

Date: 02/11/2014
Time: 09:00 AM
Location: Conference Room 312
Committee: House Economic Development & Business

Department: Education

Person Testifying: Kathryn S. Matayoshi, Superintendent of Education

Title of Bill: HB 2617 RELATING TO EMPLOYMENT AGREEMENTS.

Purpose of Bill: Prohibits technology businesses from using noncompete agreements and restrictive covenants which forbid postemployment competition.

Department's Position:

The Department of Education supports this measure. As one of the largest of technology employers in the state, finding talented, experienced individuals to fill our openings is a challenge for a number of reasons. One being that there appears to be a lack of available individuals either qualified or available to work in this state. In some cases, we are unable to approach or attract candidates working for large mainland technology companies because their noncompete agreements prevent them from seeking subsequent employment at organizations their current employer does business with. This may not be difficult for individuals working for small employers, but for employees of companies like Apple, Microsoft, or IBM, a noncompete agreement effectively prevents them from working in any technology capacity in the state, and certainly at the Department of Education, where we do business with numerous technology vendors (local and mainland based). Noncompete agreements tend to encourage technology workers to move out of state to secure employment in their chosen field, thus reducing the available candidate pool to fill our most experienced positions.

We believe that limiting the use of noncompete agreements would help to increase the pool of technology employees in the state of Hawaii, and encourage innovation and growth in the technology industry as a whole.



HAWAII MEDICAL ASSOCIATION

1360 S. Beretania Street, Suite 200, Honolulu, Hawaii 96814
Phone (808) 536-7702 Fax (808) 528-2376 www.hmaonline.net

DATE: Tuesday, February 11, 2014
TIME: 9:00 AM
PLACE: Conference Room 312

HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS

Rep. Clift Tsuji, Chair
Rep. Gene Ward, Vice Chair

FROM: Hawaii Medical Association
Dr. Walton Shim, MD, President
Dr. Linda Rasmussen, MD, Legislative Co-Chair
Dr. Ron Keinitz, DO, Legislative Co-Chair
Dr. Christopher Flanders, DO, Executive Director
Lauren Zirbel, Community and Government Relations

Re: HB2617

Position: Support, with Comments.

The Hawaii Medical Association stands in support of HB2617 generally, and would like to add the following comments for consideration by the Committee.

The HMA supports the idea and principal of barring contractual non-complete clauses in all employment contracts. Non-compete clauses are exceptionally damaging in the medical community as they force physicians, in most cases, to leave the island on which they are enforced, and in many cases, the state. Once gone, the chance that physician returns to Hawaii are remote at best. The state stands to lose its investment in the education and training of that physician, and more importantly the expertise and contribution to an already overtaxed medical workforce.

The Senate Committee on Consumer Protection heard the companion to this bill, SB3126, on February 6, 2014, and is considering language on an amendment to include physicians as an SD1. Please consider the same.

Thank you for hearing this bill and for the opportunity to provide testimony.

Officers

*President - Walton Shim, MD President-Elect – Robert Sloan, MD
Secretary - Thomas Kosasa, MD Immediate Past President – Stephen Kemble, MD
Treasurer – Brandon Lee, MD Executive Director – Christopher Flanders, DO*

Written Statement of
ROBBIE MELTON
Executive Director & CEO
High Technology Development Corporation
before the
HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS

Tuesday, February 11, 2014
9:00 a.m.
State Capitol, Conference Room 312
In consideration of

HB 2617 RELATING TO EMPLOYMENT AGREEMENTS.

Chair Tsuji, Vice Chair Ward, and Members of the Committee on Economic Development & Business.

The High Technology Development Corporation (HTDC) offers **comments** on HB 2617 relating to Employment Agreements. HB2617 adds specific language to invalidate non-compete agreements for technology businesses. Technology businesses are defined as businesses that rely on software development, information technology, or both. HTDC comments this is a broad definition which may be applicable to many modern businesses yet may be ambiguous for some businesses conducting research and development. HTDC comments that the bill favors employee mobility which can provide benefits of retaining spin-off companies and entrepreneurial employees within the state. HTDC also comments that the “reasonable” non-compete agreement currently afforded to employers can be essential for certain technology companies in building a globally competitive business.

