

ACT 190

H.B. NO. 2146

A Bill for an Act Relating to Employee Stock Ownership Programs.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. In Act 315, Session Laws of Hawaii 1986, the legislature provided for the establishment of a program to promote expanded opportunities for employee ownership and participation in Hawaii businesses. That Act expires as of June 30, 1988. However, the legislature recognizes the continued need to support and encourage employee ownership and participation in business and therefore, it is the intent of this Act to extend the State's employee ownership and participation program.

SECTION 2. Act 315, Session Laws of Hawaii 1986, is amended as follows:

1. By amending Section 1 to read:

“SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

CHAPTER
EMPLOYEE [STOCK] OWNERSHIP AND PARTICIPATION
PROGRAMS
PART I. GENERAL PROVISIONS

§ -1 **Policy.** It is the policy of the State to actively promote and support expanded employee ownership and participation in Hawaii businesses.

§ -2 Definitions. As used in this chapter, unless the context clearly indicates otherwise:

“Department” means the department of [planning] business and economic development.

“Employee-ownership” means a form of business organization which is either:

- (1) A workers cooperative, within the meaning of subchapter T (sections 1381 to 1388) (with respect to cooperatives and their patrons) of chapter 1 of the federal Internal Revenue Code of 1954, as amended; or
- (2) A corporation in which the employees own stock of the corporation through an employee [stock] ownership and participation plan or other benefit plan which is qualified by section 401 (with respect to qualified pension profit-sharing, and stock bonus plans) of chapter 1 of the federal Internal Revenue Code of 1954, as amended.

“Employee [stock] ownership and participation plan” means an employee benefit plan which is qualified by the Internal Revenue Service pursuant to section 401(a) of the federal Internal Revenue Code of 1954, as amended, and which is intended to invest primarily in employer securities, as defined by section 407(d)(1) of the Employee Retirement Income Security Act of 1974, as amended (P.L. 93-406).

PART II. STATE SUPPORT FOR EMPLOYEE OWNERSHIP AND PARTICIPATION

§ -11 Employee ownership and participation program. The department shall establish a program to support and encourage expanded opportunities for employee ownership and participation in Hawaii businesses.

§ -12 [Regulatory review; annual] Annual report. Each state agency involved in economic development and regulatory activities shall:

- (1) Conduct a one-time review of all existing rules, policies, and practices of the agency to determine which rules, policies, and practices tend to discourage or otherwise inhibit the implementation of employee ownership.
- (2) Report to the legislature the results of its findings in the study required by paragraph (1) twenty days prior to the convening of the regular session of 1987.
- (3) Annually] annually report to the legislature on steps taken to encourage employee ownership and participation. If no action has been taken, explanation shall be made of the reasons therefor.

§ -13 Powers and duties of department. (a) The department shall assist owners and employees of Hawaii businesses in establishing employee ownership and participation by providing technical assistance, information, or access to sources of financing.

(b) The department shall cooperate with state and federal agencies and commercial lenders in assisting Hawaii companies to obtain loans for the purpose of establishing employee ownership and participation.

(c) The department shall:

- (1) Assist in coordinating the programs of all agencies in encouraging the development of employee [stock] ownership plans and participation;
- (2) Arrange for studies where necessary, secure statistical data or other information, and arrange for the exchange of information between public agencies, private groups, and individuals;

- (3) Provide educational and technical assistance to businesses and individuals desiring to increase the level of employee participation and ownership in Hawaii businesses;
 - (4) Establish a continuing educational and promotional outreach program to publicize the opportunities inherent in employee ownership and participation[;] and encourage academicians and members of the business and labor communities to participate in publicizing and encouraging employee ownership and participation;
 - (5) Review all reports filed by state agencies on efforts to encourage employee ownership and participation, and advise those agencies on ways to further improve those efforts; and
 - (6) Appoint an [employee ownership advisory committee] advisory committee on employee ownership and participation to assist the department in all matters relating to employee ownership, including education, technical assistance, research, promotion, and outreach efforts.
- (d) The department may:
- (1) Employ, without regard to chapters 76 and 77, and at pleasure dismiss such persons as it finds necessary for the performance of its functions and fix their compensation; duties shall include the arranging of conferences, workshops, seminars, and other educational and outreach activities;
 - (2) Secure information from any executive agency of the State it deems necessary to carry out its functions; and
 - (3) Administer funds allocated for its work and accept, disburse, and allocate funds which may become available from other governmental and private sources; provided that all the funds shall be disbursed or allocated in compliance with this chapter and any other applicable laws.

§ -14 Rules. The department may adopt rules pursuant to chapter 91 to implement this chapter.”

2. By amending Section 3 to read:

“SECTION 3. This Act shall take effect on July 1, 1986 and shall be repealed as of June 30, [1988] 1993.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 7, 1988.)