STAND. COM. REP. NO. 587

Honolulu, Hawaii FcS 18, 2011

RE: H.B. No. 341 H.D. 2

Honorable Calvin K.Y. Say Speaker, House of Representatives Twenty-Sixth State Legislature Regular Session of 2011 State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 341, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO EMPLOYMENT PRACTICES,"

begs leave to report as follows:

The purpose of this bill is to protect the rights of employees by making it an unlawful practice for any employer or labor organization to bar or discharge from employment, withhold pay from, or demote an employee solely because the employee uses accrued and available sick leave. This bill also allows an employer or labor organization to require the employee to provide written verification from a physician indicating that the employee was ill when the sick leave was used.

The Hawaii State AFL-CIO, International Brotherhood of Electrical Workers, International Brotherhood of Electrical Workers Local 1260, International Brotherhood of Electrical Workers Local 1357, and International Longshore and Warehouse Union Local 142 testified in support of the bill. The Department of Labor and Industrial Relations (DLIR) supported the bill's intent and suggested amendments. The Hawaiian Electric Company, Hawaii Electric Light Company, Inc., Maui Electric Company, Ltd., General Contractors Association of Hawaii, Chamber of Commerce of Hawaii, First Hawaiian Bank, Hawaii Credit Union League, National Federation of Independent Businesses, and Hawaiian Telcom testified in opposition.



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The suggested amendments of DLIR and the concerns of the testifiers were given due consideration.

Your Committee finds that employers sometimes unfairly penalize employees who use accrued and available sick leave for legitimate illness. This measure balances the employee's need to use sick leave for a legitimate illness with the employer's need to prevent employees from abusing this benefit.

Your Committee has amended this bill by:

- (1)Modifying the circumstances under which an employer may require an employee to provide a doctor's note verifying the illness to those absences lasting three or more consecutive days;
- (2) Clarifying that it shall be an unlawful practice for any employer or labor organization to bar or discharge from employment, withhold pay from, or demote an employee because the employee uses accrued and available sick leave; and
- (3) Changing its effective date to January 1, 2059, to allow for further discussion.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 341, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 341, H.D. 2.

> Respectfully submitted on behalf of the members of the Committee on Judiciary,

GILBERT KEITH-AGARAD, Chair



## State of Hawaii House of Representatives The Twenty-sixth Legislature

## Record of Votes of the Committee on Judiciary

Bill/Resolution No.: HB 341, HD \ LA	mittee Referral: B/ERB 540	FIN 2	:  17/1\	
The committee is reconsidering its previous de	· · · · · · · · · · · · · · · · · · ·			
The recommendation is to:  □  Pass, unamended (as is)  ▲  Pass, with amendments (HD)  □  Hold    □  Pass short form bill with HD to recommit for future public hearing (recommit)				
JUD Members	Ayes	Ayes (WR)	Nays	Excused
1. KEITH-AGARAN, Gilbert S.C. (C)				
2. RHOADS, Karl (VC)				
3. BROWER, Tom				
4. CABANILLA, Rida T.R.				
5. CARROLL, Mele				
6. HERKES, Robert N.				
7. ITO, Ken			· · · · · · · · · · · · · · · · · · ·	
8. LUKE, Sylvia				
9. McKELVEY, Angus L.K.				
10. MORITA, Hermina M.				
11. OSHIRO, Blake K.	/		m n <b></b>	
12. SOUKI, Joseph M.				
13. TSUJI, Clift	/		· · · · · · · · · · · · · · · · · · ·	*
14. FONTAINE, George R.			, <u></u>	· · · · · · · · · · · · · · · · · · ·
15. MARUMOTO, Barbara C.				1
16. THIELEN, Cynthia				-
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<b>TOTAL</b> (16)	13	2	0	1
The recommendation is:  Adopted  Image: Not Adopted    If joint referral,				
Vice Chair's or designee's signature: Val Abod				
Distribution:    Original (White) - Committee    Duplicate (Yellow) - Chief Clerk's Office    Duplicate (Pink) - HMSO				