Thank you for the opportunity to offer these comments.

Testimony in Strong Support of HB 2617

Committee on Economic Development & Business

Rep. Cliff Tsuji, Chair

Rep. Gene Ward, Vice Chair

Tuesday February 11, 2014

9:00am

Conference Room 312

Chair Tsuji, Vice Chair Ward, Members of the Committee, thank you for the opportunity to testify today.

My name is Chris Lee and I am the Founder and Director of the Academy for Creative Media System at the University of Hawaii. I am also a motion picture producer and testify today as an individual and not on behalf of the University.

I strongly support SB3126. The Bill provides better opportunities for technology professionals to call Hawaii home and to keep our emerging entrepreneurs in creative IP home in the islands. It's just better for business and better for employees.

A primary concern for owners of innovation businesses is policy protecting intellectual property. Hawaii has adopted the Uniform Trade Secret Act to provide a legal framework for protecting trade secrets. The current use of noncompetition agreements to protect trade secrets encourages and discourages behavior that inhibits our technology industries. Among the issues:

- Used broadly and indiscriminately across many industries. This causes kama'aina to leave the State if they want to remain employed in their field. The alternative is to work a "penalty box" job for up to 3 years with skills underutilized. For example, our supreme court has upheld barring a Japanese tour "briefer" from her job. One of her 3 year penalty box professions was driving a bus.
- Almost half of technology professionals surveyed are subject to these agreements.

- Discourages the formation of new businesses and competition in an already small and isolated marketplace.
- Non-competes prevent innovators from creating businesses.
- Non-competes and non-solicitation agreements prevent entrepreneurs from staffing businesses.
- Discourages the growth of a critical mass of technology professionals in Hawaii
- Discourages technology professionals from moving to a place of limited employment mobility.
- Encourages the best to leave because they are driven out by a covenant not to compete.
- Forces Hawaii employers to make expensive searches outside the State to fill a talent void.
- Discourages the fruits of these searches from creating local roots.

Academic studies have concluded that public policy supporting employee mobility encourages the innovation economy. Studies indicate jurisdictions enforcing noncompete regimes discourages worker creativity leaving underperforming employees to linger in noncompete geographies.

As many of you know, Hawaii has a history of producing brilliant, innovative thinkers who have only been able to achieve their dreams on the mainland and elsewhere. HB 2617 will be an important tool in making sure those dreams can be realized in the islands to everyone's benefit.

Mahalo for the opportunity to testify.

Jeffrey D. Hong
TechMana LLC
Honolulu, HI, 96813

HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS

Tuesday, Feb 11, 2014, 9:00 AM
State Capitol Conference Room 312

Aloha Chair Tsuji, Vice Chair Ward, Members of the Committee on Economic Development & Business:

As the Chief Technology Officer of a local software company I strongly support HB2617. The Bill provides better opportunities for technology professionals to call Hawaii home. I have personally seen how noncompetition agreements are used in the technology industry with detrimental effects to employees and Hawaii's business community.

A primary concern for owners of innovation businesses is policy protecting intellectual property. Hawaii has adopted the Uniform Trade Secret Act to provide a legal framework for protecting trade secrets. The current use of noncompetition agreements to protect trade secrets encourages and discourages behavior that inhibits our technology industries:

- Used broadly and indiscriminately across many industries. This causes kama'aina to leave the State if they want to remain employed in their field. The alternative is to work a "penalty box" job for up to 3 years with underutilized skills.
 - Our supreme court has upheld barring a Japanese tour "briefer" from her job. One of her 3 year penalty box professions was driving a bus.
 - Almost half of technology professionals surveyed are subject to these agreements.
- Discourages the formation of new businesses and competition in an already small and isolated marketplace.
 - Non-competes prevent innovators from creating businesses.
 - Non-competes and non-solicitation agreements prevent entrepreneurs from staffing businesses.
- Discourages the formation of a critical mass of technology professionals in Hawaii
 - Discourages technology professionals from moving to a place of limited employment mobility.

