

STAND. COM. REP. NO.

**2773**

Honolulu, Hawaii

MAR 19 2010

RE: H.B. No. 2935  
H.D. 3  
S.D. 1

Honorable Colleen Hanabusa  
President of the Senate  
Twenty-Fifth State Legislature  
Regular Session of 2010  
State of Hawaii

Madam:

Your Committee on Labor, to which was referred H.B. No. 2935,  
H.D. 3, entitled:

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

begs leave to report as follows:

The purpose of this measure is to:

- (1) Make it an unlawful practice for all labor organizations and those employers who have a collective bargaining agreement with their employees and employ one hundred or more employees to, except in cases of sick leave abuse by employees:

- (A) Bar or discharge an employee from employment;
- (B) Withhold pay from an employee; or
- (C) Demote an employee,

solely because the employee legitimately uses accrued and available sick leave in accordance with the employer's negotiated attendance and sick leave policy; and

- (2) Allow employers and labor organizations to bar or discharge an employee, withhold pay from an employee, or



demote an employee, if the employee is unable to fulfill the essential job functions or requirements of the employee's position.

Testimony in support of this measure was submitted by nine private organizations and two individuals. Testimony in opposition of this measure was submitted by three state agencies, one county agency, and seven private organizations. Written testimony presented to the Committee may be reviewed on the Legislature's website.

Your Committee finds that eliminating the ability of employers to undermine sick leave benefits previously negotiated under collective bargaining with subpar house rules or policies is not fair or just to employees covered by a collective bargaining agreement. Your Committee also finds that requiring the terms of a collective bargaining agreement to prevail in instances of conflict with an employer's rules or policies would be more equitable.

Your Committee has amended this measure by deleting sections 1 and 3, and replacing them with sections 1 and 3 of S.B. No. 2883, S.D. 1. As amended, this measure requires that, as applied to an employers' sick leave benefits, policies, or provisions, the terms of the collective bargaining agreement shall prevail whenever there is a conflict between that agreement and house rules or policies adopted by the employer.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2935, H.D. 3, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2935, H.D. 3, S.D. 1, and be referred to the Committee on Judiciary and Government Operations.

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

  
\_\_\_\_\_  
DWIGHT Y. TAKAMINE, Chair



The Senate  
Twenty-Fifth Legislature  
State of Hawaii

**Record of Votes**  
**Committee on Labor**  
**LBR**

Bill / Resolution No.:* <b>HB2935 HD3</b>	Committee Referral: <b>LBR, JGO</b>	Date: <b>3.11.10</b>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
TAKAMINE, Dwight Y. (C)	✓			
TANIGUCHI, Brian T. (VC)	✓			
BUNDA, Robert				✓
HEE, Clayton				✓
SLOM, Sam			✓	
<b>TOTAL</b>	<b>2</b>	<b>0</b>	<b>1</b>	<b>2</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes