H.B. NO. 396

A BILL FOR AN ACT

RELATING TO EMPLOYMENT.

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	
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1	<u>(4)</u> 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	pro	vided that the number of employees to be dislocated	
10	sha	ll be in direct proportion to the reduction in the	
11	tota	al human resource needs of the successor employer.	
12	(b) Thi	s section shall not be construed to abrogate an	
13	employer's rig	ght 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."	



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SECTION 2. This Act does not affect rights and duties that
matured, penalties that were incurred, and proceedings that were
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.

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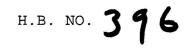
INTRODUCED BY:

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Report Title:

Employment; Worker Retention

Description:

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