- Encourages the best to leave because they are driven out by a covenant not to compete.
- Forces Hawaii employers to make expensive searches outside the State to fill a talent void.
 - Discourages the fruits of these searches from creating local roots.

Academic studies have concluded that public policy supporting employee mobility encourages the innovation economy. Studies indicate jurisdictions enforcing noncompete regimes discourages worker creativity creating an environment that underperforms.

In 2002 SB2538 was a similar bill submitted to the legislature to encourage employee mobility for the technology industry. The bill did not pass. After 14 years of subtle damages by our current policy we are left with a small technology industry in Hawaii. Ironically, many jobs that could be serviced by our local workforce is in one of the few technology business that grew in Hawaii during this time period; offshore IT. I urge you to support this bill and change the trajectory of Hawaii's technology community.

I have attached relevant articles and academic studies for your review.

Mahalo,



Jeffrey D. Hong
Chief Technology Officer
TechMana LLC

References

- **Testimony: Massachusetts Governor's Office 2013** – Statement of support for eliminating the enforceability of noncompetition agreements in Massachusetts.
 - <http://www.boston.com/business/technology/innoeco/9-10-2103Testimony.pdf>
- **Article: WSJ Noncompete Employees** - Comments on studies indicating the best employees will emigrate from noncompete jurisdictions. Remaining employees may not be the ones an employer wants to keep.
 - <http://blogs.wsj.com/accelerators/2014/01/22/orly-lobel-why-non-competes-may-give-you-the-least-desirable-employees/>
- **Article: Non-compete provisions in California:** - Describes a recent US District Court ruling invalidating an Illinois company's non-compete from enforcement in California.
 - http://www.dorsey.com/eU_LE_noncompete_california_072612/
- **Study: University of Minnesota** – Proposes the Uniform Trade Secrets Act as a modern way of protecting trades secrets and decoupling non-competition agreements. “The Evolving Law of Employee Noncompete Agreements: Recent Trends and an Alternative Policy Approach”
 - http://papers.ssrn.com/sol3/papers.cfm?abstract_id=124508
- **Study: Stanford Law School** – Compares the legal framework of covenants not to compete in California and Massachusetts. It describes the effect of enforcement on the rise of high technology industrial districts. “The Legal Infrastructure of High Technology Industrial Districts: Silicon Valley, Route 128, and Covenants Not to Compete”
 - http://papers.ssrn.com/sol3/papers.cfm?abstract_id=124508

Hazel Glenn Beh
Professor of Law and Co-Director, Health Law Policy Center

February 10, 2014

The House of Representatives
The Twenty-Seventh Legislature
Regular Session of 2014
Committee on Economic Development & Business

Dear Representatives Clift Tsuji, Chair, and Gene Ward, Vice Chair and Committee Members:

This testimony is submitted in strong support of HB 2617 and urges amending the Bill to prohibit non-compete clauses in physician employment agreements as well.

I am a Professor of Law at the William S. Richardson School of Law; I have taught Contract law here since 1995. I am writing in my personal capacity; however, this testimony is based on my professional research on the effects of non-compete clauses in Hawaii. I am the co-author (with student H. Ramsey Ross) of Non-Compete Clauses in Physician Employment Contracts Are Bad for Our Health, 14 Haw. Bar J. 79 (2010).

House Bill 2617 wisely prohibits non-competition agreements between employer and employees in high tech industries. My personal belief is that non-competition clauses should be prohibited in all classes of employment contracts. This Bill represents a modest first step; however, because of the urgency and severity of Hawai'i's physician shortage, I urge that this bill be amended to include physicians as well.

Non-compete clauses hurt Hawaii businesses and consumers and contribute to our "brain drain" and skilled workforce shortages. Under current case law in Hawaii, employer imposed non-competition agreements of three year duration and state-wide scope have been upheld. This means that a departing worker has three choices: leave the state, change careers, or remain in an unhappy job. If the worker defies the non-compete, he or she can be sued and forced to pay damages well beyond what he or she might have earned.

Hawai'i has lost doctors, skilled workers, and inventors to other states, because these non-compete clauses are so liberally upheld by our courts. Most of these valuable employees leave silently, choosing to go elsewhere rather than endure challenging these clauses and risking a lawsuit.

Non-compete clauses are both costly and unfair to workers, to our consumers, and to our state economy. In the case of doctors, enforcement of a non-compete is particularly unfair to patients and patient communities who lose choice and expertise. Our taxpayers lose the investment we made through subsidized medical education and residency when we allow employers to enforce non-compete clauses that drive doctors from our state. Likewise, in the tech industry, all the incentives we give to the high tech industry to attract and recruit inventors to our state are lost each time a worker leaves the state because of an employer imposed non-compete.

Other states have already banned non-compete clauses and are reaping economic benefits all around. Most notably, California bans almost all non-compete clauses in employer agreements, allowing them only in conjunction with the sale of goodwill of a business. Studies examining why and how Silicon Valley became ground zero for the high tech revolution have found that other regions failed in part because non-compete clauses drive away inventors, and do not foster the development of a synergistic community needed to advance tech industries. You cannot build a community of entrepreneurs if you do not allow them mobility within that community. In order to succeed, Hawaii needs to learn this lesson: our regional success depends on a mobile workforce that remains wedded to our community.

No one wants employees to steal trade secrets, secret recipes, client lists, or other intellectual property. Our existing law adequately protects those legitimate concerns without enforcement of non-compete clauses. But employers should not be able to stagnate our state by preventing fair competition among those who brought their own skills, education, and entrepreneurial drive to their work.

Thank you for your consideration of this important matter.

Sincerely,

Hazel Beh
Co-Director
Health Law Policy Center

Jay M. Fidell
900 Fort Street Mall, Suite 30
Honolulu, Hawaii 96813

February 9, 2014

Chair Tsuji, Vice Chair Ward, Members of the House Economic Development and Business Committee:

I am a business attorney licensed in Hawaii since 1968. I have also followed the tech industry and community in Hawaii for the some years, and I strongly support HB 2617. Actually, to build a tech industry, we should have passed a bill like this a decade ago.

The bill will incentivize creativity and avoid stagnation. It will make Hawaii a better place for tech jobs and will ameliorate what has become a huge brain drain where we regularly lose our best and brightest tech talent to the mainland, and limit any growth of the industry.

Under the bill, employees will have greater career and entrepreneurial prospects among Hawaii tech companies, and employers will still have the protection of the Uniform Trade Secrets Act. There is everything to gain and nothing to lose by the passage of this bill.

As a matter of policy, greater employee mobility, as under this bill, will encourage the development of our long-awaited innovation economy. Enforcing non-competes will discourage worker creativity and lose our most promising talent to the mainland.

Hawaii law on non-compete agreements has swung in favor of employers and needs to be liberalized to protect tech employees. This is the time to expand local tech opportunities and send a message that yes Hawaii does want to build a tech workforce and tech industry.

I strongly urge you to support this bill and thus the development of this critical industry as an important component of our state economy going forward.

Respectfully,

Jay M. Fidell

Jay M. Fidell

2/9/2014

Jacob Buckley-Fortin
eHana LLC

Chair Tsuji, Vice Chair Ward, and Members of the Committee on Economic Development & Business,

I am a technology entrepreneur who grew up in Waimanalo. At 21 years old I left college on the mainland and returned to Hawaii to co-found a company building Electronic Health Records software for local social service agencies. I've been running and growing that company, eHana, for 13 years.

I support for HB2617 because it will enable technology employers to grow in Hawaii, enable talented employees to remain in Hawaii, and because it represents a more humane approach to business.

