

STAND. COM. REP. NO. 476

Honolulu, Hawaii

FEB 19 2021

RE: S.B. No. 793
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committees on Labor, Culture and the Arts and Human Services, to which was referred S.B. No. 793 entitled:

"A BILL FOR AN ACT RELATING TO THE MINIMUM WAGE,"

beg leave to report as follows:

The purpose and intent of this measure is to repeal state laws that exempt individuals with a disability from minimum wage requirements by:

- (1) Repealing section 387-9(a)(2), Hawaii Revised Statutes, which allows payment of sub-minimum wage to individuals with impairments by obtaining a special certificate from the Department of Labor and Industrial Relations (DLIR); and
- (2) Amending the definition of "qualified community rehabilitation program" (QCRP) under the Hawaii Public Procurement Code by eliminating the requirement that they hold the DLIR special certificate and a federal certificate issued under section 14(c) of the Fair Labors Standard Act of 1938, as amended, which also allows payment of sub-minimum wage based on an individual's disability status.

Your Committees received testimony in support of this measure from the Department of Health, State Council on Developmental



Disabilities, Democratic Party of Hawai'i Education Caucus, Democratic Party of Hawai'i Hawaiian Affairs Caucus, Hawaii Disability Rights Center, Hawaii State Teachers Association, Imua Alliance, International Longshore and Warehouse Union Local 142, MCH Lend, National Federation of the Blind of Hawaii, one member of the County Council of the County of Maui, and six individuals. Your Committees received comments on this measure from the Department of Labor and Industrial Relations.

Your Committees find that laws that allow payment of sub-minimum wage based on an individual's disability status are archaic and a possible violation of the Americans with Disabilities Act (ADA) of 1990, as amended. Your Committees further find that the employers who currently hold the certificate for sub-minimum wage are actually paying their employees statutory minimum wage, and the only reason for them obtaining the certificates is to meet the definition of QCRP under the Hawaii Public Procurement Code. The contracts that are awarded to QCRPs do not require payment of sub-minimum wage. This measure will eliminate the need for these employers from obtaining the special certificates.

Your Committees have amended this measure by making technical, nonsubstantive amendments for the purposes of clarity and consistency.

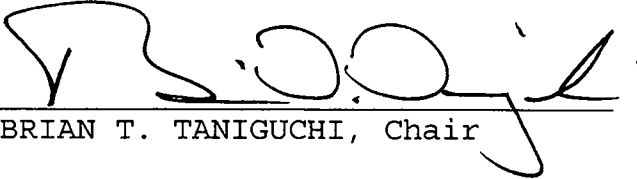
As affirmed by the records of votes of the members of your Committees on Labor, Culture and the Arts and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 793, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 793, S.D. 1, and be referred to your Committee on Ways and Means.



Respectfully submitted on
behalf of the members of the
Committees on Labor, Culture
and the Arts and Human
Services,



JOY A. SAN BUENAVENTURA, Chair

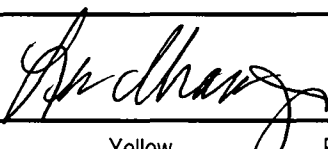


BRIAN T. TANIGUCHI, Chair



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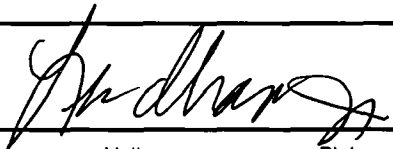
Record of Votes
Committee on Labor, Culture and the Arts
LCA

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 793	LCA/HMS, WAM	2/08/2021		
<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	✓			
KEOHOKALOLE, 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:				
				
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 Human Services
HMS

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 793	LCA/HMS, WAM	02/08/2021		
<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
SAN BUENAVENTURA, Joy A. (C)	✓			
IHARA, Jr., Les (VC)	✓			
ACASIO, Laura	✓			
MISALUCHA, Bennette E.	✓			
FEVELLA, Kurt	✓			
TOTAL	5 4	0	0	0
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
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