

STAND. COM. REP. NO.

2456

Honolulu, Hawaii

FEB 19 2016

RE: S.B. No. 2313
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 2313 entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Prohibit an employer from using a system that measures earnings by quantity or quality of production as an affirmative defense to pay differential;
- (2) Clarify that an employer may use a bona fide seniority system, bona fide merit system, or bona fide occupational qualifications as an affirmative defense to pay differential;
- (3) Clarify that an employer is prohibited from discriminating between employees because of sex by paying wages to employees at a rate less than the rate at which the employer pays wages to employees of the opposite sex for substantially similar work and under similar working conditions, with certain exceptions; and
- (4) Prohibit employers from restricting wage disclosure.

Your Committee received testimony in support of this measure from the Hawai'i Civil Rights Commission, Hawaii State Commission on the Status of Women, Hawaii Women's Coalition, Hawai'i State

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Democratic Women's Caucus, Planned Parenthood Votes Northwest and Hawaii, and five individuals. Your Committee received testimony in opposition to this measure from the National Federation of Independent Business and one individual.

Your Committee finds that pay disparity persists between men and women who do similar work. The persistent disparity in earnings has a significant impact on the economic security and welfare of thousands of working women and their families.

Your Committee further finds that pay secrecy inhibits workers from pursuing claims of pay discrimination because women cannot challenge wage discrimination that they do not know exists. Implementation of this measure improves the State's laws pertaining to equal pay and wage disclosures and will encourage greater gender equality in the workplace.

Your Committee has amended this measure by:

- (1) Reinserting language to authorize an employer to use a system that measures earnings by quantity or quality of production as an affirmative defense to pay differential;
- (2) Inserting language to authorize an employer to use a bona fide factor other than sex as an affirmative defense to pay differential; provided that the factor is not based on or derived from a sex-based differential in compensation, is job-related to the position in question, and is consistent with a legitimate business necessity;
- (3) Inserting an effective date of January 7, 2059, to encourage further discussion; and
- (4) 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. 2313, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2313, S.D. 1, and be referred to your Committee on Ways and Means.



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



GILBERT S.C. KEITH-AGAPAN, Chair



The Senate
 Twenty-Eighth Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* SB 2313	Committee Referral: JDL, WAM	Date: 2/16/16		
<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
KEITH-AGARAN, Gilbert S.C. (C)	/			
SHIMABUKURO, Maile S.L. (VC)	/			
GABBARD, Mike	/			
██████████				
KIM, Donna Mercado	/			
THIELEN, Laura H.	/			
SLOM, Sam			/	
TOTAL	5		1	
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