



STATE OF HAWAII
STATE COUNCIL
ON DEVELOPMENTAL DISABILITIES
1010 RICHARDS STREET, Room 122
HONOLULU, HAWAII 96813
TELEPHONE: (808) 586-8100 FAX: (808) 586-7543
April 5, 2019

The Honorable Senator Donovan M. Dela Cruz, Chair
Senate Committee on Ways and Means
Thirtieth Legislature
State Capitol
State of Hawai'i
Honolulu, Hawai'i 96813

Dear Senator Dela Cruz and Members of the Committee:

SUBJECT: HB 747 HD1 - Relating to Disabled Persons

The State Council on Developmental Disabilities **supports HB 747 HD1**. The bill establishes employment first as a state policy with respect to disabled persons. Requires state and county agencies to implement this policy in hiring and all programs and services administered or funded by the State or counties. Applies employment first principles to Medicaid home- and community-based waiver programs.

The Council belongs to a workgroup of agencies involved with Employment First/Workforce Solutions which consist of representatives from;

- DHS/Division of Vocational Rehabilitation
- Hawaii Disability Rights Center
- DOH/Adult Mental Health Division
- DOH/Developmental Disabilities Division
- DLIR/Work Force Development Division
- UH/Center on Disability Studies
- Office of the Governor
- Department of Community Services | City and County of Honolulu
- U.S. Dept. of Labor –Office of Federal Contract Compliance Programs

We support the bill to expand employment opportunities for people with disabilities in competitive integrated employment. However, we are concerned with the language on page 4, line 15, which may be construed as requiring employers to give preference to or mandating hiring a person with a disability. This goes beyond the definition of “employment first.”

For this reason, we **respectfully request, on page 4, removing the last word on line 14 and entire line 15**. By removing this language, it also helps keep the language in line with the Employment First Executive Order we have been working on with the Governor’s Office.

Thank you for the opportunity to provide recommendations to **support HB 747 HD1**.

Sincerely,

Daintry Bartoldus
Executive Administrator

To: Senator Donovan M. Dela Cruz, Chair
Senate Committee on Ways and Means

Re: Hearing – HB747, HD1 – Relating to Disable Persons

Date: April 5, 2019

Testimony in Support

Good morning Chair - Dela Cruz, Vice Chair-Keith-Agaran, and members of the Committee on Ways and Means. My name is George Massengale and I serve as the Chair of the legislative committee for the State Rehabilitation Council. The Council provides advice and support to the Division of Vocational Rehabilitation (DVR) on behalf of people with disabilities and their families regarding the delivery of effective rehabilitation services that leads to employment individuals with disabilities.

This bill if passed would establish employment first as a state policy with respect to disabled persons. It would require state and county agencies to implement this policy in hiring and all programs and services administered or funded by the State or counties. It would also apply employment first principles to Medicaid home, and community-based waiver programs.

As a group, individuals with disabilities are under-represented in Hawaii's workforce. Slightly over 18% of our workforce have some type of qualified disability. However, if you look at just the Developmentally Disable less than 2% are employed.

HB747, HD1 would go a long way in ending this imbalance in the employment of disabled individuals.

Please pass this measure, it will go a long way in ending disability discrimination in the workplace.

Mahalo nui loa,



George S, Massengale

HB-747-HD-1

Submitted on: 4/3/2019 5:23:13 PM

Testimony for WAM on 4/5/2019 10:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Michele Ku	Testifying for Arc of Kona	Support	No

Comments:

HB-747-HD-1

Submitted on: 4/4/2019 7:54:57 AM

Testimony for WAM on 4/5/2019 10:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
James Logue	Individual	Support	No

Comments:

HB-747-HD-1

Submitted on: 4/4/2019 8:09:57 AM

Testimony for WAM on 4/5/2019 10:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Tada	Individual	Support	Yes

Comments:

I support HB 747, HD 1. This bill is excellent. It is so excellent that I respectfully request that you amend it to take effect upon approval, basically restoring it to its initial form upon introduction.

This bill is basically implementing legislation, since our state has already been declared, by Governor's proclamation, an Employment First state. We have been receiving millions of federal dollars from the US Department of Labor for the Disability Employment Initiative, which is supposed to help us realize the goals of being an Employment First state. In the past few years, every time the Governor has issued his proclamations about Disability Employment Awareness Month, he has reaffirmed our status as an Employment First state. Without implementing legislation, though, this proclamation and reaffirmation holds no water. It will not enact good stewardship of my tax dollars until the legislature implements it.

I have personally worked in subminimum-wage sheltered workshops, which are the opposite of the type of employment that Employment First policies promote. To help illustrate what Employment First means, I want to tell you how my own experiences have been the opposite. It is our kuleana to ensure that the keiki with disabilities in the DOE right now do not suffer through the kinds of experiences which I have had in the subminimum-wage sheltered workshops.