In 2006 my company opened an office on the East Coast, and we've since found it substantially easier to recruit and retain technical talent there. The reality of Hawaii's unique geographic location and relatively limited high-tech employment opportunities mean that talented product managers, business analysts, software developers, quality assurance personnel, and the like are always in short supply. Any tool that serves to restrict employer access to Hawaii's already-limited pool of technical talent--and I count non-compete agreements in this category, because they remove qualified employees from the workforce--serves only to further reduce Hawaii's competitiveness and encourage growing employers like eHana to seek talent elsewhere.

Additionally, once an employee who is covered by a broad non-compete leaves their job, they have little choice but to look elsewhere for employment if they want to keep their technical skills sharp and prevent an awkward gap on their resume (as an employer I can speak to how deadly that is when reviewing applications). In some respects Hawaii employees are lucky: California, hotbed of innovation and a state completely ambivalent if not hostile to non-competes, is just a short flight away. Hawaii's loss is Silicon Valley's (usually permanent) gain.

Finally, non-competes are simply a terrible way to do business. As an employer, I'm likely to interview and hire dozens, hundreds, or thousands of people, while as an employee you are likely to accept a new job at most only a few times a decade. It's a completely asymmetric relationship and non-competes generally exploit this asymmetry. They are often buried in "onboarding" paperwork on the employee's first day--at this point the employee has already left their previous position--and they are usually non-negotiable. This is an abuse of power that many employees acquiesce to (if they even realize the non-compete clause is there in the first place).

I recently attempted to hire a talented senior engineer with experience in our industry who had

been laid off from her previous position. While she would have been an exceptional fit, she was covered by a non-compete agreement with her previous employer, and we were unable to accept the legal risk associated with bringing her on. Incredibly, even though the previous employer had let her go, and had no ongoing financial relationship with her, it held her to an agreement she had signed twelve years earlier in the normal course of her employment paperwork. She ended up leaving the industry she loved entirely rather than spend a year twiddling her thumbs.

Hawaii is a unique and beautiful place, and I can speak from experience in saying that its climate, people and attitude make it a fabulous location from which to start and grow a high-tech business. Today's interconnected and networked world has made it more feasible than ever to do so. The biggest challenge has always been, and continues to be, access to trained technical talent, and HB2617 will eliminate one barrier to addressing this challenge.

Thank you for your consideration.

Jacob Buckley-Fortin
eHana LLC

February 10, 2014

Jim Takatsuka
520 Lunalilo Home Road #230
Honolulu, HI 96813
jtakatsuka@outlook.com

Aloha Chair Tsuji, Vice Chair Ward, and Members of the Committee on Economic Development & Business.

I am writing in strong support of HB2617 – a bill to invalidate restrictive employment covenants or agreements. Research has shown that restrictions on employee mobility can inhibit innovation in high-velocity industries like information technology (IT) and can lead to an exodus of skilled workers (and their important knowledge) to other regions.

I have been a part of Hawaii's IT sector for 25 years working for Apple, Sun Microsystems, and currently as the Enterprise Account Manager for Microsoft. I testify today in a personal capacity. Over this time, I have seen Hawaii companies struggle to find enough skilled IT workers to help them best leverage their investments in information technology. Although there are certainly many skilled technology workers here, we have never approached the critical mass of IT professionals needed to drive our businesses forward.

When compared to their mainland peers, many Hawaii companies are far behind in their use of information technology, simply because the skills to deploy hardware and software are difficult to find. It is not uncommon to find companies here running on software that is more than 10 years old – an eternity in the IT world. The need and the desire to modernize are certainly there, but because skilled labor is difficult to find, many companies simply make do with outdated technology.

