

STAND. COM. REP. NO.

2684

Honolulu, Hawaii

MAR 02 2012

RE: S.B. No. 2202  
S.D. 2

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

Sir:

Your Committee on Judiciary and Labor, to which was referred  
S.B. No. 2202, S.D. 1, 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:

- (1) Direct 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 Hawaii;
- (2) Require the Legislative Reference Bureau to submit a report to the Legislature, including examples of any notices or advertisements that exclude the unemployed from consideration; and
- (3) Require the Hawaii Civil Rights Commission to provide assistance and information as necessary for the Legislative Reference Bureau to conduct the study.

Your Committee received testimony in support of this measure from the Hawaii State AFL-CIO; the International Longshore and Warehouse Union Local 142; and the Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO. The Hawaii Civil Rights



Commission and the Legislative Reference Bureau submitted comments.

Your Committee finds that there is growing concern over an emerging national trend, where increasing numbers of employers and employment services run job advertisements requiring that applicants be currently employed in order 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. However, your Committee recognizes the concerns raised by the Legislative Reference Bureau regarding the study's scope and methodology in reviewing in-state employment opportunity postings and the need for further guidance on what constitutes quantifiable exclusionary employment practices.

Your Committee has amended this measure by:

- (1) Deleting its contents and inserting its original language as introduced, which amends section 378-2, Hawaii Revised Statutes, to prohibit any employer or employment agency from publishing a job advertisement that states that an applicant for the job must be currently employed;
- (2) Deleting any references that prohibit a job advertisement from suggesting that applicants be employed as they are subjective and difficult to apply;
- (3) Inserting an effective date of July 1, 2050, to ensure further discussion; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

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



Third Reading in the form attached hereto as S.B. No. 2202,  
S.D. 2.

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




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CLAYTON HEE, Chair



The Senate  
Twenty-Sixth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Judiciary and Labor**  
**JDL**

Bill / Resolution No.:* <b>SB 2202 , SD1</b>	Committee Referral: <b>CPN , JDL</b>	Date: <b>3/1/12</b>		
<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
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile (VC)	✓			
GABBARD, Mike	✓			
IHARA, Jr., Les		✓		
SLOM, Sam			✓	
<b>TOTAL</b>	<b>3</b>	<b>1</b>	<b>1</b>	
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original    Yellow    Pink    Goldenrod File with Committee Report    Clerk's Office    Drafting Agency    Committee File Copy				

\*Only one measure per Record of Votes