When I worked at Lanakila Pacific in the custodial services program, I stripped and waxed floors for \$1.06 per hour. It was backbreaking work, and I did it for 6 hours per day, 5 days per week. I also swept and mopped, vacuumed, and did anything else that a janitor would do. If I did not have a disability, they would not have been allowed to pay me like that, but they did. Part of why these workshops are so dehumanizing is that the bottom-level jobs are specifically set aside for workers with disabilities, and our supervisors were always people without disabilities. As I would be slaving away to strip and wax the floors, the able-bodied person overseeing me had a more comfortable

experience. It is not too different from the days when white men holding whips stood over the black slaves in the cotton fields, pushing them to work harder all the time. When the public tours would come through our facilities, the supervisors would put on a fake smile and act friendly, talking about how they were helping me. Once the tours left, they would go right back to the old ways. If we were treated equally in the employment setting, we would be given equal opportunities for promotion and advancement, rather than being disqualified from promotion and advancement because of our disability. These programs are federally legal and designed under the Javits Wagner O'Day Act, which was set up with good intentions to help people with disabilities. Unfortunately, JWOD programs have trapped us in segregation, making it harder for us to break free and convince employers to hire us in regular, mainstream jobs. All of the academic research demonstrates that these segregated work environments are harmful and ineffective, and I don't want my tax dollars to support my own segregation anymore.

This was not competitive employment because my position was specifically for a worker with a disability, and it paid me on a pay schedule that was not eligible for a worker without a disability. It was not integrated because my equals were other workers with disabilities, and our superiors were members of the privileged majority, able-bodied people. Even if we went into a public business to do the custodial work, which some would call "community integration," our interaction with everyday people was only an illusion of integration.

Employment First principles, to which our Governor has already committed and re-committed our state, already say that we should be in competitive jobs in integrated settings, where able-bodied people act as our equals, not only our overseers. We need to have the opportunity to be promoted to supervisory roles, too, because we will never be equal if we do not have equal opportunities.

Some people may oppose this bill by saying "We are already an Equal Opportunity Employer." If that is true, then this bill will not affect them at all. If it is not true, however, this bill will make them give us the equal opportunities that all other minorities already enjoy.

This bill also updates a section of the law covering Medicaid waiver programs, which basically makes it clear that these principles apply there, too. As someone with a developmental disability myself, I think it is critical that we apply the Employment First principles to those programs, too. If we are not careful, those programs can functionally incarcerate a person and keep them from really achieving their potential. To be clear,

we used to have DD folks put in prison-like institutions, and then we said after Olmstead that we would move people into community-based settings, but these are often just smaller replicas of those institutions scattered throughout the community. Just because my neighbors may not have disabilities does not mean that I am truly free to participate in the community.

Mahalo for your time.

LATE

TESTIMONY BEFORE THE SENATE COMMITTEE ON
WAYS AND MEANS

RE: HB 747, HD1 - RELATING TO DISABLED PERSONS

FRIDAY, APRIL 5, 2019

MITZIE HIGA, LEGISLATIVE CHAIR
DEMOCRATIC PARTY OF HAWAII LABOR CAUCUS

Chair Dela Cruz, and Members of the Committee:

The Democratic Party of Hawaii Labor Caucus supports HB 747, HD1, relating to disabled persons.

HB 747, HD1 establishes employment first as a state policy with respect to disabled persons. It requires state and county agencies to implement this policy in hiring and all programs and services administered or funded by the State or counties. It also applies employment first principles to Medicaid home- and community-based waiver program.

While H.B.747, HD1, doesn't repeal the archaic subminimum wage language from state law, it does help build support to finally end subminimum wages in Hawaii and across the country, by stating that no more state funds shall go to subminimum wage or otherwise segregated work environments. The Democratic Party of Hawaii Labor Caucus strongly supports the elimination of subminimum wages paid to workers with disabilities.

Hawai'i residents face the highest housing costs in the nation, at more than twice the national average. Minimum wage workers in the islands must complete 116 hours of work per week to afford a modest one-bedroom apartment at fair market value and 139 hours per week to afford a two-bedroom, which amounts to working 20 hours a day with no days off all year. That's impossible for anyone, especially for individuals with disabilities.

It is unacceptable, then, that we allow disabled individuals to be paid a subminimum wage, and happy to support this bill that doesn't allow this program to pay subminimum wages to those workers who are disabled. Many of these individuals were once special education students, who were guaranteed a free and appropriate education under the Individuals with Disabilities Education Act and promised a life filled with opportunities to realize their full potential. Yet, written in 1938, the Fair Labor Standards Act (FLSA) discriminates against people with disabilities by permitting employers to pay disabled workers less than the federal minimum wage. This provision is echoed in HRS §387-9, but is based on the mistaken idea that disabled employees are less productive than their able-bodied colleagues. Many employment programs have come about since the mid-20th Century to assist people with disabilities in acquiring and using essential job skills.

