

Honolulu, Hawaii

MAR 27 2015

RE: H.B. No. 1090
H.D. 2
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawaii

Madam:

Your Committees on Economic Development and Technology and
Commerce and Consumer Protection, to which was referred H.B.
No. 1090, H.D. 2, entitled:

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

beg leave to report as follows:

The purpose and intent of this measure is to prohibit
noncompete agreements and restrictive covenants that forbid post-
employment competition for employees of a technology business.

Your Committees received testimony in support of this measure
from the Department of Education. Your Committees received
comments on this measure from the Department of the Attorney
General, High Technology Development Corporation, and TechMana
LLC.

Your Committees find that technology companies utilize
noncompete and nonsolicit agreements to protect their intellectual
property and corporate knowledge, and eliminating all agreements
of this type may not be advantageous for some small technology
businesses. However, some technology companies in Hawaii are
increasingly finding it difficult to accommodate noncompete and
nonsolicit agreements and still fill openings with talented,
experienced individuals. This difficulty is often due to a lack
of available candidates who are qualified or available to work in
the State because of the restrictions built into the candidates'
previous employers' noncompete or nonsolicit agreements. Your



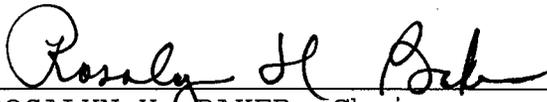
Committees find that this measure favors employee mobility, which can help retain spin-off companies and entrepreneurial employees within Hawaii.

Your Committees have amended this measure by:

- (1) Clarifying that if an employment contract contains a noncompete or nonsolicit clause relating to an employee of a technology business, the clause shall be void and of no force and effect;
- (2) Amending the term "technology business" to mean a trade or business that derives the majority of its gross income, rather than revenue, from the sale or license of products or services resulting from its software development or information technology development, or both; and
- (3) 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 Economic Development and Technology and Commerce and Consumer Protection that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1090, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1090, H.D. 2, S.D. 1, and be referred to the Committee on Judiciary and Labor.

Respectfully submitted on
behalf of the members of the
Committees on Economic
Development and Technology and
Commerce and Consumer
Protection,



ROSALYN H. BAKER, Chair



GLENN WAKAI, Chair



The Senate
 Twenty-Eighth Legislature
 State of Hawai'i

Record of Votes
Committee on Economic Development and Technology
EDT

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 1090 HD 2	EDT/CPN, JDL	3/16/15		
<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
WAKAI, Glenn (C)	X			
SLOM, Sam (VC)		X		
BAKER, Rosalyn H.	X			
CHUN OAKLAND, Suzanne				X
DELA CRUZ, Donovan M.				X
ESPERO, Will	X			
HARIMOTO, Breene	X			
TOTAL	4	1	0	2
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

