# A BILL FOR AN ACT

RELATING TO EMPLOYMENT.

## BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1	SECT	ION 1. Chapter 394B, Hawaii Revised Statutes, is
2	amended by	y adding a new section to be appropriately designated
3	and to rea	ad as follows:
4	" <u>§</u> 394	4B- Worker retention in the event of a divestiture.
5	(a) If a	divestiture of a covered establishment occurs, the
6	successor	employer:
7	(1)	Shall hire all incumbent non-supervisory and non-
8		confidential employees, except as provided in this
9		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 conviction record checks executed
17		in accordance with section 378-2.5 and substance abuse
18		testing executed in accordance with chapter 329B; and
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1	<u>(4)</u> <u>M</u>	ay retain less than one hundred per cent of incumbent	
2	<u>e</u> :	mployees if:	
3	(2	A) The business of the successor employer is	
4		substantially dissimilar to the former employer's	
5		business; or	
6	· <u>(</u> :	B) The human resource needs of the successor	
7		employer are reduced, resulting in the reduction	
8		of employees needed;	
9	<u>p</u>	rovided that the number of employees to be dislocated	
10	shall be in direct proportion to the reduction in the		
11	total human resource needs of the successor employer.		
12	For th	e purposes of this subsection, "covered	
13	establishme	nt" means any industrial, commercial, or other	
14	business en	tity that employed one hundred or more persons at any	
15	time in the	preceding twelve-month period.	
16	(b) T	his section shall not be construed to abrogate the	
17	right of th	e employer to manage the employer's employees.	
18	(c) A	n employer found in violation of this section shall	
19	pay to compensate the dislocated employee for the difference		
20	between the employee's wages under the employee's former		
21	employer an	d the employee's unemployment insurance benefits	
22	received fo	r the covered period.	
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# H.B. NO. 634 S.D. 2

1 (d) The director shall adopt rules in accordance with 2 chapter 91 to carry out the purposes of this section." SECTION 2. There is appropriated out of the general 3 revenues of the State of Hawaii the sum of \$ 4 or so much thereof as may be necessary for fiscal year 2013-2014 and 5 6 the same sum or so much thereof as may be necessary for fiscal 7 year 2014-2015 to effectuate the purposes of this Act. 8 The sums appropriated shall be expended by the department 9 of labor and industrial relations for the purposes of this Act. **10** SECTION 3. This Act does not affect rights and duties that 11 matured, penalties that were incurred, and proceedings that were begun, before its effective date. 12

SECTION 4. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2050.

#### Report Title:

Employment; Worker Retention; Appropriation

## Description:

Establishes job security requirements for certain employees upon the divestiture of a covered establishment if, among other things, the covered establishment employs one hundred or more persons. Makes an appropriation. Effective 07/01/50. (SD2)

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