



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

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February 24, 2011

To: The Honorable Karl Rhoads, Chair
and Members of the House Committee on Labor and Public Employment
The Honorable Angus L.K. McKelvey, Chair
and Members of the House Committee on Economic Revitalization & Business

Date: Tuesday, March 1, 2011
Time: 11:00 a.m.
Place: Conference Room 309, 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

While the Department of Labor and Industrial Relations supports the intent to provide relief to affected dislocated workers, it cannot carry out the enforcement authority with existing resources.

- A. The Department provides Rapid Response services to employers affected under the Law as well as businesses who voluntarily seek the assistance of the Department. The Department provides information, guidance and counseling on the process of filing for unemployment compensation, meeting the job search and availability of work requirements, seeking community resources, and assessing workers' abilities, skills and experiences to complement current labor market needs.
- B. 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. 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. Federal funds cannot be used for this purpose.

We support the intent of the bill but are concerned about the need for additional resources to effectively carry out the enforcement responsibilities.



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The Twenty-Sixth Legislature, State of Hawaii
House of Representatives
Committee on Labor & Public Employment
Committee on Economic Revitalization & Business

Testimony by
Hawaii Government Employees Association
March 1, 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

The Twenty-Sixth Legislature
Regular Session of 2011

LATE

HOUSE OF REPRESENTATIVES
Rep. Karl Rhoads, Chair
Rep. Kyle T. Yamashita, Vice Chair

State Capitol, Conference Room 309
Tuesday, March 1, 2011; 11:00 a.m.

**STATEMENT OF THE ILWU LOCAL 142 ON S.B. 1089, SD1
RELATING TO DISLOCATED WORKERS**

The ILWU Local 142 supports S.B. 1089, SD1, which authorizes the Department of Labor and Industrial Relations to exercise enforcement powers against an employer in a covered establishment.

The 2007 Legislature amended the Dislocated Worker Act to include penalties against an employer for failure to provide notice in the event of a closure, divestiture, partial closing or relocation of a business. However, to enforce the penalties, an aggrieved worker must file a claim in court, subjecting the worker to expense and delays that ultimately serve as a disincentive to seeking compliance and the penalties.

S.B. 1089, SD1 will authorize the Department of Labor and Industrial Relations to enforce the penalties section of the Dislocated Worker Act. While the Department's resources may have been diminished due to budget cuts, it still has far more resources at its disposal than a dislocated worker who has lost his job and may not know what lies ahead for him in the future.

The ILWU urges passage of S.B. 1089, SD1. Thank you for the opportunity to testify on this matter.