



# INTERNATIONAL LONGSHORE & WAREHOUSE UNION

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## LOCAL 142

The Senate  
The Twenty-Fifth Legislature  
Regular Session of 2009

Committee on Judiciary and Government Operations  
Senator Brian T. Taniguchi, Chair  
Senator Dwight Y. Takamine, Vice Chair

DATE: Thursday, February 26, 2009  
TIME: 9:00 a.m.  
PLACE: Conference Room 016  
State Capitol  
415 South Beretania Street

### **TESTIMONY OF THE INTERNATIONAL LONGSHORE & WAREHOUSE UNION LOCAL 142 ON S.B. 1622 RELATING TO EMPLOYMENT SECURITY**

This testimony on S.B. 1622 is submitted on behalf of the International Longshore and Warehouse Union, Local 142 (ILWU). The ILWU represents approximately 20,000 private sector employees for the purpose of collective bargaining in a number of industries including agriculture, tourism and resorts, health care, and the general trades. We are in strong support of Senate Bill No. 1622 which provides a measure of employment security to lower wage workers displaced from their employment by divestiture of a business through no fault of their own. The bill sets minimum state standards for all employees who are not executive, administrative, or professional employees and who otherwise would be displaced when their employer sells the business to a prospective employer.

Our members are all too familiar with the destructive effect to them and their family from the sales of business,

“AN INJURY TO ONE IS AN INJURY TO ALL”

particularly hotels in the tourism industry. The positive experiences of a purchaser hiring and keeping on the workforce is few in number. The negative experiences are more the norm, including sales where hundreds of workers are given termination notices and only a small percentage offered jobs with the new employer. For those employees all that many will receive is the 60-day notice now required under Hawaii's Dislocated Workers Act. In 1998 over 900 employees of the Grand Wailea Resort were terminated, required to apply with the new employer, and only 70% were hired, leaving experienced and well-trained employees to start over again in the job market. By comparison, when the management changed in 2006 no one was displaced, business continued uninterrupted, and the new employer began its relationship with its employees on a positive note. More recently when Outrigger took over management of Pacific Beach Hotel in January 2007, no one was displaced and business continued uninterrupted. When the owner of Pacific Beach Hotel cancelled the contract with Outrigger and decided to operate the hotel itself, all the bargaining unit employees had to reapply for their old jobs and many were terminated.

Businesses, despite the objections that have been raised in the past to this type of measure, in fact benefit. The bill does not require them to hire more employees than their operations need. They will gain workers knowledgeable about the product or operations and experienced with working with the customers or clients the new owner will be seeking to retain. The bill contains a 90-day transition employment period that encourages productivity and high standards from the employees eager to perform well during the review period.

Finally, this bill advances the interest of the State. In these economic hard times it is in the State's best interest to assure that the workers who do have jobs keep those jobs.

While arguably employees otherwise on unemployment might be hired in these jobs and come off of unemployment, the mass layoff that comes with the sale and transfer of a business displacing the existing workforce causes more disruption and economic distress, adding an additional toll to the system. The loss of a job to an employed employee means sudden loss of income for the worker and the family. This domino effect hurts us all.

The ILWU strongly urges passage of S.B. 1622. Thank you for this opportunity to share our comments and show our support of the bill.

EDWIN D. HILL  
International President

LINDELL K. LEE  
International  
Secretary-Treasurer

# INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS®

The Senate  
Twenty-Fifth Legislature  
Regular Session of 2009

Committee on Judiciary and Government Operations

Senator, Brian T. Taniguchi, Chair  
Senator, Dwight Y. Takamine, Vice Chair

Hearing: Tuesday February 26, 2009  
Time: 9:00 a.m.  
Place: Conference Room 016

**Testimony of the International Brotherhood of Electrical Workers**  
**(IBEW)**

**Re: S.B 1622, SD1, Relating To Employment Security**

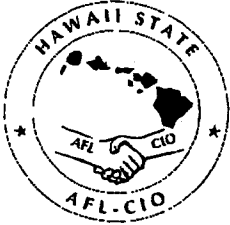
S.B 1622, SD1 would establish job security requirements to protect employees when the business for which the employees work is sold or transferred to another employing entity.

**The IBEW strongly supports this measure.**

Today, all too often when businesses are sold or change ownership it is the poor employees who are used as pawns to broker the deal. Workers are heartlessly dumped and made to reapply for their old jobs at reduced pay and benefits. Employees should be treated as a valued stakeholder in any sale or ownership change in this State and at a minimum be afforded this type of protection, dignity and respect.

