

Honolulu, Hawaii

February 7, 2013

RE: H.B. No. 634

Honorable Joseph M. Souki  
Speaker, House of Representatives  
Twenty-Seventh State Legislature  
Regular Session of 2013  
State of Hawaii

Sir:

Your Committee on Labor & Public Employment, to which was referred H.B. No. 634 entitled:

"A BILL FOR AN ACT RELATING TO EMPLOYMENT,"

begs leave to report as follows:

The purpose of this measure is to require the retention of employees during a divestiture of a covered establishment by the successor employer.

More specifically, this measure provides that in the event of a divestiture of a covered establishment that employed not less than one hundred persons in the preceding twelve months, the successor employer:

- (1) Shall hire all incumbent non-supervisory and non-confidential employees;
- (2) Shall not require incumbent employees to file employment applications with the successor employer, unless the existing files are incomplete;
- (3) May conduct criminal conviction record checks, drug screening, and other pre-hire screening checks for incumbent employees not prohibited by law; and
- (4) May not have to retain all of the incumbent employees if the business of the successor employer is substantially



dissimilar to the former employer's business or if the need for employees is less.

Testimony in support of this measure was submitted by the Hawaii State American Federation of Labor and Congress of Industrial Organizations and the International Longshore and Warehouse Union Local 142. Testimony in opposition to this measure was submitted by the Maui Chamber of Commerce, The Chamber of Commerce of Hawaii, National Federation of Independent Business Hawaii, Retail Merchants of Hawaii, VIP Foodservice, and one individual. The Department of Labor and Industrial Relations submitted comments.

Your Committee finds that this measure would provide job security for employees who would be displaced during a divestiture of a covered establishment by requiring the successor employer to retain all incumbent non-supervisory and non-confidential employees, subject to certain exceptions. This measure would minimize the disruption that often occurs upon divestiture. Workers would not be dislocated or face financial uncertainty, customers would see business continuing with little disturbance, and the economy would not be impacted by increased unemployment.

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. 634 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

  
MARK M. NAKASHIMA, Chair



State of Hawaii  
House of Representatives  
The Twenty-seventh Legislature

HSCR 183

**Record of Votes of the Committee on Labor & Public Employment**

<b>Bill/Resolution No.:</b> HB 634	<b>Committee Referral:</b> LAB, FIN	<b>Date:</b> 2/5/13		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
<b>The recommendation is to:</b> <input checked="" type="checkbox"/> Pass, unamended (as is) <input 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)				
<b>LAB Members</b>	<b>Ayes</b>	<b>Ayes (WR)</b>	<b>Nays</b>	<b>Excused</b>
1. NAKASHIMA, Mark M. (C)	X			
2. HASHEM, Mark J. (VC)	X			
3. AQUINO, Henry J.C.	X			
4. ICHIYAMA, Linda	X			
5. ING, Kaniela	X			
6. TAKUMI, Roy M.				X
7. YAMANE, Ryan I.	X			
8. YAMASHITA, Kyle T.	X			
9. JOHANSON, Aaron Ling	X			
<b>TOTAL (9)</b>	8	0	0	1
<b>The recommendation is:</b> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <span style="margin-left: 150px;">committee acronym(s)</span>				
<b>Vice Chair's or designee's signature:</b>				
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