

Honolulu, Hawaii

March 2, 2012

RE: H.B. No. 2569  
H.D. 2

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

Sir:

Your Committee on Finance, to which was referred H.B. No. 2569, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO CIVIL UNIONS,"

begs leave to report as follows:

The purpose of this measure is to allow for the improved and effective implementation of Hawaii's civil union law by amending various provisions of the Hawaii Revised Statutes to clarify language and promote conformity among related provisions.

The Department of Health, Honolulu Pride, and several concerned individuals supported this bill. Three concerned individuals opposed this measure. The Department of the Attorney General; Hawaii Civil Rights Commission; Gay, Lesbian, Bisexual and Transgender Caucus of the Democratic Party of Hawaii; Hawaii Family Forum; Equality Hawaii; Hawaii Catholic Conference; Emmanuel Temple, The House of Praise; Church State Council; Christian Voice of Hawaii; and several concerned individuals provided comments.

Act 1, Session Laws of Hawaii 2011, gave civil union partners all the same rights, benefits, protections, and responsibilities under law as given to those who contract, obtain a license, and are solemnized pursuant to chapter 572, Hawaii Revised Statutes. During the months of preparation to implement Act 1 and in the time since Act 1 became effective on January 1, 2012, however, it has become clear that certain provisions of Hawaii's statutes



would benefit from additional clarification to minimize confusion and aid in the proper implementation of Act 1. Therefore, in making these amendments with this measure, it is the Legislature's intent to reconfirm and clarify the provisions of chapter 572B, Hawaii Revised Statutes, as enacted by Act 1, Session Laws of Hawaii 2011. Nothing in this measure shall be interpreted to weaken, lessen, expand, or enlarge any of the protections, obligations, rights, and responsibilities governed by any provision of Act 1.

In addition, your Committee recognizes that there is a case pending before the United States District Court for the District of Hawaii, *Jackson v. Abercrombie*, Civil No. 11-00734 ACK KSC, in which the plaintiffs have alleged that the marriage law and the "marriage amendment" to the Hawaii State Constitution are unconstitutional. Your Committee notes that not only has no court thus far found Hawaii's marriage law to be unconstitutional, a majority of states currently have similar laws. Despite this, Governor Abercrombie has publicly declined to defend it, although his administration is defending the law.

Your Committee further notes that the administration introduced this bill. By virtue of introducing this administration bill concerning civil unions, it is an implied acknowledgement by the administration that it is the Legislature, under Article III, Section 1, of the Hawaii state constitution, that determines the benefits and responsibilities between couples. This was affirmed in the constitutional amendment that resulted in Article I, Section 23, of the Hawaii state constitution, which confers the power to the Legislature to define marriage and establish the parties who may enter into a marriage under section 572-1.

Your Committee further notes that the Legislature maintains the authority to determine whether marriage should be reserved to opposite sex couples and therefore also maintains the power to adopt any amendments to the marriage and civil union laws. As such, your Committee emphasizes that any amendments to these laws are done so under the authority given to the Legislature by the Hawaii State Constitution.

Your Committee has amended this measure by:

- (1) Including purpose language to state the Legislature's intent;



- (2) Expanding the exemption for religious facilities from prohibitions against discrimination in public accommodations;
- (3) Clarifying the term "facilities" with respect to the exemption from prohibitions against discrimination in public accommodations for religious organizations;
- (4) Removing language that specifies that references to the date of commencement of rights, benefits, protections, and obligations refer to the first date the rights, benefits, protections, and obligations accrued under a reciprocal beneficiary relationship;
- (5) Clarifying that a person who refuses to perform a solemnization of a civil union will not be subject to civil actions;
- (6) Clarifying the automatic termination by operation of law of the reciprocal beneficiary relationship upon a union performed in a jurisdiction other than Hawaii;
- (7) Clarifying which unions from other jurisdictions will be recognized as civil unions; and
- (8) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2569, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2569, H.D. 2.

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

  
MARCUS R. OSHIRO, Chair



State of Hawaii  
House of Representatives  
The Twenty-sixth Legislature

HSR 957-12

Record of Votes of the Committee on Finance

Bill/Resolution No.: <b>HB 2569, HD1</b>	Committee Referral: <b>JUD, FIN</b>	Date: <b>3/1/12</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)				
FIN Members	Ayes	Ayes (WR)	Nays	Excused
1. OSHIRO, Marcus R. (C)	✓			
2. LEE, Marilyn B. (VC)	✓			
3. CHOY, Isaac W.	✓			
4. CULLEN, Ty	✓			
5. GIUGNI, Heather	✓			
6. HAR, Sharon E.	✓			
7. HASHEM, Mark J.	✓			
8. ICHIYAMA, Linda	✓			
9. JORDAN, Jo	✓			
10. KAWAKAMI, Derek S.K.	✓			
11. LEE, Chris	✓			
12. MORIKAWA, Dee	✓			
13. TOKIOKA, James Kunane	✓			
14. YAMASHITA, Kyle T.	✓			
15. MARUMOTO, Barbara C.	✓			
16. RIVIERE, Gil	✓			
17. WARD, Gene		✓		
TOTAL (17)	16	1	0	0
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: <u>Marilyn B. Lee</u>				
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