

STAND. COM. REP. NO.

558

Honolulu, Hawaii

MAR 04 2011

RE: S.B. No. 994
S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred S.B. No. 994 entitled:

"A BILL FOR AN ACT RELATING TO NEPOTISM,"

begs leave to report as follows:

The purpose and intent of this measure is to prohibit legislators and state employees from naming or appointing close relatives to a public office or employment position.

Your Committee received testimony in support of this measure from the Hawaii State Ethics Commission and Common Cause Hawaii. Your Committee received testimony in opposition to this measure from one individual.

Your Committee finds that the intent of this measure is to address the lack of state laws prohibiting nepotism, the necessity of which was highlighted by recent news articles identifying problems with this practice in certain government agencies. Nepotism engenders charges of favoritism and preferential treatment and erodes public confidence in government hiring practices.

Your Committee notes that a measure with a similar subject matter, S.B. No. 1502, was also referred to and heard in your Committee. While S.B. No. 994 prohibits nepotism in the appointment or hiring of a relative, S.B. No. 1502 is broader in its application. Your Committee believes that the additional



provisions in S.B. No. 1502 should be incorporated into S.B. No. 994 for convenience of discussion.

Your Committee also observes that there is no exemption in either measure for circumstances in which the relative is highly qualified for the position. While your Committee is mindful that nepotism can potentially cause problems with favoritism, morale issues, or conflicts of interest because the hired relative may not be qualified for the position, sometimes the relative may truly be the best person for the position. In the latter case, a law that summarily prevents the relative from being considered for a position that the relative would otherwise qualify for on merit alone would be detrimental to the government agency and the public as a whole.

Your Committee has amended this measure by:

- (1) Inserting section 1 of S.B. No. 1502, which contains a purpose section describing the rationale for the measure;
- (2) Inserting language that expands the list of prohibited practices regarding nepotism and places the new language in chapter 84, Hawaii Revised Statutes, relating to ethics, to allow the Hawaii State Ethics Commission to provide guidance and enforcement for the implementation of those provisions;
- (3) Adding language to prohibit a legislator from voting for the confirmation of a relative of the legislator, to address potential nepotism issues unique to legislators;
- (4) Creating an exemption to the prohibition on the appointment, employment, promotion, or advancement of a relative or a relative of specified others when the relative is highly qualified for the position;
- (5) Making the nepotism provisions applicable to justices and justices, for whom chapter 84, Hawaii Revised Statutes, is generally inapplicable, to retain the original intent of S.B. No. 1502, which applied to all public employees;
- (6) Inserting an effective date of July 1, 2050, to allow for further discussion; and



- (7) 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. 994, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 994, 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,


CLAYTON HEE, Chair



The Senate
 Twenty-Sixth Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* SB 994	Committee Referral: JDL	Date: 2/24/11		
<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
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile (VC)	✓			
GABBARD, Mike	✓			
IHARA, Jr., Les	✓			
SLOM, Sam	✓			
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