As a result, this bill recognizes equal pay for workers who are disabled, thus the Democratic Party Labor Caucus strongly **supports HB 747, HD1.**

LATE

HB-747-HD-1

Submitted on: 4/4/2019 12:47:31 AM

Testimony for WAM on 4/5/2019 10:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jun Shin	Individual	Support	No

Comments:

Aloha Chair Dela Cruz and members of the WAM Committee, my name is Jun and I am a resident of Ala Moana. I support HB 765 HD1 SD1, which provides the legislative mandate needed to implement findings and recommendations from the “Hawai’i Sea Level Rise Vulnerability and Adaptation Report” prepared by the Hawai’i Climate Change Mitigation and Adaptation Commission, especially those recommendations dealing with climate change hazards and mitigation in an era of sea level rise. This bill is a good first step to ensure our agencies incorporate and evaluate the latest sea level rise projections to help prepare our state for the impacts of rising seas. Please support HB 765.

Jun Shin

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STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

April 5, 2019

TO: The Honorable Senator Donovan M. Dela Cruz, Chair
Senate Committee on Ways and Means

FROM: Pankaj Bhanot, Director

SUBJECT: **HB 747 HD 1 – RELATING TO DISABLED PERSONS**

Hearing: April 5, 2019, 10:15 a.m.
Conference Room 211, State Capitol

DEPARTMENT’S POSITION: The Department of Human Services (DHS) appreciates the intent of this measure, provides comments, and requests clarification regarding Section 2, and proposes an amendment.

As a state agency, DHS is an equal opportunity agency and supports the employment of individuals with disabilities in integrated settings. DHS will work with the Department of Health, Department of Human Resources Development, Department of Labor and Industrial Relations, the Legislature, and other stakeholders to achieve employment first policies for the state.

PURPOSE: The purpose of the bill establishes employment first as a state policy with respect to disabled persons. The bill requires state and county agencies to implement this policy in hiring in all programs and services administered or funded by the State or counties. It applies employment first principles to Medicaid home- and community-based (HCBS) waiver programs.

The bill amends Chapter 78, Hawaii Revised Statutes (HRS), by adding a new section that establishes three new definitions covering “employment first,” “integrated setting,” and “competitive employment,” as well as mandating that state and county

agencies ensure that employment first is effectively implemented in hiring and in all programs and services that they administer or fund, including programs and services that help disabled persons obtain employment. The bill also amends section 346D-4, HRS, by specifying that employment first principles be practiced by waiver program personnel and in the hiring of staff by contracted agency providers that provide services under HCBS waiver programs.

DHS requests clarification as the proposed section 346D-4(c) in Section 2 could be read to mandate that:

1. DHS use employment first principles in the hiring of state employees that work on HCBS waiver programs, and that DHS place requirements in its contracts with providers so that the providers hire staff in accordance with employment first principles; and/or
2. State employees and DHS contractors that work on HCBS waiver programs apply employment first principles in the provision of employment services to Medicaid beneficiaries.

DHS comments that either reading would likely require additional time, funding, and human resources to implement. To effectuate the proposed section, further planning, resources and training will likely be needed to support contractors in implementing employment first principles in working to provide services to Medicaid beneficiaries.

DHS is concerned with language that may be construed as requiring employers to give preference to or mandating hiring a person with a disability; this goes beyond the definition of “employment first.” For this reason, we agree with the amendment proposed by the State Council on Developmental Disabilities to remove the last word on page 4, line 14 and the entire line 15.

Thank you for the opportunity to provide comments on this measure.

Chair Dela Cruz
Vice Chair Keith-Agaran
Senate Committee on Ways & Means

Friday, April 5, 2019
10:15 AM

TESTIMONY IN SUPPORT OF HB747 HD1 RELATING TO DISABLED PERSONS

Aloha Chair Thielen, Vice Chair Inouye, Members of the Senate Committee on Government Operations,

My name is Jun Shin. I am a freshman at the University of Hawai‘i at Mānoa, and I currently serve as an executive committee member of the Young Progressives Demanding Action (YPDA). I am testifying as **an individual in support of HB747 HD1 Relating to Disabled Persons.**

This is seriously a very important measure and it is frankly concerning that we are here in 2019, when we should have already done this a long time ago as we have past gubernatorial proclamations that we are a employment first state. I’ve been doing my best to help out in advocating for economic justice so this is personally a very very important issue. I am doing my best to help out in making sure that young people, that workers, that all of Hawai‘i is able to rise together and everyone can have a livable future, a matter of fairness and equity. This allows for disabled persons to take part in competitive, integrated employment.

Rising together, a livable future applies to our disabled brothers and sisters. I believe in President Franklin Delano Roosevelt’s Second Bill of Rights, that everybody has a right to a job, adequate wages, decent living, etc. Working people with disabilities can and should be able to work in “typical” workplaces and alongside the economic security, living up to the fairness that is promised by our country, it helps in building community and the benefits that come with that. We can change the game.

I am in strong solidarity with members of the disabled community and support HB747 HD1 **Relating to Disabled Persons**, and request for you to **pass it through your committee.**

Thank you for the opportunity to testify,

Jun Shin
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