

Honolulu, Hawaii

FEB 20 2015

RE: S.B. No. 1219
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 1219 entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to allow the
Department of Labor and Industrial Relations to establish criteria
for independent contractor status.

Your Committee received testimony in support of this measure
from the Office of the Mayor, County of Maui; Chamber of Commerce
Hawaii; Maui Chamber of Commerce; Hawaii Island Chamber of
Commerce; Envisions Entertainment & Productions, Inc.; Whalers
Realty Management Company Inc.; Star Gaze Hawaii; Feed My Sheep;
Wailea Golf LLC; Kika, Inc.; Melanie Turner Landscape Maintenance
LLC; Maui Closet Company; The Wright Company, LLC; National
Federation of Independent Businesses; Human Resource Management -
Hawaii Chapter; Ulupono Enterprises; and twenty-one individuals.
Your Committee received testimony in opposition to this measure
from the Department of Labor and Industrial Relations, ILWU Local
142, and three individuals. Your Committee received comments on
this measure from two individuals.

Your Committee finds that this measure allows the Department
of Labor and Industrial Relations to establish criteria for an
independent contractor. This measure also requires the Department
of Labor and Industrial Relations to certify independent
contractors.



Your Committee has amended this measure by:

- (1) Deleting its purpose section;
- (2) Deleting the requirement of registering with the Department of Commerce and Consumers Affairs to be assumed an independent contractor;
- (3) Clarifying one of the conditions for presumption of independent contractor status by requiring an individual to have entered into a formalized agreement of limited duration with a customer;
- (4) Incorporating by reference the Internal Revenue Service's three-prong test for non-employment;
- (5) Creating an optional process for application to the Department of Labor and Industrial Relations for certification as an independent contractor;
- (6) Clarifying that the burden is on an independent contractor to prove an employer-employee relationship exists in order to claim unemployment insurance;
- (7) Inserting an effective date of January 7, 2059, to encourage further discussion; and
- (8) 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. 1219, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1219, S.D. 1, and be referred to the Committee on Commerce and Consumer Protection.



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


GILBERT S.C. KEITH-AGARAN, Chair



