

Honolulu, Hawaii

MAR - 2 2006

RE: S.B. No. 3033
S.D. 2

Honorable Robert Bunda
President of the Senate
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committee on Judiciary and Hawaiian Affairs, to which was referred S.B. No. 3033, S.D. 1, entitled:

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

begs leave to report as follows:

The purpose of this measure is to require a successor employer or entity of a covered establishment to retain one hundred percent of the incumbent, nonsupervisory, and nonconfidential employees in the event of divestiture.

This measure also:

- (1) Establishes procedures for the retention of incumbent employees;
- (2) Provides for the retention of less than one hundred percent of incumbent employees when the new business is substantially dissimilar from the former business;
- (3) Establishes penalties for the failure of a successor employer or entity to comply with the retention requirements of the law; and
- (4) Requires an employer of a covered establishment to provide the employees and the director of labor and industrial relations written notification of divestiture at least sixty days prior to divestiture.



Your Committee received testimony in support of this measure by the Hawaii State AFL-CIO, the IBEW Local 1260, the Hawaii State Teachers Association, United Public Workers, the ILWU Local 142, and four individuals. Testimony in opposition to this measure was submitted by the Department of Labor and Industrial Relations, the Chamber of Commerce of Hawaii, the Retail Merchants of Hawaii, the Society for Human Resources Management - Hawaii Chapter, the Hawaii Hotel & Lodging Association, the Kauai Chamber of Commerce, and LWD, Inc.

Your Committee finds that the retention of incumbent workers is healthy for the State's economy because it provides stable employment for Hawaii workers and efficient, uninterrupted service to consumers.

Over the past several years, the state of the economy has resulted in the closure or transfer of ownership of many businesses in Hawaii. This phenomenon has displaced workers throughout the State, forcing many to rely on state services for their survival and welfare. Your Committee further finds that these displaced workers are often dedicated employees who have served in their positions for extended periods of time. These employees are the backbone of the operations and their displacement upon the transfer of business ownership is burdensome and often unnecessary, particularly when no change in the type of business conducted occurs. On the other hand, when the type of business conducted changes with the new ownership, the retention of all incumbent employees is not always necessary or prudent, although a reasonable number of incumbent employees should still be retained.

Your Committee has amended this measure by changing the effective date to July 1, 2050 to continue the discussions on this matter.

As affirmed by the record of votes of the members of your Committee on Judiciary and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3033, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3033, S.D. 2.



Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Hawaiian Affairs,



COLLEEN HANABUSA, Chair



