

STAND. COM. REP. NO. 1095-12

Honolulu, Hawaii

March 19, 2012

RE: S.B. No. 2213
S.D. 2
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 S.B. No. 2213, S.D. 2, entitled:

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

begs leave to report as follows:

The purpose of this measure is to protect the rights of public employees by clarifying that an appointing authority shall consider the feasibility of transferring or demoting the employee to another position for which the employee qualifies and that is administrated by the appointing authority prior to discharge due to failure to meet performance requirements.

The Department of Human Resources Development and United Public Workers, AFSCME, Local 646, AFL-CIO testified in support of this bill. The Hawaii Government Employees Association, AFSCME, Local 152, AFL-CIO provided comments.

Currently, Hawaii law provides seven criteria that an employer is obligated to meet when a civil service employee fails to meet performance requirements prior to releasing that employee from the position or discharging the employee from service. One of the criteria is that the employer consider the feasibility of transferring or demoting that employee to another position for which the employee qualifies. However, your Committee has been informed that since the scope of this investigation is not statutorily defined, each state department and county jurisdiction

SB2213 HD1 HSCR LAB HMS 2012-2786



or department has its own interpretation as to what the scope of the investigation is intended to encompass, leading to inconsistencies in application.

However, your Committee also notes the concerns that the requirement as expressed in this measure as it was received by your Committee that the transfer or demotion considered be to another position that is administered by the appointing authority may be overly vague and not feasible. Accordingly, your Committee has amended this measure by narrowing the scope of the transfer or demotion being considered to the appointing authority's department. 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 S.B. No. 2213, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2213, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

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



KARL RHOADS, Chair



