

Honolulu, Hawaii

Feb 7 , 2012

RE: H.B. No. 2577

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 Committee on Labor & Public Employment, to which was referred H.B. No. 2577 entitled:

"A BILL FOR AN ACT RELATING TO WAGES,"

begs leave to report as follows:

The purpose of this measure is to assist the Department of Labor and Industrial Relations in enforcing Hawaii's wage and hour law with regard to unpaid wages by clarifying that earned promised vacation or personal time off pay is considered part of an employee's wages unless otherwise specified through a written agreement or policy or through the substantiated practice of an employer.

The Department of Labor and Industrial Relations, Hawaii Laborers' Union, International Brotherhood of Electrical Workers Local Union 1357, Pacific Resource Partnership, United Public Workers, AFSCME, Local 646, AFL-CIO, Plumbers and Fitters Union, Local 675, and Vocational Management Consultants, Inc., testified in support of this measure. The Chamber of Commerce of Hawaii provided comments.

Hawaii's wage and hour law is currently enforced by the Wage Standards Division of the Department of Labor and Industrial Relations. However, ambiguity in the law has brought into question the authority of the Wage Standards Division to enforce the law in regards to a promised wage by employers that includes vacation and personal time off. According to the Department of



Labor and Industrial Relations, although vacation and personal time off may be earned wages, this is not specifically noted in the definition of "wages". This causes uncertainty which has made it difficult for individuals who are separated from service to collect earned promised vacation and personal time off pay as an earned wage. This measure seeks to clarify this uncertainty.

However, your Committee notes that including vacation and personal time off in the definition of "wages" may be construed to require an employer to pay for vacation and personal time off each time it is earned within a particular pay period. In other words, if an employee were to earn one day of vacation and one day of personal time off each month, an employer would have to pay that employee for their vacation and personal time off at the end of the month as wages. As such, your Committee has amended this measure by clarifying that vacation and personal time off can be accrued and payment for vacation and personal time off do not have to be paid in each pay period that a benefit was earned.

Technical, nonsubstantive amendments were also made for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2577, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2577, H.D. 1, and be referred to the Committee on Economic Revitalization & Business.

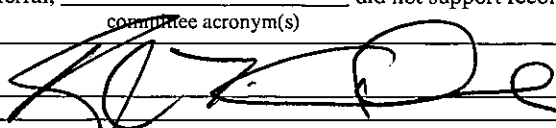
Respectfully submitted on
behalf of the members of the
Committee on Labor & Public
Employment,



KARL RHOADS, Chair



Record of Votes of the Committee on Labor & Public Employment

Bill/Resolution No.: HD 2577	Committee Referral: LAB, ERB, FIN	Date: 2-3-12		
<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)				
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)	12	—	—	—
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <small>committee acronym(s)</small>				
Vice Chair's or designee's signature: 				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				