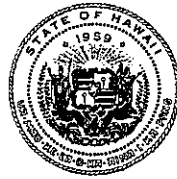


LINDA LINGLE
GOVERNOR



DARWIN L.D. CHING
DIRECTOR

COLLEEN Y. LaCLAIR
DEPUTY DIRECTOR

**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813
www.hawaii.gov/labor
Phone: (808) 586-8842 / Fax: (808) 586-9099
Email: dlir.director@hawaii.gov

March 18, 2008

To: The Honorable Brian T. Taniguchi, Chair
and Members of the Senate Committee on Judiciary and Labor

Date: Wednesday, March 19, 2008

Time: 10:00 a.m.

Place: Conference Room 016
State Capitol

From: Darwin L.D. Ching, Director
Department of Labor and Industrial Relations

**Testimony in Strong Opposition
to
H.B. 1745 H.D. 3 Relating to Employment**

I. OVERVIEW OF PROPOSED LEGISLATION

H.B. 1745 H.D. 3 proposes to amend Chapter 349B of the Hawaii Revised Statutes (HRS) by:

1. Adding a section regarding worker retention in the event of a divestiture that the successor employer:
 - a. Must hire all incumbent nonsupervisory and nonconfidential employees of the affected establishment;
 - b. Must not require incumbent employees to file employment applications for hiring purposes with the successor employer unless existing employee files are incomplete;
 - c. May conduct pre-hire screening of incumbent employees not prohibited by law.

- d. The proposal would also lower the retention rate if the nature of the succeeding business is substantially dissimilar to the former establishment or the human resource needs are reduced; provided that the number of dislocated employees be proportionate to the reduction in total human resource needs.
2. Adding another section in cases of non-compliance to impose either a daily penalty or monetary compensation to the dislocated employee equaling the difference between the salary or wages earned under the former employer and unemployment insurance benefits (which seems to be in addition to the Dislocated Worker Allowance to affected employees that is prescribed in the existing law). Penalty monies are to be deposited into the employment and training fund established under section 383-128.
3. Adding definitions of “divestiture” and “establishment” which covers any industrial, commercial or other business entity which employs at least one hundred or more persons any time in the preceding twelve month period.

H.B. 1745 H.D. 3 also proposes to amend Chapter 383, HRS, by:

1. Amending section 383-66(a), HRS, to enable certain successor companies that acquire a clearly identifiable and segregable portion of the predecessor’s organization, trade, or business to also acquire its predecessor’s unemployment insurance contribution rate during the period after December 31, 1988 to December 31, 2007.

II. CURRENT LAW

1. Chapter 394B, HRS, provides employment and training assistance for dislocated workers. The chapter was amended in 1987 to protect employees who were faced with termination due to a sudden closure or partial closing as a result of a sale, transfer, merger, or business transaction by:
 - a. Requiring employers with fifty or more employees in the State of Hawaii to provide advance notification to the Department of Labor and Industrial Relations to all affected employees;
 - b. Requiring employers to provide Dislocated Worker Allowance (the difference between the employee’s average weekly wage and the weekly unemployment compensation benefit) to affected employees who apply for and are found eligible for unemployment compensation;

- c. Requiring employers to provide prompt payment of wages and benefits on the effective date of closing to each employee.

The law was amended in June, 2001 to extend the advance notification period from forty-five (45) to sixty (60) days. The law was also amended in July, 2007 to include a definition of "divestiture", amend the definition of "closing", include penalties for non-compliance and allow for an extension of the sixty day period under certain circumstances.

2. Section 383-66(a), HRS, currently does not allow partial transfers of experience for unemployment insurance. Partial transfers were only allowed from 1988 to 1992 for an employing unit that acquired a clearly identifiable and segregable portion of the organization, trade, or business of another and the successor resumed and continued to employ all or nearly all of the employees of the clearly identifiable and segregable portion.