Thank you for the opportunity to provide testimony.

Harold J. Dias, Jr  
International Representative  
IBEW



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-Fifth Legislature, State of Hawaii  
Hawaii State Senate  
Committee on Judiciary and Government Operations

Testimony by  
Hawaii State AFL-CIO  
February 26, 2009

## S.B. 1622 SD1 - RELATING TO EMPLOYMENT SECURITY

Unfortunately, Hawaii and the rest of the United States are facing some of the worst economic conditions since the Great Depression. Unemployment levels are continually rising, home prices are sliding at a rapid rate, and consumer confidence is at an all-time low. Unless something is done in the very near future, conditions will get worse and quite frankly, a depression could be imminent. That is why labor supports S.B. 1622 SD1.

While S.B. 1622 SD1 will not entirely fix Hawaii's economy, it will help protect workers' jobs which are so vital in today's economy. If people are working, they will hopefully be spending their wages and if they are spending, Hawaii businesses will do better. That is why it is imperative to pass S.B. 1622 SD1. Hawaii must do all it can to reduce unemployment levels. The lower the unemployment rate, the better the economy will hopefully be.

Furthermore, something must be done to change the mind set of lower consumer confidence. S.B. 1622 SD1 can add some additional comfort to those worried tomorrow may be their last day of work in the event of a divestiture. It is not in Hawaii's best interest to potentially increase unemployment in today's economic crisis through the divestiture of business entities with no assurance of continued employment for its workers.

The passage of S.B. 1622 SD1 is critical in today's economy. We must protect workers' jobs and we must do everything we possibly can to change the economy for the better. Thank you for the opportunity to testify in support of S.B. 1622 SD1.

Respectfully submitted,

Jason Bradshaw  
Political Director

# UNITE HERE!

LOCAL 5 HAWAII

*Eric Gill, Financial Secretary-Treasurer*

*Hernando Ramos Tan, President*

*Godfrey Maeshiro, Senior Vice-President*

Wednesday, February 25, 2009

The Honorable Brian Taniguchi, Chair  
and Members  
Hawaii State Legislature  
Committee on Judiciary & Government Operations  
State Capitol  
415 S. Beretania Street

Testimony regarding SB 1622, SD 1; *relating to Employment Security*

Chair Taniguchi, Vice-Chair Takamine, and members of the Senate Committee on Judiciary & Government Operations:

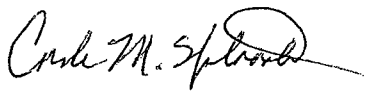
I submit this testimony on behalf of UNITE HERE! Local 5 -- a local labor organization representing more than 11,000 hotel and health care workers throughout our State.

Senate Bill 1622, SD 1 would require certain employers to retain employees who were displaced from an employer by divestiture through a transfer of a covered establishment to a new employer,

On behalf of Local 5, I hereby register our organization's position supporting the intent of SB 1622. SD 1.

Thank you for the opportunity to testify.

Sincerely,



Cade M. Watanabe  
Community/Political Organizer

**Testimony to the Senate Committee on Judiciary and Government Operations**  
**Thursday, February 26, 2009**  
**9:00 a.m.**  
**State Capitol - Conference Room 016**

**RE: SENATE BILL NO. 1622 SD1 RELATING TO EMPLOYMENT SECURITY**

Chair Taniguchi, Vice Chair Takamine, 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 opposition to Senate Bill No. 1622 SD1, relating to Employment Security. This bill will undermine economic revitalization at a time when our state needs it most. It's a disincentive for investment, which could possibly result in further job loss than jobs saved, thereby increasing unemployment claims.

The Chamber is the largest business organization in Hawaii, representing more than 1,100 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 its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

This measure requires prospective employers to provide similar level of products or services, retain all employees for a 90-day transition employment period, and keep employees by seniority rather than skill, ability or performance if the new employer decides that fewer employees are required. This bill changes the definition of "covered establishment" from 50 to 20 employees.

The Chamber well recognizes the hardship that business failures and ownership changes place on employees. However, The Chamber does not believe that Senate Bill 1622 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 due to the stringent requirements and mandates. This will send a negative message to the nation and further undermine Hawaii's efforts in saving and creating jobs during this tough economic period.
- 2) The bill places a mandate on the new business to provide a similar level of products of services and retain all employees for a 90-day transition period. This provision does not

recognize that one of the reasons why an existing employer may sell the company is due to financial burdens caused by inefficiencies.

