



HAWAI‘I CIVIL RIGHTS COMMISSION

KOMIKINA PONO KIWILA O HAWAI‘I

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MINUTES

Hawai‘i Civil Rights Commission Office

via Zoom

February 7, 2024

1:00 p.m.

Present: Chair Liann Ebesugawa, Commissioner William Puette, Commissioner Jon Matsuoka, Commissioner Arsima Muller, Commissioner Joan Lewis

Staff: Executive Director Marcus Kawatachi, Chief Counsel Constance Yonashiro, Deputy Executive Director Heather McVay, Adjudications Secretary Sandy Yoshimura, Enforcement Attorney Joey Badua

Chair Ebesugawa called the meeting to order at 1:05 p.m.

Chief Counsel’s Report

- Continued discussion on 2024 Legislation relating to Civil Rights
The Commissioners reviewed the 2024 Legislative Summary 1B, included with the commission meeting packet compiled and distributed on 2/5/24, with staff recommendations, and decided on the HCRC positions for the following measures:

SB2503/ HB2584U – Equity, Universal Changing Accommodations

Staff recommendation/Discussion: During the Commission Meeting on 1/25/24, Chief Counsel Yonashiro noted that HCRC supported HB1145 in 2023, but this is not accurate. A review of testimony shows that HCRC provided comments on HB1145 in 2023 and did not state a position. Due to the inaccurate characterization of the Commission’s previous position, the Commission’s current position should be further discussed and/or confirmed. Previous testimony on HB1145 (2023) is included with this packet for review.

Position: Provide comments.

HB2552/SB2930 – Relating to Employee Benefits

Staff recommendation/Discussion: Amends HRS Chapter 398, family leave law. Expands protections to include “neonatal care” where pregnancy/pregnancy-related medical conditions appear, requiring amendment to HCRC Rules, but does not amend HRS Chapter 378. Discussed during January 25, 2024 meeting, where the Commission decided to support with reservations. However, staff now recommend that the Commission support intent with comments.

Position: Support intent with comments.

SB3311 – Discrimination in Public Accommodations

Staff recommendation/Discussion: Support intent with comments. The bill adds new definitions in HRS § 489-2 (“accessible”, “application”, “Information and communication technology”, “website”), changes the definition of “place of public accommodation,” and adds the language “physical or digital.” A place of public accommodation has been interpreted by the HCRC to be tied a physical location, but this would explicitly broaden coverage. At the federal level courts of appeals are split on whether websites are places of public accommodation (9th Circuit has held that places of public accommodation are limited to physical spaces but could conceivably include websites linked to PAs). HCRC does not have the technical expertise to confirm compliance with the “World Wide Web Consortium Web Content Accessibility Guidelines 2.1. Level AA.”

Position: Support intent with comments.

SB2689/HB1595 – Relating to Expungement

Staff recommendation/Discussion: Support intent with comments. Creates a state-wide system to expunge records for certain individuals for no cost. Would remove a barrier that HCRC sees with individuals with arrest and court records.

Position: Support intent with comments.

SB2670/HB1799 – Relating to Preferred Names

Staff recommendation/Discussion: Support intent with comments. This would aid individuals who use a different name than what appears on diplomas, transcripts, etc. to demonstrate that they have completed educational requisites for employment, etc., as these types of documents are often needed in employment and housing. Discussion on HCRC supporting the intent, while recognizing that the DOE will have to find a way to implement it.

Position: Support intent with comments.

SB2883/HB2078 – Inclusive Materials (DOE), Remedies with HCRC

Staff recommendation/Discussion: Support intent but oppose linking remedies to HCRC’s jurisdiction under HRS Chapter 368. Recommend offering alternative language to change it from HCRC jurisdiction to private civil action. Offer language to make the remedies similar to remedies available under HRS Chapter 368 (actual, compensatory, punitive damages, attorney’s fees). Chair noted that public libraries fall under DOE. Discussion on public libraries as places of public accommodation.

Position: Support intent with comments on remedies.

HB2731 – Relating to Sex-Based Athletics in Schools

Staff recommendation/Discussion: Oppose. Similar wording to HB1740, discussed on 1/25/24.

Position: Oppose.

SB2683/HB1824 – Relating to Defamation

Staff recommendation/Discussion: Provide comments. Protects individuals who make claims of sexual misconduct from defamation lawsuits unless the claims were proven to be made with malice. Discussion on concerns of First Amendment rights.

Position: Provide comments.

SB3000/HB2003 – Relating to Menstrual Products

Staff recommendation/Discussion: Support. Requires the Department of Accounting and General Services to provide menstrual products at no cost in specified restrooms in public buildings maintained by the department. Appropriates moneys.

Position: Support.

HB2079/SB2882 – Relating to Gender Affirming Health Care

Staff recommendation/Discussion: Support intent with comments. Clarifies that laws from other states are unenforceable if another state has laws allowing a state agency to remove a child from parent/guardian based on the parent/guardian allowing the child to receive gender-affirming health care.

Position: Support intent with comments.

