

SB2565



HAWAI‘I CIVIL RIGHTS COMMISSION

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February 23, 2010
Rm. 016, 9:30 a.m.

To: The Honorable Brian Taniguchi, Chair
Members of the Senate Committee on Judiciary and Government Operations

From: Coral Wong Pietsch, Chair, and Commissioners of the Hawai‘i Civil Rights
Commission

Re: S.B. No. 2565

The Hawai‘i Civil Rights Commission (HCRC) has enforcement jurisdiction over state laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state-funded services. The HCRC carries out the Hawai‘i constitutional mandate that "no person shall be discriminated against in the exercise of their civil rights because of race, religion, sex or ancestry". Art. I, Sec. 5.

The HCRC supports S.B. No. 2565, which amends Act 30, L Sp 2009 by extending the deadline by one year to December 31, 2011 for the HCRC to adopt administrative rules to conform state law protections against disability discrimination to the federal Americans with Disabilities Act Amendments Act of 2008 (ADAAA). The HCRC has been notified that the U.S. Equal Employment Opportunities Commission (EEOC) is unlikely to finalize its guidelines implementing the ADAAA until July, 2010. The HCRC will therefore not be able to review the

final EEOC guidelines and complete its rulemaking process by the prior deadline of December 31, 2010.

The HCRC supports S.B. No. 2564, and urges your favorable consideration.

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THE SENATE
THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2010

COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

Hearing: February 23, 2010

Testimony on S.B. 2565

(Relating To The Hawaii Civil Rights Commission)

Chair Taniguchi, Vice-Chair Takamine and members of the Committee:

My name is Peter Fritz. I am an attorney and the Chair of the Disability and Communications Access Board. I was an Administrative Rules Specialist with the Department of Taxation and I am familiar with the rule making procedure. I am testifying in my personal capacity. My testimony draws from my experience in labor law, as an Administrative Rules Specialist and experiences with the Hawaii Civil Rights Commission ("HCRC"). I am opposed to the extension as drafted in this bill and propose different language relating to the time frame for the HCRC to draft rules relating to the amendments made by the ADA Amendments Act of 2008 ("ADAAA").

- Granting an extension of a year creates hardship for businesses.
 - Business need guidance and need rules to know how the HCRC will interpret the ADAAA differently than how the Equal Employment Opportunities Commission ("EEOC") interprets the rules.
 - Granting an extension of one year will mean that guidance will be unavailable regarding how the Hawaii Civil Rights Commission ("HCRC") will interpret ADAAA for a period that is longer than what is necessary.
- A better solution would be for Section 2 of the bill to read as follows:

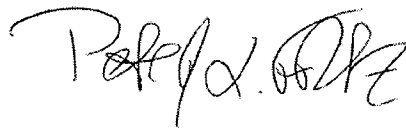
SECTION 2. Act 30, Special Session Laws of Hawaii 2009, is amended by amending section 3 to read as follows:

"SECTION 3. The Hawaii civil rights commission shall complete the rulemaking process for purposes of section 2 of this Act no later than six months after United States Equal Employment Opportunities Commission publishes final rules in the Federal Register interpreting the Americans with Disabilities Act Amendment Act of 2008."

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- The above provision will relieve the HCRC from having to request an additional extension.
- Final regulations usually do not differ significantly from the proposed regulations. The HCRC can start drafting its rules based on the proposed rules and make adjustments to their rules to reflect the changes to the EEOC's final rules. Six months is an adequate amount of time for the HCRC to complete ruling making.

Thank you for the opportunity to testify.

A handwritten signature in black ink, appearing to read "Peter L. Fritz". The signature is written in a cursive, somewhat stylized font.