

JAN 19 2024

A BILL FOR AN ACT

RELATED TO WORKER RETENTION.

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- Divestiture; worker retention. (a) Upon a
5 divestiture of a covered establishment, the successor employer:

6 (1) Shall employ all incumbent non-supervisory and non-
7 confidential employees, except as provided in this
8 section;

9 (2) Shall not require incumbent employees to file
10 employment applications to be hired by the successor
11 employer unless the employee's existing employee file
12 is incomplete;

13 (3) Shall recognize all existing collective bargaining
14 agreements if the number of incumbent employees in the
15 bargaining unit is sufficient to require recognition
16 of the bargaining unit; and



1 (4) Shall not be required to employ all incumbent
2 employees; provided that the business of the successor
3 employer is substantially dissimilar to the former
4 employer's business.

5 (b) For purposes of this section, "employer" means a
6 person who directly or indirectly, or through an agent or any
7 other person, including through the services of a third-party
8 employer, temporary services, staffing agency, independent
9 contractor, or any similar entity, at any time in the prior
10 twelve months, employs or exercises control over the wages,
11 hours, or working conditions of fifty or more employees at a
12 single business establishment.

13 (c) This section shall not be construed to abrogate the
14 right of an employer to manage the employer's employees.

15 (d) Any employer found in violation of this section shall
16 pay to the dislocated employee the difference between the amount
17 of the employee's wages under the employee's former employer and
18 the unemployment insurance benefits received by the employee for
19 the covered period.

20 (e) The director shall adopt rules in accordance with
21 chapter 91 to carry out the purposes of this section."



1 SECTION 2. In accordance with section 9 of article VII of
 2 the Hawaii State Constitution and sections 37-91 and 37-93,
 3 Hawaii Revised Statutes, the legislature has determined that the
 4 appropriations contained in Act 164, Regular Session of 2023,
 5 and this Act will cause the state general fund expenditure
 6 ceiling for fiscal year 2024-2025 to be exceeded by
 7 \$ or per cent. This current declaration takes
 8 into account general fund appropriations authorized for fiscal
 9 year 2024-2025 in Act 164, Regular Session of 2023, and this Act
 10 only. The reasons for exceeding the general fund expenditure
 11 ceiling are that:

- 12 (1) The appropriation made in this Act is necessary to
- 13 serve the public interest; and
- 14 (2) The appropriation made in this Act meets the needs
- 15 addressed by this Act.

16 SECTION 3. There is appropriated out of the general
 17 revenues of the State of Hawaii the sum of \$ or so
 18 much thereof as may be necessary for fiscal year 2024-2025 to
 19 effectuate the purpose of this Act.

20 The sum appropriated shall be expended by the department of
 21 labor and industrial relations for the purposes of this Act.



S.B. NO. 2711

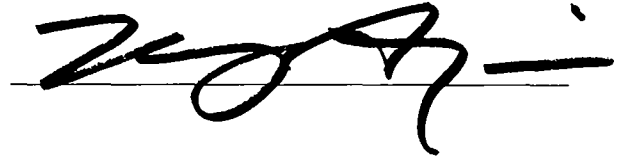
1 SECTION 4. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 5. New statutory material is underscored.

5 SECTION 6. This Act shall take effect on July 1, 2024.

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INTRODUCED BY:

A handwritten signature in black ink, appearing to read "Zoya", is written over a horizontal line. The signature is stylized and cursive.

S.B. NO. 2711

Report Title:

Dislocated Workers Law; Divestiture; Worker Retention; Penalty; Expenditure Ceiling; Appropriation

Description:

In an event of a divestiture of a covered establishment, requires the successor employer to employ incumbent employees under certain circumstances. Establishes a penalty. Declares that the general fund expenditure ceiling is exceeded. Makes an appropriation.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