SB2669 – Relating to Gender Affirming Care, Telehealth Services

Staff recommendation/Discussion: Support intent with comments. Expects certain in-person consultation and examination requirements to establish a provider-patient relationship for the purposes of gender affirming treatment via telehealth. Expects certain in-person consultation and examination requirements to establish a provider-patient relationship for issuing prescriptions for the purposes of gender affirming treatment. Prohibits certain boards from taking adverse action against individuals possessing or applying for a license to practice medicine and surgery or nursing for providing gender affirming treatments in the State in compliance with the laws of the State or being disciplined by another state for providing gender affirming treatments.

Position: Support intent with comments.

HB2116 – Relating to Driver’s Licenses

Staff recommendation/Discussion: Provide Comments. Requires the examiner of drivers of a county to conduct the testing of an applicant for a driver’s license in English or in certain other languages (12 specific languages listed) at the request of the applicant. Offer comments that the list of languages may be limiting due to only certain languages being included.

Position: Offer Comments.

HB2179 – Relating to Equitable Gender Representation on Corporate Boards

Staff recommendation/Discussion: Support intent with comments. Supported the intent in 2021, in a similar bill, HB1077 (differences in wording, this bill is better), and expressed concern that it should include racial diversity as well. Recognize that this would be a step forward.

Position: Support intent with comments.

SB2688 – Relating to Information Accessibility

Staff recommendation/Discussion: Support intent. Establishes the Access Hawaii Advisory Committee to advise the Access Hawaii Committee on how to improve accessibility to government information for people with diminished access to government information

arising from disabilities. Requires the Access Hawaii Committee to review the recommendations of the Access Hawaii Advisory Committee, implement appropriate action to improve access to the government, and include in its annual report the Access Hawaii Advisory Committee's recommendations and the Access Hawaii Committee's actions relative to the Access Hawaii Advisory Committee's recommendations.

Position: Support intent.

SB3290 – Relating to American Sign Language

Staff recommendation/Discussion: Support intent with comments. We support greater recognition of ASL and Deaf culture. Supported SB610 in 2023 that recognized ASL as fully developed autonomous natural language. More information regarding the needs of the Deaf community would help address issues.

Position: Support intent with comments.

SB2781/HB2107 – Relating to Disaster Services

Staff recommendation/Discussion: Support. Appropriates funds to establish the position of Limited English Proficiency Language Coordinator within the Hawaii Emergency Management Agency. Declares that the general fund expenditure ceiling is exceeded. During the Maui wildfires, the Office of Language Access was stretched thin because they had to expend their very limited resources to act as a language coordinator for different agencies.

Position: Support.

SB3252 – Proposing a Constitutional Amendment to Protect Reproductive Freedom

Staff recommendation/Discussion: Support. Amends the Hawai'i State Constitution to prohibit the State from denying or interfering with an individual's reproductive freedom, including the right to choose or obtain an abortion or to choose to obtain or use contraceptives.

Position: Support.

Discussion of **SB2884/HB2080 – Proposing a Constitutional Amendment Relating to Marriage** and **HB2802 – Proposing a Constitutional Amendment Relating to Marriage** occurred concurrently.

Staff recommendation/Discussion: Support. There are differences between the bills, the SB and HB companion bills remove legislature power to limit marriage to opposite sex couples, while HB2802 repeals this section completely. Discussion on whether the difference matters, whether there is a conflict, and which one we should support. Commissioners want to make their position clear that the right to marriage equality should exist and should not be changed.

Position on SB2884/HB2080: Support.

Position on HB2802: Support.

Chair suggested that further discussion of the bills for which staff recommend monitoring only (listed below) is not necessary unless Commissioners want to discuss particular bills.

HB2470 – Relating to Contested Cases

SB2715 – Relating to Unfair Labor Practices

SB2750 – Relating to Braille Literacy

SB2782 – Relating to Electronic Information Technology

[SB2603](#) – Relating to Family Court
[SB2852](#) – Relating to the Executive Office on Aging
[SB2751](#) – Relating to the Sunshine Law
[SB3048/](#)[HB2359](#) – RE Hawaii Broadband & Digital Equity Office
[SB3248](#) – RE Hawaii Broadband & Digital Equity Office
[SB3048/](#)[HB2391](#) – RE Telecommunications for Individuals with Print Disabilities
[SB3269/](#)[HB1794](#) – Relating to the Hawaiian Language
[HB2540](#) – Relating to the Hawaiian Language
[SB3249](#) – Relating to Currency
[SB3017](#) – Relating to Hawaiian Independence Day
[HB1780](#) – Relating to World Peace Day
[SB3319](#) – Relating to State Holidays (Reconciliation Day)
[SB2636](#) – Relating to Remote Meetings
[SB2638](#) – Relating to Board Packets
[SB2452](#) – Relating to Corrections
[SB2482](#) – Relating to Telecommunications

Chief Counsel Yonashiro noted that the HCRC received a public comment/testimony on SB2638 in support of the bill. Commissioners agreed with staff recommendation to monitor SB2638. Commissioners did not feel the need to further discuss any of the listed bills.

Next Meeting

The next meeting of the Commission was scheduled for Monday, February 26, 2024, at 1:00 p.m.

Adjournment

**Draft minutes circulated by Marcus Kawatachi, Executive Director.
Approved by Commission, as circulated, on March 28, 2024.**