  
S.D. 3  
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 Finance, to which was referred S.B. No. 1678, S.D. 3, entitled:

"A BILL FOR AN ACT RELATING TO TAXATION,"

begs leave to report as follows:

The purpose of this bill is to amend the tax laws to conform to the updated Streamlined Sales and Use Tax Agreement as part of Hawaii's participation as a member of the National Streamlined Sales Tax Project.

The Hawaii State Teachers Association, Hawaii Government Employees Association, Democratic Party of Hawaii, National Association of Social Workers, Hawaii Chapter, Retail Merchants of Hawaii, Legislative Information Services of Hawaii, Hawaii Science & Technology Council, Hawaii Association of REALTORS, Hawaii Family Support Institute, and a concerned individual supported this bill. The Department of Taxation opposed this bill. The University of Hawaii, Tax Foundation of Hawaii, Internet Alliance, and National Federation of Independent Business offered comments.

Your Committee has amended this bill by replacing its substance with the contents of H.B. No. 1405, H.D. 2, and making additional technical, nonsubstantive amendments. As amended, this bill improves the State's ability to capture taxes owed by out-of-state businesses by specifying the business activities that would constitute a sufficient connection with Hawaii to enable the State

SB1678 HD1 HSCR FIN HMS 2009-3673



1610

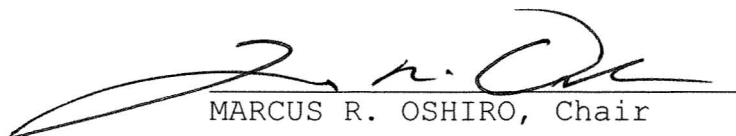
to impose a general excise tax on these activities. This bill clarifies the definition of "engaging" in business under the general excise tax law by:

- (1) Including the sale of tangible personal property by a person soliciting business through an independent contractor who resides in Hawaii and is paid to refer potential customers to the person; and
- (2) Exempting sales so solicited if the cumulative gross receipts for a twelve-month period are less than \$10,000.

This bill also allows a rebuttal of the presumption of engaging in business through such solicitation if the independent contractor did not engage in any solicitation in Hawaii on behalf of the person that would satisfy the nexus requirement of the United States Constitution.

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. 1678, S.D. 3, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1678, S.D. 3, H.D. 1, and be placed on the calendar for Third Reading.

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



MARCUS R. OSHIRO, Chair