When Hawaii businesses do decide they need to push forward and innovate, they are often forced to look outside the state, which of course means shipping dollars to the mainland and beyond. Two recent projects that I have been involved with illustrate this point well:

- A large local company needed to redesign and rebuild their company web site, not just to improve their ability to market their products, but also to serve as a platform to transact hundreds of millions of dollars worth of business. Using the internet allowed them to increase their reach, reduce their costs, and accelerate their growth. Their finished project allowed them to reach their goals, but the site was designed and built almost exclusively using out-of-state contractors.
- Another large local company needed to build a new system for managing their customer activity. The new system would allow them not only to keep track of

all customer interactions, but reveal new sales opportunities and help the company identify which products were successful and which were not. The system would allow the company to operate more efficiently (quicker, higher quality interactions) and effectively (the right product to the customer most likely to buy). This project was completed entirely by out-of-state contractors.

In both examples, the companies have strong ties to the Hawaii community and would very much have preferred to hire local and keep their spending in Hawaii (expenditures on the customer management project were well over \$1M and those for the web site were triple that). But in each case, the appropriate skills were not available locally and the companies were forced to import the technology skills required to meet their needs.

Of course, the paucity of skilled IT workers in Hawaii is not solely due to impediments to employee mobility. But in the technology industry, removing any restriction on employment would serve as an important step towards catalyzing growth in a sector that can have broad, meaningful impact in our community.

Thank you for your consideration,

A handwritten signature in blue ink, appearing to read 'Jim', with a large loop at the bottom.

Jim Takatsuka
Enterprise Account Manager
Microsoft Corporation

Cinthia Miller
Owner
O&A Consulting LLC
Honolulu, HI 96816

2/9/2014

Aloha Chair Tsuji, Vice Chair Ward, and Members of the Committee on Economic Development & Business.

I strongly support SB2617 Restrictive Technology Employment Covenants or Agreements. As an IT consultant with more than 15 years of working with companies in Hawaii, I have experienced first-hand the negative impacts and fear that non-competition agreements generate for someone who is seeking employment locally.

I started my career in Hawaii working for a small technology startup. I was later offered a job with Microsoft in Hawaii. I was laid off in 2010 and was contractually restrained from seeking employment with most businesses in Hawaii for 1 year through their non-competition agreement, which also applied to businesses outside of Hawaii since they were nationwide. Although my old employer did not enforce said non-compete agreement, I was under continual fear that it would be imposed and I would be forced to move to another state or temporarily change my trade for the 1 year period. In the IT field, 1 year of non-practice heavily hinders your ability to keep up with new technologies and maintain your marketability in a fast-changing industry. Non-competes not only vastly limits employment options in Hawaii technology employees, but also prevents progress in building the pool of talent that is already inadequate to begin with.

I was offered several employment opportunities by existing Hawaii clients that I consulted for through Microsoft. The solicitations of employment by these clients were also prohibited and could have been legally enforced. Under these confining circumstances, I subcontracted to my existing client, Hawaii's leading health insurance company, through a new employer, a small, local consulting firm. This new employer also required a non-competition agreement. Working under two non-competes, I was continually worried that lawful action could be taken against me at any time during the 1 year period.

In 2012, I first experienced the negative impacts of an enforced non-compete when one of my old clients, Hawaii's biggest airline company, requested my services for specific IT needs that very few local consultants specialize in. Under the non-competition agreement with my new employer, I was not able to practice IT consulting outside of their employment, even if the client was my own to begin with. The agreement required me to start any new work by subcontracting through them. I was told that in order to conduct IT consulting independently without any enforcement of their non-compete, I would need to "make them whole" through monetary recompense. After many uncomfortable conversations and tedious negotiation, my new employer allowed an exception with the new airline client, opening up one small hole in the non-compete but leaving lots of room for potential "make them whole" situations in the future.

This is no way to do business in Hawaii, where there is a limited pool of employers and employees. Throw in restraints on which of those businesses you can work for and you're left with almost no hope in finding stable employment. For employers looking to fill their positions with IT specialists, soliciting even laid-off staff locked into non-competition agreements puts their companies at risk. Outsourcing their work offshore becomes an attractive option.

