



**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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March 21, 2011

To: The Honorable Gilbert S.C. Keith-Agaran, Chair
and Members of the House Committee on Judiciary

Date: Tuesday, March 22, 2011
Time: 2:00 p.m.
Place: Conference Room 325, State Capitol

From: Dwight Takamine, Director
Department of Labor and Industrial Relations

Re: S.B. No. 1089, S.D. 1, Relating to Dislocated Workers

I. OVERVIEW OF PROPOSED LEGISLATION

Senate Bill 1089, S.D. 1, proposes to add an item (e) in Section 394-B-9 giving the Department of Labor and Industrial Relations enforcement powers to penalize employers who fail to provide the required notification to affected workers of a closing, divestiture, partial closing or relocation.

II. CURRENT LAW

Chapter 394B, HRS, provides employment and training assistance to workers who were faced with termination due to a sudden closure or partial closing as a result of a sale, transfer, merger, bankruptcy or other business transaction by:

- A. Requiring employers with fifty (50) or more employees in the State of Hawaii to provide advance notification to the Department of Labor and Industrial Relations and to all affected employees;
- B. Requiring employers to provide Dislocated Worker Allowance (the difference between the employee's average weekly wage and the weekly unemployment

compensation benefit) to affected employees who apply for and found eligible for unemployment compensation;

- C. Allowing employers in violation to be liable to each affected worker an amount equal to back pay and benefits for the period of violation, not to exceed sixty days. The liability may be reduced by any wages the employer pays during the notice period and voluntary and unconditional payment not required by a legal obligation; and
- D. An employer who fails to provide notice shall be subject to a civil penalty not to exceed \$500 for each day of the violation and the amount deposited in the Employment and Training Fund under Section 383-128 unless the employer satisfies its liability to each affected employee within three weeks after the closing.

III. SENATE BILL

The Department of Labor and Industrial Relations supports the intent to provide relief to affected dislocated workers, but is concerned about the need for additional resources to effectively carry out the enforcement responsibilities.

- A. By giving the Department enforcement authority, the bill imposes an increase in additional responsibilities without any additional resources. Because of the wide scope of layoffs, it would be difficult to provide effective and meaningful enforcement with existing state resources (the division's general fund budget is currently 2.1 positions and \$78,657). Federal funds cannot be used for this purpose.
- B. Enforcement responsibilities also will involve the Attorney General's staff in providing legal services in the interpretation of the law, conducting investigations, developing administrative rules, and determining the applicability for each alleged infraction, part of which would be billed to the Department. Again, federal funds cannot be used for this purpose.

The Department is open to further discussion regarding resources to carry out this measure.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

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**The Twenty-Sixth Legislature, State of Hawaii
Hawaii State House of Representatives
Committee on Judiciary**

**Testimony by
Hawaii Government Employees Association
March 22, 2011**

**S.B. 1089, S.D. 1 – RELATING TO
DISLOCATED WORKERS**

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO supports the purpose and intent of S.B. 1089, S.D. 1. The bill authorizes the Department of Labor and Industrial Relations to exercise enforcement powers against an employer in a covered establishment. The measure supports employment security. We encourage its passage.

Thank you for the opportunity to testify in support of S.B. 1089, S.D. 1.

Respectfully submitted,

Nora A. Nomura

Deputy Executive Director

Testimony for SB1089 on 3/22/2011 2:00:00 PM

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Sent: Tuesday, March 22, 2011 8:24 AM

To: JUDtestimony

Cc: jkealoha@ilwulocal142.org

Attachments: 2011SB1089.rtf (3 KB)

Testimony for JUD 3/22/2011 2:00:00 PM SB1089

Conference room: 325

Testifier position: support

Testifier will be present: Yes

Submitted by: Guy Fujimura

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Comments: