

Honolulu, Hawaii

FEB 18 2009

RE: S.B. No. 1183  
S.D. 1

Honorable Colleen Hanabusa  
President of the Senate  
Twenty-Fifth State Legislature  
Regular Session of 2009  
State of Hawaii

Madam:

Your Committees on Human Services and Labor, to which was referred S.B. No. 1183 entitled:

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

beg leave to report as follows:

The purpose of this measure is to conform the State's laws to the Americans with Disabilities Act Amendments Act of 2008, P.L. 110-325, by broadening the types of disabilities that are protected against employment discrimination.

Testimony in support of this measure was submitted by the State Council on Developmental Disabilities; the Disability and Communication Access Board; the Hawaii Civil Rights Commission; the Hawaii Disability Rights Center; and one individual. The Department of Human Services submitted comments on the measure. Copies of written testimony are available for review on the Legislature's website.

Your Committees find that the Americans with Disabilities Act Amendments Act expanded the definition of "disability," resulting in certain federal law protections that are stronger than corresponding protections currently provided under Hawaii law. In order to conform to federal law, Hawaii must broaden its relatively narrow definition of disability. The United States Supreme Court has found that such conformity is required of the states, holding in California Federal Sav. And Loan Ass'n v. Guerra, 479 U.S. 272, 107 S.Ct. 683 (11987), that federal law



offers the minimum level of protection beneath which state law may not fall.

Your Committees note suggestions made by the Hawaii Civil Rights Commission, including:

- (1) Amending the definition of "disability" in the administrative rules rather than in the Hawaii Revised Statutes;
- (2) Waiting for the United States Equal Employment Opportunity Commission to develop regulations defining various terms contained within the Americans with Disabilities Act Amendments Act, and conforming the Hawaii Civil Rights Commission's rules to federal regulations;
- (3) Providing sufficient time for the Hawaii Civil Rights Commission to review and consider the Equal Employment Opportunity Commission regulations when amending its own rules; and
- (4) Obtaining public input during the rulemaking process, with the potential for creating stronger protections than those provided under federal law.

Your Committees have amended this measure by making technical amendments for purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Human Services and Labor that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 1183, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1183, S.D. 1, and be referred to the Committee on Judiciary and Government Operations.



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



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DWIGHT Y. TAKAMINE, Chair



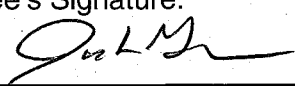
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SUZANNE CHUN OAKLAND, Chair



The Senate  
Twenty-Fifth Legislature  
State of Hawaii

**Record of Votes**  
**Committee on Human Services**  
**HMS**

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 1183	HMS(LBR, JGO)	2/12/09		
<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
CHUN OAKLAND, Suzanne (C)	✓			
IHARA, Jr., Les (VC)	✓			✓
GREEN, M.D., Josh	✓			
HEMMINGS, Fred			✓	
<b>TOTAL</b>	2	0	1	1
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

\*Only one measure per Record of Votes

The Senate  
 Twenty-Fifth Legislature  
 State of Hawaii

**Record of Votes**  
**Committee on Labor**  
**LBR**

Bill / Resolution No.:* <b>SB 1183</b>	Committee Referral: <b>HMS/LBR, JGO</b>	Date: <b>2-17-09</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				
<b>Members</b>	<b>Aye</b>	<b>Aye (WR)</b>	<b>Nay</b>	<b>Excused</b>
TAKAMINE, Dwight Y. (C)	✓			
TANIGUCHI, Brian T. (VC)	✓			
BUNDA, Robert	✓			
HEE, Clayton	✓			
SLOM, Sam				✓
<b>TOTAL</b>	<b>4</b>	<b>0</b>	<b>0</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				

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