


STAND. COM. REP. NO. 

Honolulu, Hawaii

APR 08 2011

RE: H.B. No. 467
H.D. 2
S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred H.B. No. 467, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO WHISTLEBLOWERS' PROTECTION,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Provide additional protection to public employees who report violations of the law in state or local government or of government contracts; and
- (2) Expand the Department of Labor and Industrial Relations' responsibilities regarding whistleblowers.

Your Committee received testimony in support of this measure from the Hawaii Government Employees Association, United Public Workers, and one individual.

Your Committee finds that many state and county employees are directly responsible for protecting the public interest through the administration of statutory requirements and enforcement of rules and regulations. During the course of this work, these public employees may become aware of violations or suspect violations of laws or government contracts by their employers or others. This measure will shield from reprisal those employees who report violations of the law or improper activities that may threaten the health and safety of workers or the public.



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Your Committee observes that this measure designates certain existing statutes relating to whistleblower protections as subpart A of part V of chapter 378, Hawaii Revised Statutes. Within the newly designated subpart, there are certain enforcement directives that authorize a court to remedy damages sustained by a whistleblower by reinstating the employee, for example, and by fining an employer who illegally retaliates against a whistleblower. However, it is unclear whether these enforcement directives would apply to public employers for violations of the new whistleblower protections for public employees. Your Committee believes that these enforcement provisions should be extended to apply to public employers; therefore, the general provisions of subpart A should be amended to clarify their applicability to the new subpart. Your Committee believes that the extension of these enforcement directives will encourage public employee whistleblowers to come forward.

Your Committee has amended this measure by:

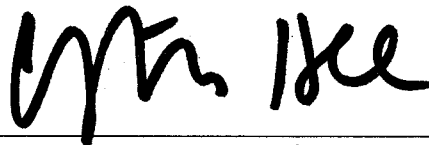
- (1) Clarifying that the provisions designated under this measure as subpart A of chapter 378, Hawaii Revised Statutes, regarding remedies and penalties, apply to the new public employee whistleblower provisions;
- (2) Clarifying that other provisions designated under this measure as subpart A of chapter 378, Hawaii Revised Statutes, regarding collective bargaining and confidentiality rights, compensation for employees, and notices of employee protections and obligations, do not apply to the new public employee whistleblower provisions;
- (3) Making the measure effective upon approval; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 467, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 467, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.



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



CLAYTON HEE, Chair



The Senate
 Twenty-Sixth Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* HB 467, HD 2	Committee Referral: JDL	Date: 3/15/11		
<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
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile (VC)	✓			
GABBARD, Mike	✓			
IHARA, Jr., Les	✓			
SLOM, Sam				✓
TOTAL	4	0	0	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes