

STAND. COM. REP. NO. **2723**

Honolulu, Hawaii

**MAR 04 2016**

RE: S.B. No. 2895  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Twenty-Eighth State Legislature  
Regular Session of 2016  
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred  
S.B. No. 2895 entitled:

"A BILL FOR AN ACT RELATING TO THE HAWAII CIVIL RIGHTS  
COMMISSION, "

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Authorize the Executive Director of the Hawaii Civil Rights Commission to dismiss a complaint and issue a notice to the complainant that the complainant may bring a civil action if the Executive Director has determined that there is reasonable cause to believe that an unlawful discriminatory practice has occurred and has been unable to secure a conciliation agreement from the respondent;
- (2) Allow the Executive Director to reconsider on the Executive Director's own initiative the dismissal of a complaint and issuance of a notice of the right to sue, which shall not be subject to judicial review; and
- (3) Amend the Executive Director's authority with respect to fair housing to comply with the federal Fair Housing Act.

Your Committee received testimony in support of this measure from the Hawaii Civil Rights Commission. Your Committee received

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testimony in opposition to this measure from one individual. Your Committee received comments on this measure from the Hawaii Disability Rights Center and one individual.

Your Committee finds that existing law requires the Executive Director of the Hawaii Civil Rights Commission to issue a final conciliation demand when conciliation efforts in an unlawful discriminatory practice case fail to secure a conciliation settlement then requires that the case be docketed for a contested case hearing before a hearings officer. According to the testimony submitted by the Hawaii Civil Rights Commission, these requirements have negatively impacted the efficiency and effectiveness of its civil rights enforcement powers. This measure provides prosecutorial discretion by allowing the Executive Director to decide which cases should be litigated.

Your Committee notes that the language in this measure is substantially similar to H.B. No. 683, H.D. 1, S.D. 1 (Regular Session of 2015) which is a measure that was carried over and currently pending in Conference.

Your Committee has amended this measure by:

- (1) Clarifying that the Executive Director's determination that a complaint is to be dismissed and to issue a notice of right to sue may be subject to reconsideration by the Hawaii Civil Rights Commission on its own initiative but shall not be subject to judicial review;
- (2) Inserting the effective date of January 7, 2059, to encourage further discussion; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2895, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2895, S.D. 1, and be placed on the calendar for Third Reading.



Respectfully submitted on  
behalf of the members of the  
Committee on Judiciary and  
Labor,

  
GILBERT S.C. KEITH-AGARAN, Chair



The Senate  
Twenty-Eighth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Judiciary and Labor**  
**JDL**

Bill / Resolution No.:* <b>SB 2895</b>	Committee Referral: <b>JDL</b>	Date: <b>3/2/16</b>		
<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
KEITH-AGARAN, Gilbert S.C. (C)	/			
SHIMABUKURO, Maile S.L. (VC)	/			
GABBARD, Mike	/			
KAHELE, Kaiali'i	/			
KIM, Donna Mercado				/
THIELEN, Laura H.	/			
SLOM, Sam	/			
<b>TOTAL</b>	<b>6</b>			<b>1</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report   Clerk's Office   Drafting Agency   Committee File Copy				

\*Only one measure per Record of Votes