



HAWAI‘I CIVIL RIGHTS COMMISSION

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Monday, February 7, 2022
Via Videoconference, 3:00 p.m.
Conference room 225

To: The Honorable Brian Taniguchi, Chair
The Honorable Les Ihara, Jr., Vice Chair
Members of the Senate Committee on Labor, Culture and the Arts

The Honorable Sharon Y. Moriwaki, Chair
The Honorable Donovan M. Dela Cruz, Vice Chair
Members of the Senate Committee on Government Operations

From: Liann Ebesugawa, Chair
and Commissioners of the Hawai‘i Civil Rights Commission

Re: S.B. No. 2560

The Hawai‘i Civil Rights Commission (HCRC) has enforcement jurisdiction over Hawai‘i’s laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state funded services. The HCRC carries out the Hawai‘i constitutional mandate that no person shall be discriminated against in the exercise of their civil rights. Art. I, Sec. 5.

S.B. No. 2560 requires state departments and agencies to establish hiring and promotion goals for position-qualified transgender and non-binary persons and develop transgender employment policies addressing specified areas by January 1, 2023, and to submit annual reports to the Legislature.

The HCRC strongly supports the intent of S.B. No. 2560, and offers comments. The intent of the bill is laid out in Section 1 of the bill, which serves as a compelling preamble, providing historical context and data that establish the reality of discrimination experienced by transgender and non-binary persons and the need for affirmative measures to increase

employment opportunities for transgender persons, starting with state employment.

Given this strong statement of legislative intent, the bill presents some complex drafting challenges. As drafted, the bill places all of its several various substantive provisions into a new section in HRS Chapter 78, Public Service. It might be more appropriate to place some of those provisions in different chapters. For example, the new HRS § 78-___(b)(8) health insurance coverage requirement that mandates that state employers shall only enter into health insurance contracts that cover employees' transition related care would provide powerful financial incentive for change. However, it might be more appropriately placed into HRS Chapter 87A relating to EUTF.

The provision for hiring and promotion goals for position-qualified transgender and non-binary persons lies at the heart of the bill, and presents some complex issues. Voluntary affirmative action to remedy historical discrimination and underrepresentation is and should be defensible, but must be carefully crafted, given equal protection attacks on remedial affirmative action. The findings included in Section 1 of the bill are a good beginning, a starting point. This is a complex area of law and jurisprudence.

The bill raises a related, less complicated but important question: In the interest of establishing goals and monitoring progress, should the new law endorse otherwise prohibited inquiries regarding sex, including gender identity? Even "voluntary" responses could be problematic, when the inquiry could have a negative, discriminatory effect.

And, the bill refers to records that shall be changed by the state employer at employee request, but not which records, or how a request would be made. Current statutes already address gender listed on birth certificates and driver's licenses, but it is not entirely clear what records will be subject to change under the new law.

The HCRC strongly supports the intent of S.B. No. 2560, and encourages continuing legislative commitment and effort to effect that intent.



‘O kēia ‘ōlelo hō’ike no ke
Komikina Kūlana Olakino o Nā Wāhine

Testimony on behalf of the
**Hawai‘i State Commission on the Status of
Women**

STRONG SUPPORT for SB2560
February 7, 2022

Good afternoon Chairs Taniguchi and Moriwaki, Vice Chairs Ihara and Dela Cruz, and Honorable Members:

Thank you for this opportunity to testify in strong support of SB2560. We also offer friendly and technical amendments to this measure.

Decades of anti-transgender criminalization, discrimination, and opprobrium will not resolve organically. These conditions have resulted in drastically lower employment and wages for transgender people.

Accordingly, the State should take a proactive approach to remove barriers to employment, to foster economic security, and to guarantee workplace safety for the māhū (known as “transgender” in English) and non-binary community. A 2021 report revealed that even when transgender people are employed and have similar or higher education levels, they take home 32% lower wages.¹

This legislation is particularly important for transgender women, who face the double burden of transphobia and sexism. Indeed, the University of Toronto’s Institute for Gender and the Economy has found that transgender women experience a gender pay gap and see their earnings drop by one-third after transitioning.²

We note that there may be some technical issues to resolve with the guidance of the Hawai‘i Civil Rights Commission (HCRC).

Amendments

1. Define the official record in § (b)(2). The official record is the persons initial application, any

¹ <https://www.forbes.com/sites/jamiewareham/2021/11/17/transgender-pay-gap-revealed-cisgender-people-paid-32-more/?sh=48dc272b17b2>

² <https://www.macleans.ca/society/for-transgender-women-the-pay-equity-gap-is-even-wider/>

file of record kept with human resources or any other state agency that contains information related to their sex, i.e. gender identity. The provision allows an individual to update/change any name or gender identity information retained by the agency.

2. If HRCR determines that this bill raises affirmative action issues and needs to be implemented under a qualified affirmative action plan or program, we would be open to requiring a 5-year affirmative action plan until there is satisfactory representation.

Finally, we note that the COVID-19 pandemic has hit some communities harder than others, namely women and LGBTQ people. SB2560 is urgently needed to accelerate an equitable economic recovery. Therefore, the Commission respectfully urges the Committee to pass this important measure.

Sincerely,

Khara Jabola-Carolus
Executive Director

SB-2560

Submitted on: 2/5/2022 11:36:23 AM

Testimony for LCA on 2/7/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Thaddeus Pham	Individual	Support	No

Comments:

Aloha LCA/GOV Chairs, Vice-Chairs, and Committee members,

I am writing in strong support of SB2560, which would provide meaningful access to good, union jobs in the public sector for transgender and non-binary people.

This bill is urgently needed as part of the economic recovery from the COVID-19 pandemic, which compounds decades of discrimination against transgender and non-binary people. Despite Hawai‘i’s strong record on transgender rights in law, māhū (referred to in English as transgender) and non-binary people have greater health disparities compared to their cisgender counterparts. As we have seen throughout the COVID-19 pandemic, better health outcomes are associated with many factors, including economic stability and employment.

To benefit public and economic health in Hawai‘i, I request that you pass this measure.

Mahalo,

Thaddeus Pham (he/him)

SB-2560

Submitted on: 2/4/2022 5:28:23 PM

Testimony for LCA on 2/7/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Alex Miller	Individual	Support	No

Comments:

Aloha Chairs Taniguchi and Moriwaki, Vice Chairs Ihara and Dela Cruz, and committee members,

My name is Alex Miller, I am a resident of Honolulu, and I identify as queer and non-binary. I am writing today in strong support of SB2560 to require state departments and agencies to establish hiring and promotion goals for position-qualified transgender and nonbinary persons and develop transgender employment policies addressing specified areas by 1/1/2023.

I am sure you are all aware of how trans folks and māhū are regularly discriminated against in employment settings, and many others will testify as to why this law is necessary and vital to help trans and māhū community members, who are much more likely to live below the poverty line than cisgendered folks, secure stable, well-paying jobs. I want to speak to the amazing service trans and māhū folks can bring to the state should this law be passed.

State government should exist to serve and care for our communities and make life better for our citizens. Because of the history of homophobia and transphobia over the last two centuries, trans and māhū folks have often been rejected by their families and had to form their own communities, their own families. Trans and māhū folks have taken care of each other and the rest of our LGBTQIA+ community when no one else would. I know that having more equitable hiring practices which will bring more trans and māhū folks into the civil service and other government jobs will result in more care-oriented and compassionate governance which will better serve the people of Hawai‘i.

Please pass SB2560.

Respectfully submitted,

Alex Miller

SB-2560

Submitted on: 2/4/2022 8:13:10 PM

Testimony for LCA on 2/7/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Mike Golojuch, Sr.	Individual	Support	No

Comments:

I support the intent of SB2560.

Mike Golojuch, Sr.

SB-2560

Submitted on: 2/5/2022 2:59:57 PM

Testimony for LCA on 2/7/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Jonah Bobilin	Individual	Comments	No

Comments:

Aloha,

I am a constituent from Pearl City and I strongly support this bill. As a young queer person this matter is of great importance to me and I believe it is essential to support trans* workers in Hawai'i.