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 immediately change or reduce staff to increase efficiency, to bring in better qualified or more skilled employees, or to bring in employees with different skill sets. Saddling a new business with the predecessor's employees may undermine the livelihood and continued employment of other employees.

Those businesses which would normally be sold to a buyer that 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.

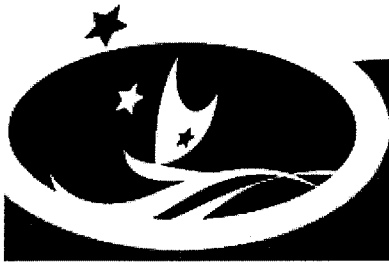
Therefore, this bill will have the reverse effect, and in turn, cost jobs. The measure may have the unintended consequences of hurting local businesses, which otherwise would have had an opportunity to sell their business to a successor company.

In sum, Senate Bill 1622, 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 cultivating the soil to help our local establishments thrive, so that jobs can be saved and created, especially as Hawaii weathers this tough economic storm.

Thus, The Chamber respectfully requests SB 1622 SD1 be held.

Thank you for the opportunity to testify.





DEMOCRATIC PARTY OF HAWAII

Hawai'i State Democratic Women's Caucus 1050 Ala Moana Blvd #D-26, Honolulu, HI 96814 Email: [hidemocraticwomenscaucus@yahoo.com](mailto:hidemocraticwomenscaucus@yahoo.com)

February 26, 2009

To: Senator Brian Taniguchi, Chair  
Senator, Dwight Takamine, Vice Chair and  
Members of the Committee on Judiciary and Government Operations

From: Jeanne Ohta, Chair of Legislative Committee, Hawai'i State Democratic Women's Caucus

Re: SB 1622 SD1 RELATING TO EMPLOYMENT SECURITY  
(Thursday, February 26, 2009, 9:00 a.m. Conf. Room 016)

Position: SUPPORT

Thank you for allowing me to present written testimony today, in support of SB 1622 SD1 which requires certain employers to retain employees who were displaced from an employer by divestiture through transfer of a covered establishment to a new employer.

This measure would assist workers in keeping their jobs in the event of a divestiture and provide a 90-day transition employment period. The measure would also require that seniority of employees be recognized as a factor in employee retention.

The Hawai'i State Democratic Women's Caucus is a catalyst for progressive, social, economic, and political change through action on critical issues facing Hawai'i's women and girls. It is in keeping with our mission that we support the rights of workers to be treated fairly and without discrimination.

Long-time and older employees are at a disadvantage when a new business entity takes over. Their loyalty to the original employer is ignored and they may not be considered for positions with the new owner; especially if the new business owner is looking to cut labor costs. Employees should not be forced to reapply for positions they currently hold.

This measure provides a level of protection for existing employees. It also provides for fair and respectful treatment by the new owners. We urge the committee to pass SB 1622 SD1. Thank you for this opportunity to provide testimony.



Senator Brian Taniguchi, Chair  
Senator Dwight Takamine, Vice Chair  
Committee on Judiciary and Government Operations

HEARING      Thursday, February 26, 2009  
                  9:00 am  
                  Conference Room 016  
                  State Capitol, Honolulu, Hawaii 96813

RE:    **SB1622,SD1, Relating to Employment Security**

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

Retail Merchants of Hawaii (RMH) is a not-for-profit trade organization representing 200 members and over 2,000 storefronts, and is committed to support the retail industry and business in general in Hawaii.

**RMH strongly opposes SB1622,SD1**, relating to employment security, which requires certain employers to retain employees who were displaced from an employer by divestiture through a transfer of a covered establishment to a new employer.

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 accelerate economic recovery, 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 SB1622, SD1. Thank you for your consideration and for the opportunity to comment on this measure.

Carol Pregill, President

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



P.O. Box 15366 • Honolulu, HI 96830-5366 • Ph: 808.924-1033 • Toll-free: 800.860-4177 • Fax: 808.924-0623

February 26, 2009

Senate Sergeant at Arms

Fax 586-6659

Please make copies for distribution to Committee

**TO:** Senate Judiciary and Government Operations Committee  
Sen. Brian T. Taniguchi, Chair  
Sen. Dwight Takamine, Vice-Chair

**FROM:** Douglas Lupton RRP, President

**DATE:** Thursday, February 26, 2009  
Conference Room 016  
9:00 a.m.

**RE:** **SB 1352, SD1, RELATING TO BUREAU OF CONVEYANCES**

Chair Taniguchi and Members of the Committee:

### **All Islands Timeshare Resales Supports passage of SB 1352, SD1**

All Islands Timeshare Resales supports SB 1352, SD1, which would transfer fee simple time share interest from the land court system to the regular system and establishes a working group to resolve implementation issues. The bill also establishes a pilot program to implement electronic recording of fee time share interests and allows the Bureau of Conveyances to charge a fee for deregistration of a fee time share interest. Currently every timeshare owner is issued a certificate of title which amounts to thousands of individual owners. This measure will help to streamline the registration process while maintaining adequate protection of ownership. Thank you very much for the opportunity to offer testimony in support of this measure.



The Voice of Small Business®

**Before the Senate Committee on Judiciary and  
Government Operations**

DATE: February 26, 2009

TIME: 9:00 a.m.

PLACE: Conference Room 016

**Re: SB 1622 SD1  
Relating to Employment Security  
Testimony of Melissa Pavlicek for NFIB Hawaii**

Thank you for the opportunity to testify. On behalf of the business owners who make up the membership of the National Federation of Independent Business in Hawaii, we ask that you reject SB 1622 SD1. 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.

We believe that 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 do not advance this measure.



**KAUAI**  
*Chamber*  
*of*  
**Commerce**

February 25, 2009

To: Fax: 1-800-586-6659

Testimony for Hearing on Thursday, February 26, 2009, 9:00 a.m., room 016

Honorable Senator Dwight Takamine, Chair, Senate Committee on Judiciary & Government Operations & Senators Robert Bunda, Mike Gabbard, Clarence K. Nishihira and Sam Slom

RE: SB1622 SD1 Relating to Employment Security

Aloha! My name is Randall Francisco and I am President of the Kauai Chamber of Commerce which represents 460 Kauai business members and consists of approximately 87% small businesses who reflect the island's business community. Of the chamber's membership, approximately, 8000 individuals are employees who are from the construction and tourism sectors to agriculture, retail and defense industries, to name a few.

On behalf of the Kauai Chamber of Commerce, I am writing to express the member's opposition of this bill for the following reasons: **SB1622:**

- Does not allow the successor employer to change the nature of the failing business and mandates continuation of the same business with the same employees for 90 days,
- Requires the new employer to retain employees by seniority than on skill/ability/performance for retention after 90 days, and,
- Applies to covered establishments employing at least 20 (a reduction from 50 employees).

Should I be of any assistance, please do not hesitate to contact me directly at 245-7363 or email at [randall@kauaichamber.org](mailto:randall@kauaichamber.org). Aloha.

Sincerely yours,

Randall Francisco  
President

The mission of the Kauai Chamber of Commerce founded in 1913 is:  
"To promote, develop and improve commerce, quality growth, and economic stability in the County of Kauai"

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**From:** Liu, Weiguo [Weiguo.Liu@Pioneer.com]  
**Sent:** Wednesday, February 25, 2009 1:50 PM  
**To:** JGO Testimony  
**Subject:** Oppose SB 1622 SD1: Card Check Bill

Dear Sen. Taniguchi,

I am a research scientist at Pioneer Seed Company at Kunia, and I strongly oppose to the SB 1622 SD1: Card Check Bill, which will be discussed tomorrow as stated below:

**DATE:** Thursday, February 26, 2009  
**TIME:** 9:00 A.M.  
**PLACE:** Conference Room 016

The reasons I oppose this bill can be highlighted as the below:

- The heart of the current representation framework lies with the secret ballot. SB 1622 eliminates the rights of workers to choose union representation from the confidentiality of a voting booth - free from the pressures of union organizers as well as employers.
- There is no corresponding provision in the bill extending card check to the decertification process. If it is fair for unions to win representation rights in this fashion, then it's fair for them to lose those rights the same way.
- This bill would convey authority to a third party to essentially decide what a private sector employer must provide in terms of wages and benefits - free from the checks and balances of unit ratification.
- This measure unfairly removes private property rights and allows the union to trespass and picket without penalty. Union organizers would be able to block businesses and intimidate customers and employees from entering.
- Finally, the bill creates legal immunity for unions that mislead or lie to working men and women during the collective bargaining process. No other group in our State has obtained legal immunity for their wrongful actions that harm others and it's an injustice to workers to allow union organizers such a blatant pass on being held accountable.

