

STAND. COM. REP. NO.

966

Honolulu, Hawaii

March 17, 2011

RE: S.B. No. 1076  
S.D. 1  
H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Sixth State Legislature  
Regular Session of 2011  
State of Hawaii

Sir:

Your Committees on Labor & Public Employment and Economic Revitalization & Business, to which was referred S.B. No. 1076, S.D. 1, entitled:

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

beg leave to report as follows:

The purpose of this bill is to specify that for employers with 100 or more employees and a collective bargaining agreement with their employees:

- (1) It is unlawful for an employer or labor organization to bar or discharge from employment, withhold pay from, or demote an employee solely because the employee legitimately uses accrued and available negotiated sick leave in accordance with the employer's attendant and negotiated sick leave policies; and
- (2) Employers and labor organizations are not prohibited from barring or discharging from employment, withholding pay from, or demoting an employee if the employee is unable to fulfill the essential job functions or requirements of the employee's position.

IBEW; Hawaii Government Employees Association; Hawaii State Teachers Association; ILWU Local 142; IBEW Local Union 1357; The Plumbers and Fitters, Local 675; and several concerned individuals

SB1076 HD1 HSCR LAB-ERB HMS 2011-3037



testified in support of this bill. The Chamber of Commerce of Hawaii; Hawaiian Telcom; Hawaiian Electric Company, Inc. and its subsidiaries, Hawaii Electric Light Company, Inc., and Maui Electric Company, Limited; National Federation of Independent Business Hawaii; and Society for Human Resource Management-Hawaii Chapter testified in opposition to this measure. The Department of Labor and Industrial Relations, IBEW Local 1260, Hawaii State AFL-CIO, General Contractors Association of Hawaii, and King & Neel, Inc. submitted comments.

Upon consideration, your Committees have amended this bill by deleting its substance and inserting the contents of H.B. No. 341, H.D. 4, which:

- (1) Specifies that for employers with 100 or more employees and a collective bargaining agreement with their employees:
  - (A) It is unlawful for an employer or labor organization to bar or discharge from employment, withhold pay from, or demote an employee solely because the employee uses accrued and available negotiated sick leave; provided that the employer or labor organization may require the employee to provide written verification from a physician when the employee uses three or more consecutive days of sick leave; and
  - (B) Employers and labor organizations are not prohibited from barring or discharging from employment, withholding pay from, or demoting an employee if the employee is unable to fulfill the essential job functions or requirements of the employee's position;

and

- (2) Sets forth a July 1, 2030, effective date.

In addition, your Committees have further amended this bill by stipulating that the employee shall have used all accrued and available sick leave before the employer or labor organization can bar or discharge the employee from employment, withhold pay from the employee, or demote the employee.



As affirmed by the records of votes of the members of your Committees on Labor & Public Employment and Economic Revitalization & Business that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 1076, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1076, S.D. 1, H.D. 1, and be referred to the Committee on Judiciary.

Respectfully submitted on  
behalf of the members of the  
Committees on Labor & Public  
Employment and Economic  
Revitalization & Business,



ANGUS L.K. MCKELVEY, Chair



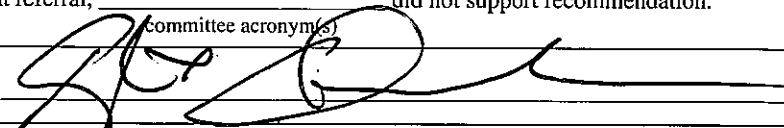
KARL RHOADS, Chair



State of Hawaii  
House of Representatives  
The Twenty-sixth Legislature

HSCR 966

Record of Votes of the Committee on Labor & Public Employment

Bill/Resolution No.: SB1076, SD1	Committee Referral: LAB/ERB, JUD, FIN	Date: 3/15/11		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
LAB Members	Ayes	Ayes (WR)	Nays	Excused
1. RHOADS, Karl (C)	✓			
2. YAMASHITA, Kyle T. (VC)	✓			
3. AQUINO, Henry J.C.	✓			
4. CULLEN, Ty	✓			
5. ICHIYAMA, Linda	✓			
6. LEE, Marilyn B.	✓			
7. LUKE, Sylvia	✓			
8. SAIKI, Scott K.	✓			
9. SOUKI, Joseph M.	✓			
10. TAKUMI, Roy M.	✓			
11. FONTAINE, George R.		✓		
12. JOHANSON, Aaron Ling		✓		
TOTAL (12)	10	2		
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. Committee acronym(s)				
Vice Chair's or designee's signature: 				
Distribution: Original (White) – Committee    Duplicate (Yellow) – Chief Clerk's Office    Duplicate (Pink) – HMSO				