I am happy to see the inclusion of non-binary persons in this measure and, in §78, the mandate that all state employment forms include a gender nonbinary option. We must support LGBTQ+ people in the workplace and I fully support this bill and the development of policy to promote safe and inclusive work environments for people of all gender identities.

Mahalo.

SB-2560

Submitted on: 2/5/2022 4:06:44 PM

Testimony for LCA on 2/7/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Jen Jenkins	Individual	Support	No

Comments:

I am writing in strong support of SB2560, which would provide meaningful access to good, union jobs in the public sector for transgender and non-binary people.

This bill is urgently needed as part of the economic recovery from the COVID-19 pandemic, which compounds decades of discrimination against transgender and non-binary people.

Despite Hawai‘i’s strong record on transgender rights in law, māhū (referred to in English as transgender) and non-binary people often live in poverty and are discriminated against.

In June 2021, Argentina made history with a “life-changing” law that reserved 1% of public sector jobs for transgender people to address the fact that 70% of transgender people in Argentina are pushed into unsafe, underground economies. Hawai‘i should take a similar step to ensure meaningful economic security and societal inclusion for the māhū community.

I ask that the Committee pass this important measure.

Mahalo.

SB-2560

Submitted on: 2/5/2022 4:39:01 PM

Testimony for LCA on 2/7/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Tamara Swift	Individual	Support	No

Comments:

I support this bill! It's about time all people are treated fairly.

SB-2560

Submitted on: 2/5/2022 10:14:49 PM

Testimony for LCA on 2/7/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Gerard Silva	Individual	Oppose	No

Comments:

We do not need any more jobs that are not need and are a Waste of money!!

SB-2560

Submitted on: 2/6/2022 3:58:31 AM

Testimony for LCA on 2/7/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Shayna	Individual	Support	No

Comments:

I am writing in strong support of SB2560, which would provide meaningful access to good, union jobs in the public sector for transgender, māhū, and non-binary people.

This bill is urgently needed as part of the economic recovery from the COVID-19 pandemic, which compounds decades of discrimination against transgender, māhū, and non-binary people.

Despite Hawai‘i’s strong record on transgender rights in law, transgender, māhū, and non-binary people often live in poverty and are discriminated against.

In June 2021, Argentina made history with a “life-changing” law that reserved 1% of public sector jobs for transgender people to address the fact that 70% of transgender people in Argentina are pushed into unsafe, underground economies. Hawai‘i should take a similar step to ensure meaningful economic security and societal inclusion for the māhū community.

I ask that the Committee pass this important measure.

SB-2560

Submitted on: 2/6/2022 11:05:37 AM

Testimony for LCA on 2/7/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Alani Tyrol Bagcal	Individual	Support	No

Comments:

Aloha e members of the committee,

My name is Alani and I urge you to please pass SB2560 to require the state to create hiring goal and safe workplaces for transgender and nonbinary people.

Mahalo,

Alani Bagcal

SB-2560

Submitted on: 2/6/2022 11:44:22 AM

Testimony for LCA on 2/7/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Sherry Shimizu	Individual	Support	No

Comments:

I support SB2560 to increase job hirings for transgenders, so they have equal benefits and work security. Thank you

TESTIMONY IN SUPPORT OF SB 2560

TO: Chair Taniguchi, Vice-Chair Ihara, & Members – Senate Committee on Labor,
Culture and the Arts
Chair Moriwaki, Vice-Chair Dela Cruz, & Members – Senate Committee on
Government Operations

FROM: Trisha Kajimura
Deputy Director - Community

DATE: February 7, 2022 at 3:00 PM

Hawai'i Health & Harm Reduction Center (HHRC) **supports** SB 2560 which requires state departments and agencies to establish hiring and promotion goals for position-qualified transgender and non-binary persons and develop transgender employment policies.

HHRC's mission is to reduce harm, promote health, create wellness, and fight stigma in Hawai'i and the Pacific. We work with many individuals who are adversely impacted by poverty, housing instability, discrimination, healthcare inequity and other social determinants of health. HHRC operates the Kua'ana Project through which peers of the transgender community kōkua (*assist*) other transpersons using their own personal experiences. Whether it be to search for jobs, legally change names, or access healthcare and stable housing, our Kua'ana Project staff are able to support and encourage māhū and trans people with compassion and understanding.

HHRC strives to be an inclusive, safe workplace that respects all gender identities and believes this should be required of all workplaces. Systemic discrimination, bullying, harassment and microaggressions against sexual and gender minorities cannot be tolerated in any workplace. This proposal will help move the state as one of the largest employers in Hawai'i into a better position to role model respect among and for all employees.

Thank you for the opportunity to testify in support of this bill.

SB-2560

Submitted on: 2/6/2022 1:13:38 PM

Testimony for LCA on 2/7/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Esme Yokooji	Individual	Support	No

Comments:

I support HB21677 / SB2560, which would provide access to good, union jobs in the public sector for transgender and non-binary people.

This bill is urgently needed as part of the economic recovery from the COVID-19 pandemic, which compounds decades of discrimination against transgender and non-binary people.

Despite Hawai‘i’s strong record on transgender rights in law, māhū (referred to in English as transgender) and non-binary people often live in poverty and are discriminated against.

In June 2021, Argentina made history with a “life-changing” law that reserved 1% of public sector jobs for transgender people to address the fact that 70% of transgender people in Argentina are pushed into unsafe, underground economies. Hawai‘i should take a similar step to ensure meaningful economic security and societal inclusion for the māhū community.

Accordingly, I ask that you pass this important measure.

Mahalo,

Esme Yokooji

SB-2560

Submitted on: 2/6/2022 1:49:44 PM

Testimony for LCA on 2/7/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Nikki-Ann Yee	Individual	Support	No

Comments:

Aloha Chair Taniguchi, Vice Chair Ihara and Committee Members,

I am writing in strong support of SB2560, which would provide meaningful access to good, union jobs in the public sector for transgender and non-binary people.

This bill is urgently needed as part of the economic recovery from the COVID-19 pandemic, which compounds decades of discrimination against transgender and non-binary people. Transgender people are a protected class in Hawai‘i; however their material conditions remain dire due to their unequal relationship with waged employment. Workplaces are not safe for transgender and non-binary people.

Locally, transgender individuals make up a significant percentage per capita of not only the “homeless count”/Point In Time Count Population but also close to half of the sexual and gender minority (SGM) population. Hawai‘i should take steps to ensure meaningful economic security and societal inclusion for the māhū community.

I ask that the Committee pass this important measure.

Mahalo for the opportunity to testify,

Nikki-Ann Yee

SB-2560

Submitted on: 2/6/2022 3:21:20 PM

Testimony for LCA on 2/7/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Casey Nakamura	Individual	Support	No

Comments:

Hello,

My name is Casey Nakamura, I was born and raised on Hawai'i island and currently reside in Portland, OR. As a former longtime resident, and someone who has been around a number of harmful lived experiences of transgender folks, I ask that you please **SUPPORT AND PASS SB2560**.

This bill aims to create hiring goals and follow up within the workplace, which can help uplift our transgender and non-binary community, while also providing a safe work environment for them. We need to create equity in treatment and livelihood for trans and non-binary folks by ensuring equal work opportunity, which lowers the risk of those folks ending up in unsafe working conditions (ie. the sex industry). And we must also provide safe, healthy, and inclusive conditions within the workplace to not only ensure income but the overall wellbeing of our transgender and non-binary community. SB2560 would help to do this by creating tangible goals and policies within companies as well as follow up through annual reports.

Please pass SB2560!

Thank you!

Casey

SB-2560

Submitted on: 2/6/2022 4:13:38 PM

Testimony for LCA on 2/7/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Kalani Bright	Individual	Support	No

Comments:

I am a trans woman undergoing my second transition attempt. I am also a extremely talented software engineer, highly skilled, and a hard worker.

During my first tranistion I could not get any jobs; from data entry, to websites, to McDonalds, to jobs that were promised to me becaused once I disclosed I was trans or refused things like cutting of my feminine hair I was not able to be hired. This trend has occured until today and forces people into work fields in order to sustain. I even tried selling blood plasma to support normal costs of living and noone would take my blood because I was trans.

Things haven't changed all that much. We need to normalize being transgender.
Available for questions/comment.

Kalani Bright

SB-2560

Submitted on: 2/6/2022 9:02:21 PM

Testimony for LCA on 2/7/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Jo-Ann M Adams	Individual	Support	No

Comments:

As our culture becomes more inclusive, it is important to provide and track support that historical trends have in fact become more inclusive.

SB-2560

Submitted on: 2/7/2022 6:25:26 AM

Testimony for LCA on 2/7/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Caroline Kunitake	Individual	Support	No

Comments:

Dear Chair Taniguchi, Vice Chair Ihara, the Committee on Labor, Culture and the Arts, Chair Moriwaki, Vice Chair Dela Cruz and the Committee on Government Operations,

I support SB2560.

Transgender and non-binary people face great discrimination in the workplace.

Imagine working in a low paying retail position as a man. This man wants to transition and change his physical appearance to match their inner gender identity. He goes through the transition and eventually comes to work as a woman. Narrow minded co-workers and supervisors/managers may not be supportive of this transition. As a result, this person is harassed, insulted and held back in the workplace. Customers may make negative comments to the employer due to their prejudices. The employer is not held by law to keep this woman (who use to be a man) on the job. When this woman is fired from a low paying job, they will have little to no savings while searching for a new job.

Equal employment opportunities need to be protected for all people. We need laws, rules and enforcement to protect this specific sector of our population.

Please support SB2560.

Thank you for your time and attention to this matter. I appreciate the opportunity to provide testimony in support of SB2560.

Mahalo,

Caroline Kunitake



Hawaii Women's Coalition

February 7, 2022

Re: Testimony IN SUPPORT SB2560

Aloha Chair, Vice Chair, and Honorable Members:

We support SB2560 which would provide access to good, union jobs in the public sector for transgender and non-binary people.

This bill is urgently needed as part of the economic recovery from the COVID-19 pandemic, which compounds decades of discrimination against transgender and non-binary people.

Despite Hawai'i's strong record on transgender rights in law, māhū (referred to in English as transgender) and non-binary people often live in poverty and are discriminated against.

In June 2021, Argentina made history with a "life-changing" law that reserved 1% of public sector jobs for transgender people to address the fact that 70% of transgender people in Argentina are pushed into unsafe, underground economies. Hawai'i should take a similar step to ensure meaningful economic security and societal inclusion for the māhū community.

Accordingly, we ask that you pass this important measure.

Mahalo,

Hawai'i Women's Coalition

LATE

SB-2560

Submitted on: 2/7/2022 12:43:03 PM

Testimony for LCA on 2/7/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Sabra Della Lucia	Individual	Support	No

Comments:

I am in support of this bill.

LATE

SB-2560

Submitted on: 2/7/2022 3:03:41 PM

Testimony for LCA on 2/7/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Ashley Galacgac	Individual	Support	No

Comments:

I emailed this testimony below to the committee.

Dear Members of the Committee on Labor, Culture, and the Arts and Committee on Government Operations,

I am writing in strong support of SB2560, which would provide meaningful access to good, union jobs in the public sector for transgender and non-binary people. Everyone deserves a safe working place that recognizes, celebrates, and protects our full humanity.

Despite Hawai'i's strong record on transgender rights in law, māhū, and non-binary people often live in poverty, are discriminated against, and experience systemic violence. This bill is urgently needed as part of the economic recovery from the COVID-19 pandemic, which compounds decades of discrimination against transgender and non-binary people.

Laws and policies can address these inequities to ensure meaningful economic security and societal inclusion for the māhū community.

Please pass SB2560.

SB-2560

Submitted on: 2/7/2022 4:52:20 PM

Testimony for LCA on 2/7/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Mareva Minerbi	Individual	Support	No

Comments: