

Honolulu, Hawaii

APR 02 2015

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

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

Madam:

Your Committee on Judiciary and Labor, to which was referred
H.B. No. 1090, H.D. 2, S.D. 1, entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to prohibit
noncompete and nonsolicit clauses in employment contracts for
employees of a technology business.

Your Committee received testimony in support of this measure
from the Department of Education, High Technology Development
Corporation, O&A Consulting LLC, Radical Synergies LLC, Techmana
LLC, Institute of Electrical and Electronic Engineers, and four
individuals. Your Committee received testimony in opposition to
this measure from PR Tech LLC and PacRim Marketing Group, Inc.
Your Committee received comments on this measure from the Chamber
of Commerce Hawaii.

Your Committee finds that it is a common practice within the
technology industry to include noncompete provisions and other
restrictive covenants in employment contracts. These types of
provisions can have negative impacts on employment opportunities
and on the development of technology businesses in Hawaii. This
can be especially problematic in Hawaii, creating an additional
limitation on the number of technology workers where there is
already a limited market for the size and number of technology
businesses.



Your Committee has amended this measure by:

- (1) Inserting language to also prohibit noncompete clauses and nonsolicit clauses in post-employment contracts and separation agreements;
- (2) Deleting language that would have made this measure apply to all written, binding noncompete and nonsolicit clauses entered into after June 30, 2015;
- (3) Inserting a savings clause;
- (4) Amending the effective date to July 1, 2015; and
- (5) 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 H.B. No. 1090, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1090, H.D. 2, S.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,


GILBERT S.C. KEITH-AGARAN, Chair



