

Honolulu, Hawaii
Jan 31 , 2012

RE: H.B. No. 1680
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committees on Labor & Public Employment and Economic Revitalization & Business, to which was referred H.B. No. 1680 entitled:

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

beg leave to report as follows:

The purpose of this measure is to ensure that everyone has an opportunity to seek employment by prohibiting an employer or employment agency from publishing a job advertisement that states or suggests that an applicant for the job must be currently employed.

The Hawaii State AFL-CIO, Hawaii Government Employees Association, Pride At Work Hawaii, and ILWU Local 142 testified in support of this measure. The Hawaii Civil Rights Commission and Department of Human Resources of the City and County of Honolulu provided comments.

Hawaii, as well as the rest of the nation, has been facing what has been termed the "Great Recession" for the past several years. During this time, unemployment rates have remained at historically high levels. Millions of Americans across the country continue to look for employment but are unable to find jobs. In Hawaii alone, in December 2011, there were 41,900 unemployed workers according to statistics from the Department of Labor and Industrial Relations. Unfortunately, an emerging

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practice has begun across the country where increasing numbers of employers and employment services are running employment advertisements stating that applicants must currently be employed to apply for the position. This practice has the potential of affecting millions of Americans who are currently unemployed, including those who have been unemployed for more than a year. Barring this practice would provide greater opportunities for employment to those who want to be employed.

However, your Committees recognize the concerns raised on the effect the advertisement prohibition may have on internal recruiting opportunities or promotions. Your Committees also note that simply prohibiting an employer or employment agency from publishing a job advertisement that states or suggests that an applicant for the job must be currently employed does not go far enough in protecting the unemployed from a possibly discriminatory practice. Finally, your Committees find that prohibiting an employer or employment agency from publishing a job advertisement that merely suggests that an applicant for the job must be currently employed is too ambiguous. Accordingly, your Committees have amended this measure by:

- (1) Inserting language that prohibits an employer or employment agency from denying employment to an individual solely because the individual was unemployed;
- (2) Clarifying that prohibition against publishing a job advertisement that states that an applicant for the job must be currently employed does not apply to internal recruiting efforts to fill a vacancy; and
- (3) Deleting language that prohibits an employer or employment agency from publishing a job advertisement that suggests that an applicant for the job must be currently employed.

Your Committees have also amended this bill by:

- (1) Changing its effective date to January 31, 2057, to encourage further discussion; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.



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 H.B. No. 1680, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1680, 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



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State of Hawaii
House of Representatives
The Twenty-sixth Legislature

Record of Votes of the Committee on Labor & Public Employment

Bill/Resolution No.: HB 1680	Committee Referral: LAB/ERB, JUD, FIN	Date: 1-27-12
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The committee is reconsidering its previous decision on the measure.

The recommendation is to: Pass, unamended (as is) Pass, with amendments (HD) Hold
 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. OKAMURA, Tom		/		
9. SAIKI, Scott K.		/		
10. SOUKI, Joseph M.		/		
11. TAKUMI, Roy M.	/			
12. FONTAINE, George R.	/			
13. JOHANSON, Aaron Ling	/			
TOTAL (13)	9	4	-	-

The recommendation is: Adopted Not Adopted
If joint referral, _____ committee acronym(s) _____ did not support recommendation.

Vice Chair's or designee's signature: _____

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State of Hawaii
House of Representatives
The Twenty-sixth Legislature

Record of Votes of the Committee on Economic Revitalization & Business

Bill/Resolution No.: HB 1680	Committee Referral: LAB/ERB, JUD FIN	Date: 1/27/12		
<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)				
ERB Members	Ayes	Ayes (WR)	Nays	Excused
1. McKELVEY, Angus L.K. (C)	✓			
2. CHOY, Isaac W. (VC)	✓			
3. AWANA, Karen L.	✓			
4. BROWER, Tom	✓			
5. EVANS, Cindy	✓			
6. HASHEM, Mark J.				✓
7. NISHIMOTO, Scott Y.				✓
8. TOKIOKA, James Kunane	✓			
9. TSUJI, Clift	✓			
10. MARUMOTO, Barbara C.				✓
11. PINE, Kymberly Marcos	.	✓		
TOTAL (11)	7	1	-	3
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: _____ <i>Sam W. Chy</i> _____				
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