

STAND. COM. REP. NO.

3412

Honolulu, Hawaii

APR 04 2008

RE: H.B. No. 1745
H.D. 3
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred
H.B. No. 1745, H.D. 3, entitled:

"A BILL FOR AN ACT RELATING TO EMPLOYMENT,"

begs leave to report as follows:

The purpose of this measure is to require a successor
employer to rehire one hundred per cent of incumbent
nonsupervisory and nonconfidential employees in the event of
divestiture of a company.

Your Committee received testimony in support of this measure
from ILWU Local 142; Unite Here! Local 5 Hawaii; Hawaii State
Teachers Association; and Hawaii State AFL-CIO. Testimony in
opposition was received from the Department of Labor and
Industrial Relations; The Hawaii Business League; Hawai'i Hotel &
Lodging Association; National Federation of Independent
Businesses; Retail Merchants of Hawaii; The Chamber of Commerce of
Hawaii; and Outrigger Hotels. Testimony in opposition was
received from Aloha Airlines.

This measure applies whenever there is a divestiture, defined
as a transfer of any establishment which employs at any time in
the preceding twelve-month period, one hundred or more persons,
including employees holding a management or similar position, from
one employer to another because of the sale, transfer, merger, and
other business takeover or transaction of business interests. An
establishment is an industrial, commercial, or other business

2008-2100 SSCR SMA-1.doc



entity. The successor employer may retain less than one hundred per cent of incumbent employees if the nature of the successor establishment is substantially dissimilar to the former establishment or the human resource needs of the successor employer are reduced, resulting in a reduction of needed employees, as long as the number of employees to be dislocated is in direct proportion to the reduction in the total human resource needs of the successor employer.

This measure also amends section 383-66, Hawaii Revised Statutes, relating to the determination of employer unemployment contribution rates, by:

- (A) Repealing now obsolete provisions of past contribution schedules; and
- (B) Extending from December 31, 1992 to December 31, 2007, the provision allowing a predecessor employer to waive the rights to all or the clearly identifiable and segregable portion of the predecessor's prior experience record in favor of a successor employer where the successor employer acquired a clearly identifiable and segregable portion of the predecessor's organization, trade, or business.

Your Committee has amended this measure by:

- (1) Providing for a penalty of \$1; and
- (2) Adding "divestiture" as a conforming amendment to the purpose section of chapter 394B, Hawaii Revised Statutes.

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. 1745, H.D. 3, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1745, H.D. 3, S.D. 1, and be placed on the calendar for Third Reading.



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


BRIAN T. TANIGUCHI, Chair



The Senate
 Twenty-Fourth Legislature
 State of Hawaii

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:*	Committee Referral:	Date:
HB 1745 HD 3	JDL	3/19/08

The committee is reconsidering its previous decision on this measure.
 If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended 2312 Pass, with amendments 2311 Hold 2310 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
TANIGUCHI, BRIAN T. (C)	/			
HEE, Clayton (VC)				/
GABBARD, Mike		/		
KOKUBUN, Russell S.	/			
NISHIHARA, Clarence K.				/
SLOM, Sam			/	/
TOTAL	2	1	1	2

Recommendation: Adopted Not Adopted

Chair's or Designee's Signature:
Russell S. Kohl

Distribution: Original Yellow Pink Goldenrod
 File with Committee Report Clerk's Office Drafting Agency Committee File Copy

*Only one measure per Record of Votes