

STAND. COM. REP. NO. 1003

Honolulu, Hawaii

March 18, 2009

RE: S.B. No. 1622  
S.D. 1  
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 S.B. No. 1622, S.D. 1, entitled:

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

begs leave to report as follows:

The purpose of this bill is to protect Hawaii's workers who might be displaced from employment due to the divestiture or transfer of a business to another employer by, among other things:

- (1) Requiring the prospective employer to retain, for a 90-day transition employment period, all employees who were employed by the existing employer at the time of the divestiture of a business; and
- (2) Requiring that the new employer offer an employee retained from the existing employer continued employment under the terms and conditions established by the new employer.

The ILWU Local 142, International Brotherhood of Electrical Workers, Hawaii State AFL-CIO, and Hawaii Teamsters and Allied Workers, Local 996 testified in support of this bill. The Department of Labor and Industrial Relations, Outrigger Hotels, Hawaii Hotel & Lodging Association, Retail Merchants of Hawaii, The Chamber of Commerce of Hawaii, National Federation of Independent Business in Hawaii, Hawaii Restaurant Association,

SB1622 HD1 HSCR LAB HMS 2009-2967



Hawaii Credit Union League, The Hawaii Business League, Building Industry Association of Hawaii, Exquisite Hawaiian Weddings and Event Productions L.L.C., General Contractors Association of Hawaii, Garden Isle Healthcare & Hale Kupuna Heritage Home, Ohana Pacific Management Co., NetEnterprise Inc., Kauai Chamber of Commerce, Steiner & Associates, Highway Inn Inc., Mokulua Contracting LLC, 1132 Cafe & Catering, Wilson Homecare, Hawaii Automobile Dealers Association, and two concerned individuals testified in opposition to this bill.

Your Committee finds that the difficult economic times facing Hawaii, as well as the rest of the nation, has caused an uneasiness among employees and their employers that continues to have a negative impact on the economy. Many employees fear losing their jobs because of business takeovers. A mass layoff caused by a divestiture poses problems, not only to the employees directly affected, but to the community at large because of increased unemployment and decreased state tax revenues. Addressing this fear and uneasiness may alleviate employee concerns, positively affect consumer confidence and, in turn, have a positive effect on our economy.

At the same time, your Committee understands the concern that this measure may also cause hardship for employers trying to sell their business, particularly if the prospective buyer is interested in operating a dissimilar business or does not need the entire cadre of the former owner's employees.

Accordingly, your Committee has amended this bill by:

- (1) Stipulating that a new employer need not retain the previous owner's employees if the new business is substantially dissimilar or the human resources needs of the new employer are reduced;
- (2) Removing language requiring new employers to give employees an opportunity to improve their work performance if they have received an unsatisfactory performance evaluation during the 90-day transition period; and
- (3) Replacing the penalty amount for noncompliance with these new requirements from \$500 for each day of a violation to an unspecified amount.



Technical, nonsubstantive amendments were also made for clarity, consistency, and style.

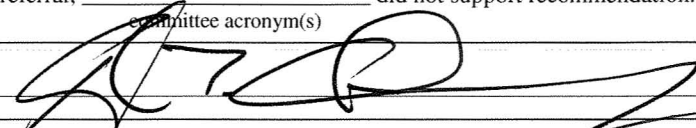
As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1622, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1622, S.D. 1, H.D. 1, and be referred to the Committee on Economic Revitalization, Business, & Military Affairs.

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.: <b>SB 1622, SD1</b>	Committee Referral: <b>LAB, EBM, FIN</b>	Date: <b>3-13-09</b>		
<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)	9	-	-	3
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. _____ committee acronym(s)				
Vice Chair's or designee's signature: 				
Distribution: Original (White) – Committee      Duplicate (Yellow) – Chief Clerk's Office      Duplicate (Pink) – HMSO				