

STAND. COM. REP. NO. 1200

Honolulu, Hawaii

March 24, 2011

RE: S.B. No. 1076  
S.D. 1  
H.D. 2

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

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 1076, S.D. 1, H.D. 1, entitled:

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

begs leave to report as follows:

The purpose of this measure is to make it an unlawful practice for any employer or labor organization with more than 100 employees and subject to a collective bargaining agreement to bar or discharge from employment, withhold pay from, or demote an employee solely because the employee legitimately uses accrued and available sick leave, except for abuse of sick leave or if the employee is unable to fulfill the essential job functions or requirements of the employee's position.

The Hawaii Laborers' Union, International Brotherhood of Electrical Workers Local 1260, ILWU Local 142, Hawaii Government Employees Association, IBEW, Plumbers and Fitters, Local 675, and IBEW Local Union 1357 testified in support of this measure. The Department of Labor and Industrial Relations supported the intent of this bill. The Hawaii State AFL-CIO supported this measure with amendments. The National Federation of Independent Business, Society for Human Resource Management-Hawaii Chapter, The Chamber of Commerce of Hawaii, Hawaiian Telcom, Hawaiian Electric Company, Inc., Hawaii Electric Light Company, Inc., Maui Electric Company, Limited, and General Contractors Association of Hawaii opposed this bill.

SB1076 HD2 HSCR JUD HMS 2011-3296



Your Committee has amended this bill by:

- (1) Incorporating language from subsection (c) into subsection (b) to clarify that an employer's authority to take adverse action against an employee who is unable to fulfill the essential job functions applies only to the sick leave provisions and not the full statute;
- (2) Adding language to clarify that any adverse action taken by an employer for an employee's failure to fulfill the essential job functions must be in compliance with state, federal, and county laws prohibiting such action, including Worker's Compensation, Temporary Disability, federal Family and Medical Leave, and Hawaii Family and Medical Leave;
- (3) Establishing that collective bargaining agreements will govern where they provide greater sick leave benefits;
- (4) Changing the effective date to July 1, 2011; and
- (5) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1076, S.D. 1, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as S.B. No. 1076, S.D. 1, H.D. 2.

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

  
GILBERT KEITH-AGARAN, Chair



State of Hawaii  
House of Representatives  
The Twenty-sixth Legislature

HSCR1200

Record of Votes of the Committee on Judiciary

Bill/Resolution No.: <b>SB 1076, SD 1, HD 1</b>	Committee Referral: <b>LAB/ERB, JUD, FIN</b>	Date: <b>3/22/11</b>		
<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)				
JUD Members	Ayes	Ayes (WR)	Nays	Excused
1. KEITH-AGARAN, Gilbert S.C. (C)	✓			
2. RHOADS, Karl (VC)	✓			
3. BROWER, Tom	✓			
4. CABANILLA, Rida T.R.	✓			<del>WR</del>
5. CARROLL, Mele				✓
6. HERKES, Robert N.	✓			
7. ITO, Ken	✓			
8. LUKE, Sylvia	✓			
9. McKELVEY, Angus L.K.	✓			
<del>10. MORITA, Hermina M.</del>				
11. OSHIRO, Blake K.	✓			
12. SOUKI, Joseph M.	✓			
13. TSUJI, Clift	✓			
14. FONTAINE, George R.		✓		
15. MARUMOTO, Barbara C.			✓	
16. THIELEN, Cynthia	✓			
<b>TOTAL (16)</b>	<b>12</b>	<b>1</b>	<b>1</b>	<b>1</b>
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <div style="margin-left: 100px;">committee acronym(s)</div>				
Vice Chair's or designee's signature: <u><i>Karl Rhoads</i></u>				
Distribution: Original (White) -- Committee      Duplicate (Yellow) -- Chief Clerk's Office      Duplicate (Pink) -- HMSO				