

H.B. NO. 332
H.D. 2
S.D. 1
Proposed

Report Title:

Employment Security; Divestiture; Worker Retention

Description:

Establishes job security requirements upon the divestiture of a covered establishment. (SD1)

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A BILL FOR AN ACT

RELATING TO EMPLOYMENT SECURITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 394B, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§394B- Worker retention in the event of a divestiture.

5 (a) In the event of a divestiture of a covered establishment,
6 the successor employer:

7 (1) Shall hire all incumbent nonsupervisory and
8 nonconfidential employees, unless otherwise provided
9 in this section;

10 (2) Shall not require incumbent employees to file
11 employment applications with the successor employer to
12 be considered for hire unless existing employee files
13 are incomplete;

14 (3) May conduct pre-hire screening of the incumbent
15 employees not prohibited by law, including but not
16 limited to criminal history record checks executed in
17 accordance with section 378-2.5 and drug screening
18 executed in accordance with chapter 329B; and

1 (4) May retain less than one hundred per cent of incumbent
2 employees if:

3 (A) The business of the successor employer is
4 substantially dissimilar to the former employer's
5 business; or

6 (B) The human resource needs of the successor
7 employer are reduced, resulting in the reduction
8 of employees needed;

9 provided that the number of employees to be dislocated
10 shall be in direct proportion to the reduction in the
11 total human resource needs of the successor employer.

12 (b) This section shall not be construed to abrogate an
13 employer's right to manage the employer's employees.

14 (c) An employer found in violation of this section shall
15 pay to compensate the dislocated worker for the difference
16 between the employee's salary or wages earned under the
17 employee's former employer and the dislocated employee's
18 unemployment insurance benefits received for the covered period.

19 (d) The director shall adopt rules in accordance with
20 chapter 91 to carry out the purposes of this section."

1 SECTION 2. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun, before its effective date.

4 SECTION 3. New statutory material is underscored.

5 SECTION 4. This Act shall take effect on July 1, 2009.