

Signed by all members of the Committee except Representative Taniguchi.
(Representative Alcon voted no.)

SCRep. 972 Labor and Public Employment on S.B. No. 1422

The purpose of this bill is to allow the Department of Labor and Industrial Relations to adopt administrative rules pursuant to Chapter 91, Hawaii Revised Statutes, to implement the law. In addition, this bill proposes to amend Act 328, Session Laws of Hawaii, 1991, by extending the effective date of the family leave law for the private sector to July 1, 1994 due to the recently enacted federal legislation.

Testimony in support of this measure was submitted by the Department of Labor and Industrial Relations, the Hawaii Government Employees Association, the Chamber of Commerce of Hawaii, and the Hawaii Nurses' Association Collective Bargaining Organization.

Your Committee is in agreement that this measure will allow time for the private sector and the Department of Labor and Industrial Relations to review and evaluate the federal legislation's impact on Hawaii's law.

A technical, nonsubstantive amendment has also been made for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1422, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1422, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Alcon and Taniguchi.

SCRep. 973 Labor and Public Employment on S.B. No. 879

The purpose of this bill is to authorize the University of Hawaii to withhold sums from a participating football coach's salary and pay those sums directly to the qualified coaches plan, under the Employee Retirement Income Security Act of 1974, as amended. The Department of Education and the University of Hawaii may purchase for the employee an annuity contract from an insurer who holds a Certificate of Authority under Section 431:3-201 or who offers an annuity contract qualified under 401(k) of the Internal Revenue Code, as amended.

The Department of Budget and Finance submitted testimony stating that they did not object to this measure since it does not affect the Employees' Retirement System and does not require employer contributions. Testimony in support of this measure was submitted by the Intercollegiate Athletic Office of the University of Hawaii.

Your Committee finds that full-time football coaches of the University of Hawaii Athletic Department who were employed after June 30, 1984 are noncontributory members of the Employees' Retirement System. As noncontributory members, they are not entitled to retirement benefits unless they have ten or more years of service. Since collegiate level football coaches generally do not remain at the same institution for that period of time, this measure would provide football coaches with the opportunity to participate in the retirement and savings program sponsored by the American Football Coaches Association using payroll deductions.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 879 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Alcon, Taniguchi and Ward.

SCRep. 974 Labor and Public Employment on S.B. No. 1363

The purpose of this bill is to amend the Uniform Information Practices Act (Modified), Chapter 92F, Hawaii Revised Statutes, to clarify what information about employment-related misconduct may be disclosed and at what stage of the disciplinary process such disclosure may occur. Specifically, this bill provides that information may be disclosed thirty days after discipline has been sustained at the highest level of review and that the discipline of police officers is exempt from public disclosure.

Testimony in support of this measure was submitted by the University of Hawaii Professional Assembly, the Hawaii Government Employees Association, and the State of Hawaii Organization of Police Officers. The State Attorney General's Office, the Hawai'i Green Party, and Common Cause Hawaii submitted testimony in support of the purpose and spirit of this measure, but were opposed to the passage of this bill in its present form. Testimony against this measure was submitted by the Honolulu Advertiser, the Honolulu Star Bulletin, the Society of Professional Journalists, the Big Island Press Club, Code of Silence/Broken, and a professor at the University of Hawaii.

Your Committee finds from testimony presented that this bill serves an important purpose concerning the public's right to know about the nature of misconduct by public employees. Therefore, your Committee agrees with the intent of this bill to disclose appropriate information contained in employee records where it serves the legitimate public interest and safety as balanced against the employee's right to privacy.

Your Committee recognizes that although the police department is both honorable and professional, police officers should be held to a higher standard of conduct since they are responsible for the safeguarding and protection of human life. Your Committee is aware that the UIPA is intended to be a comprehensive public records law that promotes governmental accountability, while recognizing certain constitutional rights to privacy. In order for police officers to best serve the community, it is essential that they are confident that they will be treated fairly by the disciplinary system. Thus, your Committee has amended subparagraph 92F-14(b)(4)(B), page 1, line 19, to read "provided that this subparagraph shall not apply to the misconduct of police officers acting in an unofficial capacity."

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1363, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1363, S.D. 2, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.
(Representative Alcon voted no.)

SCRep. 975 Labor and Public Employment on S.B. No. 1555

The purpose of this bill is to allow state agencies to establish committees and subcommittees composed equally of management and employee personnel for the purpose of developing individual employee performance standards and measurements policies. The policies will be used by the agency and its operating units to evaluate the effectiveness and productivity of individual employees and to reward employee performance.

Testimony on this measure was submitted by the Department of Personnel Services, the Judiciary, and the Department of Education.

Your Committee finds that this measure would provide for more efficient government operations and encourages entrepreneurship by requiring the establishment of individual employee performance standards and measurements.

Your Committee, upon further consideration, has amended Section 2 of the bill by deleting the word "shall" in the proposed language of § 1(a) and instead substituting the word "may", to allow state agencies some flexibility in establishing committees and operating unit subcommittees.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1555, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1555, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Alcon, Takumi and Taniguchi.

SCRep. 976 Hawaiian Affairs on S.B. No. 1744

The purpose of this bill as received by your Committee is to create a management regime for the island of Kaho'olawe and its waters which will be effective until such time that control of the island may be transferred to the sovereign native Hawaiian entity. Under the regime, control and management of the reserve by the Department of Land and Natural Resources (DLNR), is subject to the oversight of a Commission composed of representatives of the Hawaiian community as well as affected state and county agencies. In addition, uses of the island and its waters are restricted in perpetuity to restoration of the island, preservation and protection of the island's archaeological and environmental resources, and to the practice and revitalization of native Hawaiian custom and beliefs. The bill also provides for an appropriation of funds to be expended by the DLNR.

Your Committee heard testimony in favor of the bill from the Office of Hawaiian Affairs, the Protect Kaho'olawe Ohana, the Office of State Planning, and the County of Maui.

The Protect Kaho'olawe Ohana (PKO) testified that it had been steward for the island since 1980, under a Consent Decree signed in the Aluli v. Brown litigation between the PKO and the U.S. Navy. PKO stated that the bill addressed its main concerns, which were that the island be healed and that there be a revitalization of Hawaiian custom, belief, and practice on Kaho'olawe and in its surrounding ocean. The PKO requested that the amendments incorporated by the Committee in the House version of the bill, H.B. No. 2015, H.D. 2, be added to the Senate bill, which amendments include increasing the representation of the PKO, including the term "native Hawaiian" to define the kind of cultural, spiritual, and subsistence use limitations permitted on the island, and strengthening the State's commitment to require the Federal government to assume liability for the clean-up of the island.

The Office of Hawaiian Affairs, (OHA), testified that the bill acknowledged the crucial tie that the kanaka maoli have to the aina by reserving Kaho'olawe in perpetuity for the preservation and practice of the Hawaiian lifestyle. OHA emphasized that one of the most important objectives of the Hawaiian people with regard to Kaho'olawe was to secure access and availability, and that there should be assurance that the current level of access to the island not be diminished. OHA also stated that if possible, provisions relating to Federal liability for the clean-up should be strengthened.

The Office of State Planning, (OSP), stated that it supported the bill, which in establishing a management regime prior to any federal conveyance of the island to the State, made clear the State's intentions regarding Kaho'olawe. OSP stated its concern that there had been increased public activity in the waters around the island, and that in consideration of the danger from unexploded ordnance in the island waters as well as on the land, it was preparing emergency rules governing access to protect the health and safety of Hawaii's citizens and visitors. OSP also emphasized its strong commitment to