

Honolulu, Hawaii

April 30, 2015

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

Honorable Joseph M. Souki  
Speaker, House of Representatives  
Twenty-Eighth State Legislature  
Regular Session of 2015  
State of Hawaii

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

Sir and Madam:

Your Committee on Conference on the disagreeing vote of the House of Representatives to the amendments proposed by the Senate in H.B. No. 1090, H.D. 2, S.D. 2, entitled:

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

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to stimulate economic development in Hawaii's technology business sector by:

- (1) Prohibiting the use of noncompete and nonsolicit clauses in any employment contract, post-employment contract, or separation agreement for an employee of a technology business; and
- (2) Stipulating 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.



Employment restrictive covenants such as non-compete or non-solicit clauses are often contained in employment-related contracts, particularly in the technology sector. These restrictive covenants effectively prevent an individual from working at an organization with which a former employer competes or does business. Your Committee on Conference finds that these restrictive covenants impede the development of businesses within the State by limiting skilled workers' mobility within the State, forcing many of these workers to seek employment in other jurisdictions, and requiring local businesses to solicit skilled workers from outside of the State. Eliminating non-compete and non-solicit clauses for employees of the technology business sector will stimulate Hawaii's economy by preserving and providing jobs for employees in this sector and by providing opportunities for these employees to establish new companies and new job opportunities in the State.

However, your Committee on Conference notes concerns raised about the broad application this measure may have and has amended this measure by narrowing the scope of the prohibition on non-compete and non-solicit clauses relating to an employee of a technology business to employment contracts only.

Technical, nonsubstantive amendments have also been made for clarity, consistency, and style.

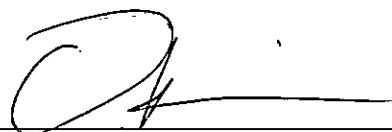
As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 1090, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1090, H.D. 2, S.D. 2, C.D. 1.

Respectfully submitted on behalf of the managers:

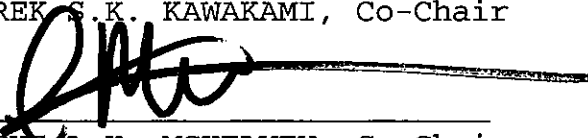
ON THE PART OF THE SENATE

ON THE PART OF THE HOUSE

  
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 GLENN WAKAI, Chair


  
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 DEREK S.K. KAWAKAMI, Co-Chair

  
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 ROSALYN H. BAKER, Co-Chair

  
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 ANGUS L.K. MCKELVEY, Co-Chair



  
GILBERT S.C. KEITH-AGARAN,  
Co-Chair

  
KARL RHOADS, Co-Chair



Hawaii State Legislature

Record of Votes of a Conference Committee

CCR 10

Bill / Concurrent Resolution No.: <b>HB 1090, HD 2, SD 2</b>	Date/Time: <b>4/23/15 10:00am</b>
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The recommendation of the House and Senate managers is to pass with amendments (CD).

The Committee is reconsidering its previous decision.

The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure

The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.

Senate Managers	A	WR	N	E	House Managers	A	WR	N	E
WAKAI, Glenn, Chr.	✓				KAWAKAMI, Derek S.K., Co-Chr.	✓			
BAKER, Rosalyn H., Co-Chr.	✓				MCKELVEY, Angus L.K., Co-Chr.	✓			
KEITH-AGARAN, Gilbert S.C., Co-Chr.				✓	RHOADS, Karl, Co-Chr.	✓			
GALUTERIA, Brickwood	✓				KONG, Sam Satoru	✓			
SLOM, Sam	✓				TAKAYAMA, Gregg	✓			
					WARD, Gene				✓
<b>TOTAL</b>	<b>4</b>			<b>1</b>	<b>TOTAL</b>	<b>5</b>			<b>1</b>

A = Aye      WR = Aye with Reservations      N = Nay      E = Excused

Senate Recommendation is:  
 Adopted       Not Adopted

House Recommendation is:  
 Adopted       Not Adopted

Senate Lead Chair's or Designee's Signature:  


House Lead Chair's or Designee's Signature:  


Distribution:      Original      Yellow      Pink      Goldenrod  
*File with Conference Committee Report*      *House Clerk's Office*      *Senate Clerk's Office*      *Drafting Agency*