

Honolulu, Hawaii

FEB 16 2011

RE: S.B. No. 1089

S.D. 1

Honorable Shan S. Tsutsui  
President of the Senate  
Twenty-Sixth State Legislature  
Regular Session of 2011  
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred  
S.B. No. 1089 entitled:

"A BILL FOR AN ACT RELATING TO DISLOCATED WORKERS,"

begs leave to report as follows:

The purpose and intent of this measure is to strengthen  
statutory provisions regarding dislocated workers by:

- (1) Authorizing the Department of Labor and Industrial Relations to exercise enforcement powers against an employer of a "covered establishment" that does not provide its employees and the Director of Labor and Industrial Relations sufficient written notification of a closing, divesture, partial closing, or relocation of the employer's covered establishment; and
- (2) Amending the definition of a "covered establishment" from a business entity that employs fifty or more persons to one that employs at least one person.

Your Committee received testimony in support of this measure from ILWU Local 142. Your Committee received testimony in opposition to this measure from Retail Merchants of Hawaii and The Chamber of Commerce of Hawaii.

Your Committee finds that, under current law, when an employer of a covered establishment does not provide sufficient written notification of a closing, divesture, partial closing, or



relocation of the employer's covered establishment, an aggrieved worker can only enforce the penalties provided in the law against the violating employer by filing a claim in court, which subjects the worker to expenses and delays that ultimately serve as a disincentive to the worker to assert that worker's rights under the law. The Department of Labor and Industrial Relations is in a far better position to enforce the notification law.

Your Committee also finds that the provision of the measure that adds small businesses with fewer than fifty employees to those covered establishments required to give the notification may be unduly onerous and unrealistic. As raised in testimony, in the current challenging economy, many small businesses have been forced to shut down on short notice due to difficulty in obtaining financing or a downturn in business. These small businesses may not be able to foresee when they will close in order to meet the required notification timeframe. Additionally, because these small businesses may close down for sudden financial reasons, they may not be able to pay the penalties required by the law.

Accordingly, your Committee has amended this measure by:

- (1) Deleting section 2 of the measure, thereby retaining the existing statutory definition of a "covered establishment" as a business entity that employs fifty or more persons during a particular time period; and
- (2) Inserting an effective date of July 1, 2050, to encourage further discussion.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1089, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1089, S.D. 1, and be placed on the calendar for Third Reading.



Respectfully submitted on  
behalf of the members of the  
Committee on Judiciary and  
Labor,




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CLAYTON HEE, Chair



The Senate  
 Twenty-Sixth Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Judiciary and Labor**  
**JDL**

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 1089	JDL	2/3/11		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile (VC)	✓			
GABBARD, Mike	✓			
IHARA, Jr., Les	✓			
SLOM, Sam			✓	
<b>TOTAL</b>	4	0	1	0
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
<b>Distribution:</b>				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

\*Only one measure per Record of Votes