

Honolulu, Hawaii

FEB 20 2009

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

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Madam:

Your Committee on Labor, to which was referred S.B. No. 1622
entitled:

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

begs leave to report as follows:

The purpose of this measure is to set minimum state standards
to protect all employees, with the limited exception of executive,
administrative, or professional employees, who otherwise would be
displaced when their employer sells the business to a prospective
employer.

The measure provides as follows:

- (1) Section 2 creates a ninety-day Transitional Employment
Period to provide protection to employees in the event
of a divestiture of a covered establishment and requires
the acquiring employer, with some exceptions, to retain
the incumbent employees;
- (2) Section 3 amends section 394B-1, Hawaii Revised
Statutes, to include divestiture within the findings and
purposes of the Act;
- (3) Section 4 amends section 394B-2, Hawaii Revised
Statutes, to expand the definition of covered
establishment to include businesses that employ twenty
to fifty employees in the preceding twelve-month period
and to amend the definition of employees, for purposes



129

of the Transitional Employment Period, to include all but the limited group of executive, administrative, and professional employees; and

- (4) Section 5 amends section 394B-12, Hawaii Revised Statutes, to describe the penalties specific to violations related to the Transitional Employment Period.

Your Committee received testimony in support of this measure from The Hawaii State Democratic Women's Caucus; ILWU Local 142; International Brotherhood of Electrical Workers; Laborers' International Union of North America, Local 368; Pride at Work Hawaii; Hawaii Government Employees Association, AFSCME, Local 152, AFL-CIO; Hawaii State AFL-CIO; and Unite Here Local 5. Testimony in opposition was received from the Department of Labor and Industrial Relations; Hawaii Restaurant Association; National Federation of Independent Business in Hawaii; and The Chamber of Commerce of Hawaii.

The Transitional Employment Period recognizes the all too frequent sales of businesses in Hawaii that adversely impact the stability of our workforce and create an additional toll on our economy and unemployment system. These mass terminations due to a business divestiture create problems not only to the employees directly affected, but to the community at large because of increased unemployment and decreased state tax revenues. Where the purchaser of the business intends to provide a similar level of products and services, the new employer is required to retain from the existing workforce the number of employees needed for the new operation based on seniority for at least the first 90-days of business.

The measure addresses the situation where an employer intends to down size operations and by applying seniority within the classifications. If the business expands in that period the new employer will hire from the seniority list based on operational needs. The transition period provides the new employer with qualified and knowledgeable workers who have rapport and provide continuity with the prior customer base that the new business will seek to maintain. The employer is able to terminate employees for cause and release employees after the ninety-day period if the performance review shows unsatisfactory work. As noted in testimony in favor of the measure these amendments to Hawaii's Dislocated Workers Act are needed to revitalize our economy and




increase confidence in the workforce and in the consumer market. Since the measure does not, as voiced by some, dictate that a buyer has to retain the same products or services, it would not have the adverse impact referenced in some of the testimony. The experience among those testifying is that transitions of this nature in the past done voluntarily have provided the benefits anticipated by this measure.

Your Committee does understand that the transition employment period may provide specific concerns to the smaller businesses in Hawaii. Accordingly, your Committee has amended this measure as follows:

- (1) By retaining the existing definition of covered establishment to businesses with fifty employees or more; and
- (2) By correcting references to the Code of Federal Regulations in defining persons employed in executive, administrative, and professional capacities.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1622, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1622, S.D. 1, and be referred to the Committee on Judiciary and Government Operations.

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

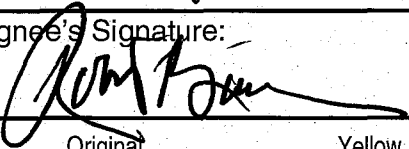


DWIGHT Y. TAKAMINE, Chair



The Senate
 Twenty-Fifth Legislature
 State of Hawaii

Record of Votes
Committee on Labor
LBR

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 1622	LBR, JCO	2-19-09		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
TAKAMINE, Dwight Y. (C)	X			
TANIGUCHI, Brian T. (VC)				X
BUNDA, Robert	X			
HEE, Clayton	X			
SLOM, Sam				X
TOTAL	3			2
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

*Only one measure per Record of Votes