Supporting the SB2617 bill will support local businesses and employees in Hawaii and solidify a path for growth in Hawaii's IT industry. Please help us keep our local talent and provide us an autonomous and cultivating environment to work in.

Thank you for the opportunity to testify.

Sincerely,

Cinthia Miller

Owner

O&A Consulting LLC

ward2-Robin

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 10, 2014 11:56 AM
To: edbtestimony
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HB2617

Submitted on: 2/10/2014

Testimony for EDB on Feb 11, 2014 09:00AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Tai Hong	Individual	Support	Yes

Comments: Subject:HB2617 Non-compete Agreements I support the above bill. If enacted, it will enable employees that have separated from a company to continue in their field without fear of being sued. This will enable innovation in Hawaii. New startup companies will create job opportunities. People in the world can be recruited to work here knowing that they too are free to move when and if they desire. The bill will help to keep our talented Keikis here with their families and friends. Aloha, Tai Hong Hawaii Kai

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 10, 2014 4:21 PM
To: edbtestimony
Cc: edward.pileggi@gmail.com
Subject: Submitted testimony for HB2617 on Feb 11, 2014 09:00AM
Attachments: HB2617_EdwardPileggi.pdf

HB2617

Submitted on: 2/10/2014

Testimony for EDB on Feb 11, 2014 09:00AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Edward Pileggi	Individual	Support	No

Comments:

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February 10, 2014
TESTIMONY OF STANLEY CHANG
CONCILMEMBER FOR THE CITY AND COUNTY OF HONOLULU
On
H.B. No. 2617, RELATING TO EMPLOYMENT AGREEMENTS
Committee on Economic Development & Business
Tuesday, February 11, 2014
9:00 a.m.
Conference Room 312

Dear Chair Tsuji and Committee Members:

Thank you for allowing me the opportunity to submit testimony in support of H.B. 2617 Relating to Employment Agreements in my capacity as Councilmember of the City and County of Honolulu.

H.B. 2617 prohibits technology businesses from using non-compete agreements and restrictive covenants which forbid postemployment competition.

Non-compete agreements are detrimental to individuals and businesses. Especially in an isolated state, non-compete agreements can be very detrimental. Individuals are faced with the choice of working “penalty box” jobs outside of their field which generally pay less and career stagnation or moving to the mainland to seek employment. Non-compete agreements actually stifle the formation new businesses and hinder existing businesses from growing by increasing recruitment costs.

For these reasons, I respectfully ask for your favorable passage of H.B. 2617 Relating to Employment Agreements, and thank the Committee for allowing me to provide testimony.

Sincerely,

A handwritten signature in black ink, appearing to be "Stanley Chang", written in a cursive style.

Stanley Chang
Councilmember, District IV

ward2-Robin

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 10, 2014 10:49 PM
To: edbtestimony
Cc: rocktang@excite.com
Subject: Submitted testimony for HB2617 on Feb 11, 2014 09:00AM

HB2617

Submitted on: 2/10/2014

Testimony for EDB on Feb 11, 2014 09:00AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Rock Tang	Individual	Support	No

Comments: I support this bill because it will extend greater protection to Hawaii's employees. I can speak from personal experience as to how I suffered from not having this protection. After years of working for a large mainland company, my employer suddenly gave me an ultimatum. I would have to sign a never before discussed non-compete agreement or face termination. I feared that if I signed the agreement, I would be the first person terminated. As it turns out, the company terminated me despite years of faithful service because I would not agree to sign the non-compete agreement. For months I looked for employment, especially in California where I have experience and opportunities. Had it not been for an extremely rare chance to remain in Hawaii in my career field, I would likely be working in California today. We talk about the brain drain in Hawaii. Protecting Hawaii's workers is one way to reverse that trend. My colleagues in California were not required to sign a non-compete because it is statutorily prohibited by California law. All of them are still employed by the company to this day. Please protect Hawaii's employees by prohibiting non-compete agreements for all of Hawaii's workers.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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