

STAND. COM. REP. NO. 2520

Honolulu, Hawaii

FEB 18 2022

RE: S.B. No. 2560
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2022
State of Hawaii

Sir:

Your Committees on Labor, Culture and the Arts and Government Operations, to which was referred S.B. No. 2560 entitled:

"A BILL FOR AN ACT RELATING TO EQUAL EMPLOYMENT OPPORTUNITY,"

beg leave to report as follows:

The purpose and intent of this measure is to require state departments and agencies to:

- (1) Establish hiring and promotion goals for position-qualified transgender and non-binary persons by January 1, 2023;
- (2) Develop transgender employment policies addressing specified areas by January 1, 2023, to promote inclusive, safe workplaces that respect gender identity; and
- (3) Submit annual reports to the Legislature.

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, Hawai'i Health & Harm Reduction Center, Hawaii Women's Coalition, and fifteen individuals. Your Committees received testimony in opposition to this measure from one individual.



Your Committees find that state law governing employment practices prohibits discrimination based on sex, including gender identity, gender expression, and sexual orientation. Your Committees find, however, that there is an undeniable gap between the law and reality--the sexual and gender minority population has historically been and continues to be subject to unequal treatment in employment. Your Committees also acknowledge that the coronavirus disease 2019 pandemic has had a disparate impact on lesbian, gay, bisexual, transgender, and queer individuals. Your Committees find that this measure takes a proactive approach to correct the decade-long effects of unequal treatment by ensuring that sexual and gender minority individuals have access to equal employment opportunities.

Your Committees note the testimony of the Hawaii Civil Rights Commission raising concerns over arguments that remedial affirmative action policies are violative of the equal protection clause of the Fourteenth Amendment. Your Committees also note the testimony of the Department of Human Services stating that the Department and Department of Transportation have adopted affirmative action policies in consideration of such issues. To develop a Transgender Employment Policy that is uniformly applicable and narrowly tailored to effectuate the intent of this measure, your Committees believe that the task should be assigned to the Department of Human Resources Development rather than have each state department and agency individually develop their own policies.

Accordingly, your Committees have amended this measure by:

- (1) Requiring the Department of Human Resources Development to:
 - (A) Establish its hiring and promotion goals for position-qualified transgender and non-binary persons by January 1, 2024;
 - (B) Develop the State's Transgender Employment Policy addressing specified areas by January 1, 2024, to promote inclusive, safe workplaces that respect gender identity; and



- (C) Submit annual reports to the Legislature on the progress towards meeting its hiring goal before the convening of the Regular Sessions of 2025 and 2026;
- (2) Inserting an unspecified appropriation amount;
- (3) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

Your Committees request that the Department of Human Resources Development review the affirmative action policies adopted by the Department of Human Services and Department of Transportation in developing transgender employment policies for the State.

As affirmed by the records of votes of the members of your Committees on Labor, Culture and the Arts and Government Operations that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2560, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2560, S.D. 1, and be referred to your Committees on Judiciary and Ways and Means.

Respectfully submitted on behalf of the members of the Committees on Labor, Culture and the Arts and Government Operations,



SHARON MORIWAKI, Chair



BRIAN T. TANIGUCHI, Chair



The Senate
 Thirty-First Legislature
 State of Hawai'i

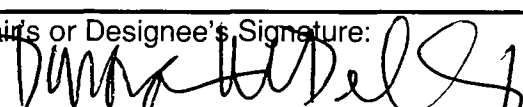
Record of Votes
Committee on Labor, Culture and the Arts
LCA

Bill / Resolution No.:* SB 2560	Committee Referral: LCA/GVO, JDC/WAM	Date: 2-7-22		
<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
TANIGUCHI, Brian T. (C)	✓			
IHARA, Jr., Les (VC)	✓			
CHANG, Stanley	✓			
KEOHOKALOPE, Jarrett	✓			
FEVELLA, Kurt	✓			
TOTAL	5	0	0	0
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Stanley Chang</i>				
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
Thirty-First Legislature
State of Hawai'i

Record of Votes
Committee on Government Operations
GVO

Bill / Resolution No.:* SB 2560	Committee Referral: LCA/GVO, JDC/WAM	Date: 2/7/22		
<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
MORIWAKI, Sharon Y. (C)	X			
DELA CRUZ, Donovan M. (VC)	X			
CHANG, Stanley	X			
GABBARD, Mike				X
FEVELLA, Kurt	X			
TOTAL	4			1
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				

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