

Honolulu, Hawaii

APR 05 2019

RE: H.B. No. 1192
H.D. 2
S.D. 2

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

Sir:

Your Committees on Judiciary and Ways and Means, to which was referred H.B. No. 1192, H.D. 2, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO EQUAL PAY,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Conform statutory prohibitions against wage discrimination with other prohibitions on employment discrimination;
- (2) Clarify allowable justifications for compensation differentials and remedies for pay disparity; and
- (3) Require employers to disclose wage ranges to employees and prospective employees.

Your Committees received testimony in support of this measure from the Hawai'i Civil Rights Commission; Hawai'i State Commission on the Status of Women; Planned Parenthood Votes Northwest and Hawaii; LGBT Caucus of the Democratic Party of Hawaii; Pride at Work Hawaii; American Association of University Women of Hawaii; American Association of University Women Windward, Americans for Democratic Action; Hawaii Appleseed Center for Law and Economic Justice; League of Women Voters of Hawaii; Hawaii Women's



Coalition; American Civil Liberties Union of Hawaii; O'ahu County Democrats Legislative Priorities Committee; Midwives Alliance of Hawaii; Fujiwara and Rosenbaum, LLC; Zonta Club of Hilo; UNITE HERE Local 5 Hawaii; and eight individuals. Your Committees received testimony in opposition to this measure from Hawai'i Pacific Health; Chamber of Commerce Hawaii; Island Plastic Bags, Inc.; Building Industry Association of Hawaii; and Hawaii Chapter of the Society for Human Resource Management. Your Committees received comments on this measure from the Hawaii Food Industry Association and Hawaii Credit Union League.

Your Committees find that the federal Equal Pay Act prohibits wage discrimination on the basis of sex between employees within any establishment by paying employees of one sex at a lower rate than is paid to employees of the opposite sex, the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions. Your Committees further find that the Equal Pay Act permits differences in wages if the differential is caused by a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or a differential based on any factor other than sex. Your Committees additionally find that the protections under the Equal Pay Act are narrow and prone to restrictive interpretation. This measure will establish broad protections against wage discrimination in Hawaii that conform with other protections under existing state law.

Your Committees have amended this measure by clarifying that it is not the intent of the Legislature to affect or diminish the existing broad protections provided under part I of chapter 378, Hawaii Revised Statutes.

Your Committees have concerns about potential ambiguity in this measure regarding the circumstances under which employers are required to provide employees with the wage range for the employee's job title and substantially similar jobs. Your Committees note that section 378-2.4(e), Hawaii Revised Statutes, as proposed in section 3 of this measure, could be read to require that employers provide an employee with the wage range for the employee's job title and substantially similar jobs either:

- (1) Once annually if the employee requests to receive the wage range; or



- (2) Once annually and additionally upon request from the employee;

and that such consideration may merit further discussion as this measure proceeds through the legislative process.

As affirmed by the records of votes of the members of your Committees on Judiciary and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1192, H.D. 2, S.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 1192, H.D. 2, S.D. 2.

Respectfully submitted on behalf of the members of the Committees on Judiciary and Ways and Means,


DONOVAN M. DELA CRUZ, Chair


KARL RHOADS, Chair

The Senate
Thirtieth Legislature
State of Hawai'i

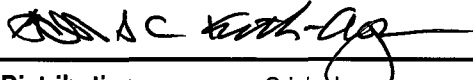
Record of Votes
Committee on Judiciary
JDC

Bill / Resolution No.:* HB 1192 HD2501	Committee Referral: LCA, JDC / WAM	Date: 4/3/19		
<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
RHOADS, Karl (C)	✓			
WAKAI, Glenn (VC)	✓			
GABBARD, Mike	✓			
KIM, Donna Mercado	✓			
FEVELLA, Kurt	✓			
TOTAL	5	0	0	0
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

The Senate
Thirtieth Legislature
State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:*	Committee Referral:	Date:		
HB1192 HD2 SPI	LCA, JDC/WAM	4/3/19		
<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
DELA CRUZ, Donovan M. (C)	X			
KEITH-AGARAN, Gilbert S.C. (VC)	X			
ENGLISH, J. Kalani				X
HARIMOTO, Breene				X
INOUE, Lorraine R.	X			
KAHELE, Kaiali'i				X
KANUHA, Dru Mamo	X			
KIDANI, Michelle N.	X			
MORIWAKI, Sharon Y.	X			
RIVIERE, Gil	X			
SHIMABUKURO, Maile S.L.	X			
TANIGUCHI, Brian T.	X			
FEVELLA, Kurt	X			
TOTAL	10			3
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

*Only one measure per Record of Votes