Thank you for listening to my voice!  
Weiguo,

Weiguo Liu, Ph.D.  
Research Scientist  
Doubled Haploid Laboratory Manager  
Pioneer Hi-Bred Int'l, Inc.  
P.O. Box 970548  
Waipahu, HI 96797

E-mail: [weiguo.liu@pioneer.com](mailto:weiguo.liu@pioneer.com)  
Office: (808) 677-1699 ext. 21  
Cell: (808) 590-8133

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Personal Testimony Presented before the  
Senate Committee on Judiciary and Government Operations  
Thursday, February 26, 2009, 9:00 a.m.  
by  
Ching Yuan Hu

SB 1622 SD1 – Card Check Bill

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

My name is Ching Yuan Hu, and I serve as the associate dean and associate director for research with the University of Hawaii at Manoa's College of Tropical Agriculture and Human Resources (CTAHR). I am pleased to provide personal testimony on HB 1451 HD1. This testimony does not represent the position of the University of Hawai'i or CTAHR.

I oppose SB 1622 SD1. The heart of the current representation framework lies with the secret ballot. SB 1622 eliminates the rights of workers to choose union representation from the confidentiality of a voting booth - free from the pressures of union organizers as well as employers. This measure unfairly removes private property rights and allows the union to trespass and picket without penalty. Union organizers would be able to block businesses and intimidate customers and employees from entering.

We need to encourage more business expansion to create more jobs for our citizens. This bill is detrimental to small start-up companies, and will slow down job creating opportunities in Hawaii.

Thank you for the opportunity to testify on this bill.

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**From:** mike.austin@syngenta.com  
**Sent:** Wednesday, February 25, 2009 7:38 AM  
**To:** JGO Testimony

2/25/2009

Committee Chair,  
Senate Committee on Judiciary and Government Operations  
Hawaii State Capitol  
Brian Tanaguchi, Chair  
Dwight Takamine, Vice Chair

Dear Committee Chair,

## **RE: Opposition to SB 1622 SB1**

This letter is in Opposition to SB1622 SB1 which is being heard in committee on 26 February 2009 in conference room 016. The right to vote in America is sacrosanct and the Card Check Bill as proposed destroys this fundamental right of democracy. If allowed to pass, Unions will have authority to intimidate and harass workers. The only counter to this tactic is to have a vote on the matter. By not allowing people to cast ballots, this bill opens the door to harassment and will create a situation that could lead ultimately to the Supreme Court.

Please, with all due respect, kill this bill.

Sincerely,

Michael Austin  
PO Box 1006  
Lihue, Hawaii 96766

**M.T. Austin**  
**Kunia Stn. Manager**

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**From:** O'CONNOR, MARK [AG/2563] [mark.oconnor@monsanto.com]  
**Sent:** Wednesday, February 25, 2009 9:04 AM  
**To:** JGO Testimony  
**Subject:** SB 1622 SD1: Card Check Bill

Sen. Brian Taniguchi, Chair and Sen. Dwight Takamine, Vice Chair;

I want to express my complete objection to SB 1622 SD1: Card Check Bill. I work with and manage a large group of research crew members on Maui and feel strongly that they do not need 3<sup>rd</sup> party representation. I see this bill, and any like it, as an inappropriate method for unions to gain new members.

Any attempt to organize union members in any company should be done in an appropriate manner where both the union and existing management can discuss the pros and cons of unionized labor leading to a vote where our research crew members can make an informed choice regarding 3<sup>rd</sup> party representation. I see this bill as an attempt to remove the democratic process an important decision that has the potential to dramatically impact relations within my company and other companies in Hawaii.

My company had a vote about two years ago when a union tried to organize our staff and our research crew members voted overwhelmingly to remain managed by existing staff and not by a union. Thank you very much for accepting my statement, and please do not pass this bill or any like it. The date of this is:

**SENATE COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS**

Sen. Brian Taniguchi, Chair  
Sen. Dwight Takamine, Vice Chair

**DATE:** Thursday, February 26, 2009  
**TIME:** 9:00 A.M.  
**PLACE:** Conference Room 016

I am: Mark F. O'Connor, Ph.D.  
1900 Pulehu Road  
Kula, HI 96790

Thank you very much, and have a safe day;  
Mark O'Connor, Ph.D.  
Cell (808) 357-3072

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