III. HOUSE / SENATE BILL

The Department of Labor and Industrial Relations ("Department") strongly opposes this bill for the following reasons:

1. Enacting this law under Chapter 394B as proposed could be potentially detrimental to Hawaii's economy.

Requiring a successor employer in a divestiture to retain all of the incumbent employees of an affected establishment, or a number proportionate to total human resource needs, seems overly prescriptive because it would not allow the successor employer to bring its own employees except for supervisory or confidential workers.

Additionally, the bill is vague on how to measure human resource needs. For example, a successor employer retains only 200 of 300 employees because the business can be successfully operated at that lower staffing amount. How would the employer (or Department) verify that the human resource needs of the company merited the release of 100 employees?

2. It would not be in the best interest of the general public for the Legislature to dictate to private companies on who they should hire and terminate under these circumstances. A company buying another company will naturally want to keep the good employees who bolster their brand's identity, while letting others go.
3. The requirement may also have an adverse effect on the selling employer's current employees. If the company in question is being sold due to a financial crisis, possible successor companies will choose not to purchase the existing

company, ensuring a greater likelihood that the company will go bankrupt and that all the employees will become unemployed.

4. Collective bargaining agreements, which were developed to protect the interests of employees, exist in larger companies and must be taken into consideration by all parties involved in a divestiture.

State government should not dictate to a buying company that is investing money in a local business to keep those employees that are not needed or not serving in the best interest of their company.

5. The current definition of divestiture covers establishments with fifty or more employees in Hawaii and transfer from one employer to another because of the sale, transfer, merger, bankruptcy, or other business takeover or transaction of business interests that causes the covered establishment employees to become dislocated workers. If HB 1745 is passed without revisions, the Department recommends the following situations be considered and necessary revisions be made for clarification:

- * If HB 1745 requires the retention of employees, they will not be considered dislocated workers. In order to meet the definition of a “dislocated worker”, a person would need to be terminated.
- * Will there be definitions for both “establishment” as proposed, and “covered establishment” as currently defined? A covered establishment is any business entity which employs fifty or more persons. HB 1745 proposes to add a definition for “establishment”, which is an industrial, commercial, or other business entity, and amend the definition of divestiture to cover establishments with 100 or more employees. Will the retention of employees in a divestiture cover only entities with 100 or more employees?

6. In regards to the proposed amendment under section 383-66(a), which permits partial transfers retroactively to 1989, the Department does not retain employer records beyond five years from the end of the calendar year to which they relate (section 383-102, HRS, and section 12-5-41, Administrative Rules). This measure should be restricted to prospective partial transfers that occur upon enactment of H.B. 1745.

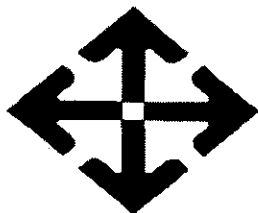
7. The Legislature should also be aware that under section 383-66(b) which was enacted on June 9, 2005, the transfer of experience and recalculation of the contribution rate is mandatory for all partial transfers where there is substantial common ownership, management or control between the successor and predecessor at the time of the transfer. Therefore, section 383-66(a) will apply to partial transfers that occur between business entities that are not under common

H.B. 1745 H.D. 3

March 18, 2008

Page 5

ownership, management or control.



The Hawaii Business League

820 Mililani St., Ste. 810 Honolulu, Hawaii 96813-2938
Phone: (808) 533-6819 ♦ Facsimile: (808) 533-2739

March 19, 2008

Testimony To: Senate Committee on Judiciary and Labor
Senator Brian T. Taniguchi, Chair

Presented By: Tim Lyons
Executive Vice President

Subject: H.B. 1745, HD 3- RELATING TO EMPLOYMENT.

Chair Taniguchi and Members of the Committee:

I am Tim Lyons, Executive Vice President of the Hawaii Business League, a small business service organization. We are opposed to this bill.

We believe that this bill will have a very "chilling" effect on entrepreneurship in Hawaii. As we noted last year, we have already heard from some members who want to be kept apprised of the status of this bill so that they can be sure that they sell prior to the bill's effective date.

While we appreciate the amendment of restricting the divestiture requirements to business of 100 employees or more, we still are quite apprehensive about the fact that in future legislative

sessions, there will be proposals to bring 100 employees down to 50 employees or 20 employees or 10 employees or even 1 employee. To us it appears to be just a matter of time.

As we have noted, one employer purchases another employer's business because they think they can run it better. One of the items to improve may involve employees and we find that proposed Section 394B(c) would seem to allow for that but the intent of the bill is clearly in contradiction to that "right".

We are also opposed to requiring the penalties to be paid into the Employment and Training Fund. First, because we oppose the entire fund as a tax placed on all small businesses most of which do not use the fund nor will they ever use the fund because of the unique requirements of small businesses. Secondly, we also oppose this bill because we are fearful of the fact that programs subject to the budgetary requirements of this fund that need additional money will provide the impetus for vigorous enforcement.

Based on the above, we are opposed to this bill.

Thank you.



**HAWAII HOTEL & LODGING
ASSOCIATION**

2270 Kalakaua Ave., Suite 1506
Honolulu, HI 96815
Phone: (808) 923-0407
Fax: (808) 924-3843
E-Mail: hha@hawaiihotels.org
Website: www.hawaiihotels.org



30th Anniversary
Are You Walking???
May 17, 2008
(Always the 3rd Saturday in May)
www.charitywalkhawaii.org

**TESTIMONY OF MURRAY TOWILL
PRESIDENT
HAWAII HOTEL & LODGING ASSOCIATION**

March 19, 2008

RE: HB 1745 HD 3 Relating to Employment

Good morning Chairman Taniguchi and members of the Senate Committee on Judiciary and Labor. I am Murray Towill, President of the Hawaii Hotel & Lodging Association and I appreciate this opportunity to testify.

The Hawaii Hotel & Lodging Association is a statewide association of hotels, condominiums, timeshare companies, management firms, suppliers, and other related firms and individuals. Our membership includes over 170 hotels representing over 47,300 rooms. Our hotel members range from the 2,523 rooms of the Hilton Hawaiian Village to the 4 rooms of the Bougainvillea Bed & Breakfast on the Big Island.

The Hawaii Hotel & Lodging Association does not support HB 1745 HD 3 Relating to Employment.

We do not believe mandating a purchaser of a business to retain all incumbent employees is an appropriate role for government. A business owner should be entitled to hire or retain employees who can help make the business successful.

The net effect of a mandate of this type will be to discourage investment in Hawaii. Investors whether local or from out of State, may be reluctant to invest in Hawaii businesses if confronted with legislation like this.

Finally, when examining a concept like this, it is important to realize that the economy runs in cycles. While the last few years have been very good in the visitor industry, we currently see signs of a slowdown. The investments that have occurred in recent years have led to dramatic reinvestments and improvements in our visitor plant. This reinvestment will help us weather the slowdowns that will surely come.

Given the global competition in tourism and investment capital, we urge you not to support measures that will discourage investment.

Again, mahalo for this opportunity to testify.



Randy Perreira
President

HAWAII STATE AFL-CIO

320 Ward Avenue, Suite 209 • Honolulu, Hawaii 96814

Telephone: (808) 597-1441

Fax: (808) 593-2149

The Twenty-Fourth Legislature, State of Hawaii
Hawaii State Senate
Committee on Judiciary and Labor

Testimony by
Hawaii State AFL-CIO
March 19, 2008

H.B. 1745 HD3 – RELATING TO EMPLOYMENT

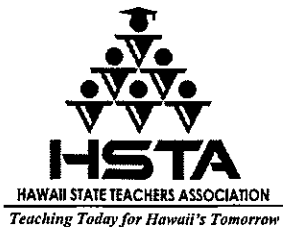
H.B. 1745 HD3 establishes job security requirements upon the sale, merger or other transfer of a business establishment that employs 100 or more persons.

The Hawaii State AFL-CIO strongly supports this measure.

The purpose of this bill is to provide employers and employees a smooth transition when a business is taken over by a successor employer. It will eliminate the disorder and hardships in peoples' lives and in their communities.

Furthermore, is not in the state's interest to dramatically increase its unemployment rolls as it does not help the state's fiscal picture to have a turned-over and intimidated workforce providing inexperienced and inefficient services. In addition, it is neither socially nor economically healthy that many of these workers' lives are disrupted and families become unstable.

This measure is pro-family and pro-community and makes sound economic and public policy. The Hawaii State AFL-CIO urges its passage. Thank you for the opportunity to testify in support of H.B. 1745 HD3.



1200 Ala Kapuna Street λ Honolulu, Hawaii 96819
Tel: (808) 833-2711 λ Fax: (808) 839-7106 λ Web: www.hsta.org

Roger K. Takabayashi
President

Wil Okabe
Vice President

Karolyn Mossman
Secretary-Treasurer

Mike McCartney
Executive Director

TESTIMONY BEFORE THE SENATE COMMITTEE ON
JUDICIARY & LABOR

RE: HB 1745, HD3 – RELATING TO EMPLOYMENT.

March 19, 2008

ROGER TAKABAYASHI, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Taniguchi and Members of the Committee:

The Hawaii State Teachers Association supports HB 1745, HD3, that establishes job security requirements upon the sale, merger or other transfer of a business establishment that employs 100 or more persons.

Thank you for the opportunity to testify.

UNITE HERE! LOCAL 5 HAWAII

Eric Gill, Financial Secretary-Treasurer

Hernando Ramos Tan, President

Godfrey Maeshiro, Senior Vice-President

Monday, March 17, 2008

Senator Brian Taniguchi, Chair
Senator Clayton Hee, Vice Chair
Senate Committee on Judiciary & Labor

Supporting the intent of HB 1745 HD 3, relating to employment.

Chair Taniguchi, members of the Senate Committee on Judiciary & Labor, I submit this testimony on behalf of UNITE HERE! Local 5.

UNITE HERE! Local 5 wishes to express our support for the intent of House Bill 1745 HD 3.

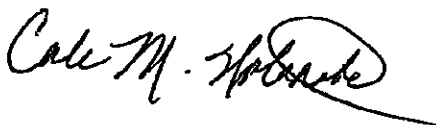
If enacted, HB 1745 would amend Chapter 394B of the Hawaii Revised Statutes by adding a new section outlining the necessary changes to the Statute that would provide for job security for employees in the event their employing business undergoes a sale, merger, or other transfer.

The relevance of HB 1745 is of particular interest to those familiar with the recent and sometimes unpredictable changes seen in Hawaii's tourism industry with respect to the sale and transferring of ownership from one hotel owner/operator to another. In fact, the adverse affects such changes have had on workers have been well documented by our local media.

In spite of the fact that in our Local 5 hotel contracts successor-ship language provides for the securing of assumption agrccments with any new incoming owner-a clause Local 5 members have had to secure for themselves-we support the intent expressed in HB 1745 HD 3. As a local labor organization representing nearly 12,000 hotel and health care workers throughout our State, we believe that the intent of HB 1745 addresses the rightful claim of all workers in securing a reasonable sense of job security on the job.

I thank this Committee for providing me the opportunity to submit testimony on HB 1745 HD 3.

Sincerely,



Cade M. Watanabe
Community/Political Organizer



Before the Senate Committee on Judiciary and Labor

DATE: Wednesday, March 19, 2008

TIME: 10:00 a.m.

PLACE: Conference Room 016

Re: HB 1745, HD3 Relating to Employment Testimony of Melissa Pavlicek for NFIB Hawaii

Thank you for the opportunity to testify. On behalf of the thousands of business owners who make up the membership of the National Federation of Independent Businesses in Hawaii, we ask that you defer **HB 1745, HD3**. NFIB opposes this measure in its current form.

The National Federation of Independent Business is the largest advocacy organization representing small and independent businesses in Washington, D.C., and all 50 state capitals. In Hawaii, NFIB represents more than 1,000 members. NFIB's purpose is to impact public policy at the state and federal level and be a key business resource for small and independent business in America. NFIB also provides timely information designed to help small businesses succeed.

