

Honolulu, Hawaii

FEB 11 2019

RE: S.B. No. 569
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2019
State of Hawaii

Sir:

Your Committee on Human Services, to which was referred S.B. No. 569 entitled:

"A BILL FOR AN ACT RELATING TO THE HAWAII CIVIL RIGHTS COMMISSION,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Include programs and activities that receive federal financial assistance, other than Department of Education and charter schools, within the meaning of programs and activities receiving state financial assistance;
- (2) Reiterate the Legislature's intent of ensuring non-discriminatory access to state financially assisted programs, as it relates to the Hawaii Civil Rights Commission's jurisdiction; and
- (3) Exclude public and charter schools from the Hawaii Civil Rights Commission's disability discrimination jurisdiction.

Your Committee received testimony in support of this measure from the Hawaii Civil Rights Commission, Disability and Communication Access Board, and LGBT Caucus of the Democratic Party of Hawai'i. Your Committee received testimony in opposition



to this measure from the University of Hawai'i System. Your Committee received comments on this measure from Hawaii Disability Rights Center.

Your Committee finds that since its enactment, section 368-1.5, Hawaii Revised Statutes (HRS), has been the state counterpart to Section 504 of the federal Rehabilitation Act, which prohibits disability discrimination in federally-funded programs and services. However, in a 2017 Hawaii Supreme Court case, *Hawaii Technology Academy and the Department of Education v. L.E. and Hawaii Civil Rights Commission*, the court held that section 368-1.5, HRS, did not apply if protections under Section 504 were applicable. Unfortunately, this decision rendered section 368-1.5, HRS, nearly superfluous, as nearly all state departments receive federal funds and are subject to Section 504, and eliminated an avenue of redress for Hawaii residents who believe they have been aggrieved. Your Committee further finds that this measure returns section 368-1.5, HRS, to its original legislative intent and again provides an avenue for state jurisdiction in the investigation of complaints of discrimination on the basis of disability in programs receiving state financial assistance.

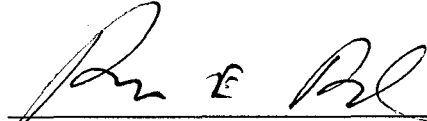
Your Committee has amended this measure by:

- (1) Deleting language that would have excluded Department of Education and charter schools from the Hawaii Civil Rights Commission's jurisdiction over disability discrimination claims; and
- (2) 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 Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 569, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 569, S.D. 1, and be referred to your Committees on Labor, Culture and the Arts and Judiciary.



Respectfully submitted on
behalf of the members of the
Committee on Human Services,



RUSSELL E. RUDERMAN, Chair



The Senate
Thirtieth Legislature
State of Hawai'i

Record of Votes
Committee on Human Services
HMS

Bill / Resolution No.:*	Committee Referral:	Date:		
SB569	HMS, LCA/JDC	2/4/19		
<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
RUDERMAN, Russell E. (C)	✓			
RHOADS, Karl (VC)	✓			
IHARA, Jr., Les	✓			
RIVIERE, Gil	✓			
FEVELLA, Kurt	✓			
TOTAL	5	0	0	0
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: Karl Rhoads				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes