

Honolulu, Hawaii

Feb 9, 2009

RE: H.B. No. 643

H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Sir:

Your Committee on Labor & Public Employment, to which was referred H.B. No. 643 entitled:

"A BILL FOR AN ACT RELATING TO CONTRACTORS,"

begs leave to report as follows:

The purpose of this bill is to protect worker rights by:

- (1) Prohibiting contractors from employing individuals who are ineligible for employment within the United States;
- (2) Requiring the Department of Labor and Industrial Relations (DLIR) to investigate complaints that a contractor has hired an ineligible worker;
- (3) Imposing a civil fine of \$1,000 for each person a contractor employs who is ineligible to work in the United States;
- (4) Authorizing the Contractors Licensing Board of the Department of Commerce and Consumer Affairs to suspend or revoke the license of a contractor if a civil judgment is entered against a contractor on a complaint alleging the contractor hired an ineligible worker; and
- (5) Establishing a special fund from which to expend monies for enforcement purposes.



The Hawaii Building and Construction Trades Council, AFL-CIO, testified in support of this bill. The Laborers' International Union of North America Local 368 and the Chamber of Commerce of Hawaii supported the intent of this measure. A concerned individual testified in opposition to this bill. DLIR did not support this measure. The Department of the Attorney General, Hawaii Civil Rights Commission, and Pacific Resource Partnership commented on this bill.

Although most businesses follow the laws and rules governing their industries with regard to employment of individuals who are ineligible for employment within the United States, some unscrupulous employers take advantage of these individuals since their employment can often reduce costs. However, the use of illegal workers cheats legal workers out of employment opportunities.

Recent events involving the construction industry resulted in the discovery of a number of these illegal workers. According to the Pacific Resource Partnership, between December 2007 and December 2008 at least 168 illegal undocumented workers were arrested in Hawaii with approximately 103 of these workers being employed by the construction industry. These events demonstrate the need for this measure. However, your Committee notes the legal concerns raised by the Attorney General regarding this matter and respectfully requests the Committee on Judiciary to scrutinize these issues as the bill makes its way through the legislative process.

While this measure is an important first step in dealing with this situation, your Committee notes that a more proactive approach to dealing with this problem should be taken.

Accordingly, your Committee has amended this measure by:

- (1) Deleting language requiring a contractor to intentionally or knowingly employ an ineligible worker to constitute a violation;
- (2) Inserting language requiring contractors to certify that workers on a project are eligible to work in the United States as part of their certification process; and
- (3) Inserting language establishing a presumption that the contractor certified their employees in good faith if



the contractor used the E-Verify system to verify the status of their employees.

Your Committee has also amended this bill by:

- (1) Inserting an effective date of August 1, 2009; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 643, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 643, H.D. 1, and be referred to the Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Labor & Public
Employment,



KARL RHOADS, Chair



Record of Votes of the Committee on Labor & Public Employment

Bill/Resolution No.: HB 643	Committee Referral: LAB, JUD, FIN	Date: 2-3-09		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
LAB Members	Ayes	Ayes (WR)	Nays	Excused
1. RHOADS, Karl (C)	/			
2. YAMASHITA, Kyle T. (VC)	/			
3. AQUINO, Henry J.C.	/			
4. AWANA, Karen Leinani	/			
5. HANOHANO, Faye P.	/			
6. KEITH-AGARAN, Gilbert S.C.	/			
7. LEE, Marilyn B.	/			
8. NAKASHIMA, Mark M.	/			
9. SAIKI, Scott K.	/			
10. SOUKI, Joseph M.	/			
11. TAKUMI, Roy M.	/			
12. PINE, Kymberly Marcos	/			
TOTAL (12)	12			
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <div style="text-align: center; font-size: small;">committee acronym(s)</div>				
Vice Chair's or designee's signature: _____ 				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				