HB 1745, HD3 is impracticable and anti-business and has the potential to hasten the demise of struggling businesses, ultimately hurting Hawaii's economy. We respectfully ask that you defer **HB1745, HD3**.



Senator Brian Taniguchi, Chair
Senator Clayton Hee, Vice Chair
Committee on Judiciary & Labor
State Capitol, Honolulu, Hawaii 96813

HEARING Wednesday, March 19, 2008
 10:00 am
 Conference Room 016

RE: HB1745, HD3, Relating to Employment

Chair Taniguchi, Vice Chair Hee, and Members of the Committee:

Retail Merchants of Hawaii (RMH) is a not-for-profit trade organization representing about 200 members and over 2,000 storefronts, and is committed to support the retail industry and business in general in Hawaii. The retail industry is the one of the largest single employer in the state, employing 20% of the labor force.

RMH strongly opposes HB1745, HD3, relating to employment, which essentially requires successor employers to retain incumbent employees upon the divestiture, sale, or acquisition of a business.

This bill is an infringement on the basic rights of ownership that seriously impacts the value of a business and the ability of an owner to divest, sell or transfer that business operation. It further discourages investment in Hawaii by severely restricting the options for potential new owners by dissuading any development and/or diversification possibilities. At a time when Hawaii should be encouraging new enterprise in our state to assure sustainable economic prosperity, this bill is a giant step in the opposite direction and could have the undesirable result of more companies just closing their doors for lack of viable alternatives.

The members of the Retail Merchants of Hawaii respectfully request that you hold HB174, HD3. Thank you for your consideration and for the opportunity to comment on this measure.

President

RETAIL MERCHANTS OF HAWAII
1240 Ala Moana Boulevard, Suite 215
Honolulu, HI 96814
ph: 808-592-4200 / fax: 808-592-4202



**The Chamber of
Commerce of Hawaii**
Since 1850

LATE

**Testimony to the Senate Committee on Judiciary and Labor
Wednesday, March 19, 2008; 10:00 a.m.
Conference Room 016**

RE: HOUSE BILL NO. 1745, HD3 RELATING TO EMPLOYMENT

Chair Taniguchi, Vice Chair Hee and Members of the Committee:

My name is Jim Tollefson and I am the President and CEO of The Chamber of Commerce of Hawaii ("The Chamber"). I am here to state The Chamber's strong opposition to House Bill No. 1745 HD3, relating to Employment.

The Chamber is the largest business organization in Hawaii, representing over 1100 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

This measure establishes job security requirements upon the sale, merger or other transfer of a business establishment that employs 100 or more persons, establishes penalties paid into the Employment and Training Fund and used for training and employment programs. The bill also enables certain employers that acquire a business to also acquire its predecessor's unemployment insurance contribution assessment rate through December 31, 2007.

The Chamber well recognizes the hardship that business failures and ownership changes place on employees. However, The Chamber does not believe that House Bill No. 1745 HD3 is an appropriate measure in addressing this issue. The following is a list of some of the reasons why this bill should be held:

- 1) This bill interferes with the basic principles of doing business. This measure removes the purchasing employer's rights to select employees appropriate for its goals and objectives. As a result, it may have the adverse consequence of discouraging capital investment in Hawaii because purchasers will be more reluctant to acquire companies as a result of the stringent requirements and mandates. This will send a negative message to the nation and further undermine Hawaii's efforts in becoming a "business-friendly" climate. It will be the only state that will have this kind of law.

Also, the bill places a mandate on the new business to retain a proportion of the incumbent employees if the human resources needs of the successor employer are reduced. Overall, this bill falls short of taking into consideration that the new business may significantly change the type and scope of goods and services, and may have different plans and objectives for a failed business, which may require a completely different personnel.

Page 2

The Chamber of Commerce of Hawaii Testimony on HB 1745 HD3

- 2) This bill will have the reverse effect, and in turn, cost jobs. The measure may have the unintended consequences of hurting local businesses, which otherwise would have had an opportunity to sell their business to a successor company.

In many cases, businesses are sold because the seller is losing money. In order to turn the business around, a buyer needs the flexibility to change or reduce staff to increase efficiency, or to bring in better qualified or more skilled employees, or to bring in employees with different skill sets.

Those businesses which would normally be sold to a buyer which can make necessary changes will simply go out of business and the employees will lose their jobs. Or the assets of the business will be sold off and the employees will lose their jobs.

- 3) The term, "substantially dissimilar" is ambiguous. Although HB 1745 HD3 recognizes that the new business may be substantially dissimilar to the former business, this term is difficult to define, and will result in litigation in most cases. Once again, employees will lose their jobs due to potential overwhelming litigation costs that could impact the employer.

In sum, House Bill No. 1745 HD3, while well-intended, will pose negative consequences for Hawaii's future. We cannot afford to pass legislation that will have this kind of result. Hawaii should be encouraging investment in its failed or struggling businesses. This bill is a disincentive for investment.

Thus, The Chamber respectfully requests HB 1745 HD3 be held.

Thank you for the opportunity to testify.

LATE

The Twenty-Fourth Legislature
Regular Session of 2008

THE SENATE
Committee on Judiciary and Labor
Senator Brian T. Taniguchi, Chair
Senator Clayton Hee, Vice Chair

State Capitol, Conference Room 016
Wednesday, March 19, 2008; 10:00 a.m.

**STATEMENT OF THE ILWU LOCAL 142 ON H.B. 1745, HD3
RELATING TO LABOR**

The ILWU Local 142 is in strong support of H.B. 1745, HD3, which establishes job security requirements upon the sale, merger or other transfer of a business establishment that employs 100 or more persons, and establishes penalties paid into the Employment and Training Fund.

The sale of a business can result in a smooth transition of employees with no unemployment and continuation of business. Or it can result in wholesale termination of all employees, who then must apply for hire with the new employer. The ILWU has examples from our own membership of both situations.

Some examples are positive. Like the Maui Surf Hotel, which years ago became The Westin Maui when it was sold and more than 300 workers were temporarily laid off during renovations. In this case, the new employer made a commitment to rehire everyone after renovations were completed and, more than a year later, kept its promise.

Some examples, however, are not so positive. Like the Airport Holiday Inn on Oahu, which on New Year's Eve 1986, without prior notice, informed 126 workers that they would have no job in the New Year. After months of unemployment and personal hardship, the ILWU finally won back the jobs of all but a few of the workers. In response to the experience at Airport Holiday Inn, the State Legislature in 1987 passed the Hawaii Dislocated Worker Act, the first of its kind in the nation to require notification for a mass layoff.

In 2006, some 100 Hawaii Naniloa workers were laid off when their company's state lease was awarded to another employer, who chose not to rehire all workers. Only 20 were retained, despite the new owner's pledge to renovate and create Naniloa into a premier destination for visitors to the Big Island. Today, Naniloa has not been renovated as promised, the property is run-down and barely occupied, and all of the original workers are no longer employed at Naniloa. In the meantime, many of the former Naniloa employees are still looking for suitable permanent employment or have been forced into early retirement.

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On Maui, the Grand Wailea Resort has been through more than one ownership change. In 1998, when KSL purchased the hotel, the new employer required more than 900 incumbent workers to apply for their old jobs. Despite a grueling process, only about 70% were rehired, leaving experienced, highly trained workers jobless, many having to start all over again at middle age. Some of them still have not fully recovered from the blow to their self-esteem and economic well-being.

Such disruption could have been avoided if all were hired back in the first place. In fact, maybe taking a lesson from that experience, when Grand Wailea went through another management change in 2006, no one was displaced, business continued uninterrupted, and the new employer earned the gratitude and loyalty of an experienced workforce.

A requirement to retain workers in the event of a sale or management change is not onerous, as many employers have experienced. It just makes good business sense. When a successor employer takes over, a requirement to retain incumbent employees will provide for an orderly transition from one employer to another. The employees, their families, and the community can be spared needless disruption and distress caused by a mass layoff. The employer will retain management rights and can be assured of productivity and loyalty from an experienced and skilled incumbent workforce. A win-win situation by any standard.

In response to concerns, H.B. 1745, HD3 now provides for: (1) the law to apply to employers with 100 or more employees instead of 50; (2) exclusion of non-supervisory and management employees from retention requirements; (3) retention of fewer than 100% of incumbent employees if the new business is substantially dissimilar to the former business; (4) removal of the requirement for retention to be based on seniority; (5) pre-hire screenings, like criminal history checks and drug tests, and terminations for cause; and (6) preservation of the employer's right to manage its employees. As the bill only applies to large employers, fewer than 2% of Hawaii employers would be affected by passage of H.B. 1745, HD3.

The ILWU strongly urges passage of H.B. 1745, HD3. Thank you for the opportunity to share our views and concerns.

THE SENATE
24th LEGISLATURE
REGULAR SESSION of 2008

COMMITTEE ON JUDICIARY & LABOR
Senator Brian Taniguchi, Chair

3/19/08
10:00 AM – Room 016

HB 1745, HD 3
Relating to Employment

Chair Taniguchi and members of this Committee, my name is Max Sword, here on behalf of Outrigger Hotels, to offer our opposition to this bill.

The basic premise of HB 1745, HD is to require a new owner, or a transferee of an existing business, to retain all of the employees of the seller. While the requirement of retaining employees can already be considered anti-business, there is another provision of the bill that is downright punitive.

That provision is the deletion of a long existing practice of transferring experience ratings. What is being proposed in this bill, regarding non-transferring of ratings, means the seller's unemployment rating would be lost and their reserve account would go to the State since funds paid in can only go out for benefits. The new owners of the business would get the same rating as a brand new business, which serves no other purpose than to hurt purchasers of businesses.

But let me get back to the issue of the requirement of rehiring all employees of the seller. This requirement stifles opportunities for workers who may want to seek a position with the new owner and possess excellent skills, which would be an asset to the new owner. If the new buyer had to rehire all the existing employees, new entrants to the workforce like that would never even get a chance to apply. A buyer should be able to pick the best, most qualified workers. Many times, that will be the existing employees - but not in every situation. When any employer promotes, they seek the best qualified personnel. All employers, even new buyers of an existing business, should have that right.

There are situations where a business will only survive if the new owner can make changes in the number and identity of employees. We have seen downsizing occur in businesses around the world where the alternative is the business perishes.

In summary, we must allow new owners to make their own decisions on employees in order to make their businesses viable.

Mahalo for allowing me to testify and we urge not passing out this bill.



A I R L I N E S

LATE

March 18, 2008

Albert J. Pattison
Senior Vice President
Human Resources
P.O. Box 30028
Honolulu, Hawaii 96820
Facsimile 808 539-5950
Telephone 808 539-5939
apattison@alohaairlines.com

Senator Brian Taniguchi, Chair, Senate Judiciary and Labor Committee
Senator Clayton Hee, Vice-chair, Senate Judiciary and Labor Committee

RE: HB1745 SB3 Relating to Employment

Chair Taniguchi, Vice-Chair Hee and Members of the Committee:

My name is Albert J. Pattison and I am Senior Vice President, Human Resources, for Aloha Airlines. Thank you for this opportunity to testify in opposition to House Bill 1745 SD3.

Aloha Airlines employs more than 3,400 Hawaii residents, and is the 10th largest private employer in the State of Hawaii, the 7th largest on the Big Island, 11th largest on Maui and 12th largest on Kauai.

We cannot support House Bill1745 SD 3 simply because it interferes with the rights of a successor employer in the event of a merger, sale, or transfer involving most businesses employing more than 100 persons.

This type of direct interference and infringement on the rights of a successor company discourages capital investment in Hawaii, which is what creates jobs. If investment does not occur, jobs are not created and jobs could be lost.

This type of legislations sends a very negative message to would-be investors and works against Hawaii's efforts to become "business-friendly." Indeed this will distinguish Hawaii as the only state with this type of business-unfriendly law.

Thank you for allowing us to comment on this bill. We urge you to reject it.

Albert J. Pattison
Sr. Vice President Human Resources

