

STAND. COM. REP. NO.

2173

Honolulu, Hawaii

FEB 15 2012

RE: S.B. No. 2202

S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 2202 entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to prohibit any employer or employment agency from publishing a job advertisement that states or suggests that an applicant for the job must be currently employed.

Your Committee received testimony in support of this measure from the Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO; International Longshore and Warehouse Union, Local 142; Pride at Work Hawaii; and one individual. Your Committee received testimony in opposition to this measure from the Hawaii Civil Rights Commission. Your Committee received comments on this measure from the City and County of Honolulu Department of Human Resources and the Chamber of Commerce of Hawaii.

Your Committee finds that there is growing concern over an emerging national trend, where increasing numbers of employers and employment services run job advertisements that state applicants must be currently employed to apply. The unemployment rate in Hawaii has remained at over six percent for almost three years, and job postings that explicitly reference the employment status of applicants only hinder the efforts of unemployed persons to reenter the job market.



Your Committee further finds that the employment practice of employers or employment agencies publishing or causing to be published advertisements that exclude the unemployed from consideration for a job vacancy is against public policy. Although this exclusionary employment practice may not be prevalent in Hawaii, your Committee finds that an affirmative approach is warranted because that type of employment practice violates public policy.

Your Committee therefore concludes that a study and report on whether employers and employment agencies are engaging in this exclusionary employment practice in the State is the most appropriate method to confront this emerging employment issue.

Accordingly, your Committee has amended this measure by replacing its contents with language that:

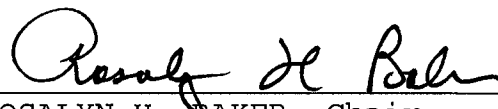
- (1) Directs the Legislative Reference Bureau to conduct a study and gather information and data on whether employers and employment agencies are engaging in employment practices that exclude the unemployed from qualified applicant pools considered for employment in the State;
- (2) Requires the Legislative Reference Bureau to include in the study a review and survey of job notices and job advertisements that exclude the unemployed from consideration for a job vacancy, and a count of any complaints involving these practices that are filed with the Hawaii Civil Rights Commission;
- (3) Requires the Hawaii Civil Rights Commission to provide assistance and information as necessary to the Legislative Reference Bureau; and
- (4) Requires the Legislative Reference Bureau to submit a report of its findings, including examples of any posted notices or published advertisements that exclude the unemployed from consideration for a job vacancy, to the Legislature no later than twenty days prior to the convening of the Regular Session of 2013.

This measure intends to send the message that it is an unacceptable employment practice to discriminate in job postings and advertisements against someone who does not have a job.



As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2202, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2202, S.D. 1, and be referred to the Committee on Judiciary and Labor.

Respectfully submitted on
behalf of the members of the
Committee on Commerce and
Consumer Protection,

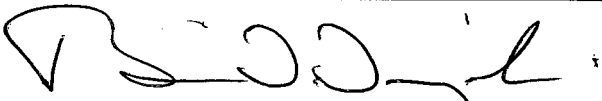


ROSALYN H. BAKER, Chair



The Senate
Twenty-Sixth Legislature
State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 2202	CPN, JDL	2-10-12		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			
TANIGUCHI, Brian T. (VC)	✓			
GALUTERIA, Brickwood	✓			WMM BSO
GREEN, M.D., Josh	✓			
NISHIHARA, Clarence K.	✓			
SOLOMON, Malama	✓			
SLOM, Sam			✓	
TOTAL	6	0	1	0
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

*Only one measure per Record of Votes