

Honolulu, Hawaii

MAY 19 2020

RE: H.B. No. 1701
H.D. 1
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2020
State of Hawaii

Sir:

Your Committee on Labor, Culture and the Arts, to which was referred H.B. No. 1701, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO EQUAL PAY,"

begs leave to report as follows:

- (1) Conform statutory prohibitions against wage discrimination with other prohibitions on employment discrimination;
- (2) Clarify allowable justifications for compensation differentials and remedies for pay disparity; and
- (3) Require employers to disclose wage ranges to employees and prospective employees.

Your Committee received testimony in support of this measure from Hawai'i Civil Rights Commission, Hawai'i State Commission on the Status of Women, Common Cause Hawaii, Pono Hawai'i Initiative, LGBT Caucus of the Democratic Party of Hawaii, Pride at Work - Hawaii, Hawaii Women's Coalition, American Association of University Women of Hawaii, Planned Parenthood Votes Northwest and Hawaii, Hawaii Appleseed Center for Law and Economic Justice, The Queen's Health Systems, and six individuals. Your Committee received testimony in opposition to this measure from Island Plastic Bags, Inc. and the Maui Chamber of Commerce. Your



Committee received comments on this measure from Hawai'i Pacific Health, Hawaii Credit Union League, Hawaii Food Industry Association, Chamber of Commerce Hawaii, Society for Human Resource Management, and the Building Industry Association of Hawaii.

Your Committee continues its commitment to ensuring that women and men are paid equally for work that is substantially equal with respect to the skill, effort, and responsibility required to perform the work and the conditions under which the work is performed. Similarly, your Committee proudly notes that Hawaii has led the way on many civil rights issues and that this measure is consistent with those achievements.

Your Committee has heard the testimony of the Hawai'i State Commission on the Status of Women expressing concerns that women are often penalized for initiating pay negotiations. Your Committee finds that this issue raises concerns that merit further consideration. Your Committee also notes the Paycheck Fairness Act, H.R. 7, 116th Cong. (2019), which was adopted by the House of Representatives on March 27, 2019, is pending in the United States Senate. H.R. 7 proposes amendments to the Fair Labor Standards Act of 1938 to provide additional remedies to victims of discrimination in the payment of wages on the basis of sex. As suggested by H.R. 7, your Committee encourages the Department of Labor and Industrial Relations, Hawaii Civil Rights Commission, and the University of Hawaii to consider the development and implementation of a wage and salary negotiation skills training program to be available to all members of the workforce in order to address inequities in employer-employee negotiations on compensation.

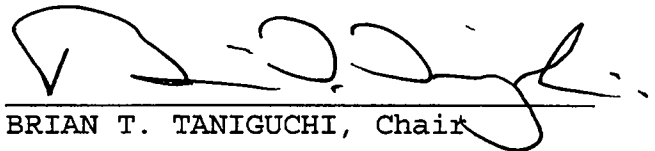
Further, your Committee has concerns about an apparent incongruity or "catch-22" conflict in this measure regarding the consequences of an applicant's voluntary disclosure of salary history to an employer, who is then permitted to verify the applicant's salary history and consider that information to determine any compensation offer to the applicant. Your Committee requests that the Committee on Judiciary more fully evaluates section 378-2.4(b), Hawaii Revised Statutes, set forth in section 3 of this measure, to determine whether the proviso regarding an applicant's voluntary disclosure of salary history negates the protections currently set forth in Part I of chapter 378, Hawaii



Revised Statutes, or now proposed to be provided to an applicant for employment.

As affirmed by the record of votes of the members of your Committee on Labor, Culture and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1701, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1701, H.D. 1, S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Labor, Culture and
the Arts,


BRIAN T. TANIGUCHI, Chair



The Senate
Thirtieth Legislature
State of Hawai'i

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

Bill / Resolution No.:*	Committee Referral:	Date:		
<i>HB 1701 HDI</i>	<i>LCA, WAM/JDC</i>	<i>3-10-20</i>		
<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	✓			
GABBARD, Mike				✓
FEVELLA, Kurt				✓
TOTAL	<i>3</i>	<i>0</i>	<i>0</i>	<i>2</i>
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>[Signature]</i>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes