

EXECUTIVE CHAMBERS

HONOLULU

July 10, 2007

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1503

Honorable Members  
Twenty-Fourth Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 1503, entitled "A Bill for an Act Relating to Employment".

This bill expands the scope of Section 394B-9, Hawaii Revised Statutes, which requires an employer of a business employing fifty or more employees to provide to each employee and the Director of Labor and Industrial Relations at least sixty days' prior written notification of a "closing, partial closing, or relocation." It will also require a sixty days' prior written notification for any "divestiture," including the sale, transfer, merger, bankruptcy, or other business takeover or transaction of business interests that may cause workers to lose their jobs.

This bill is objectionable because requiring public disclosure may negatively impact the very employees this bill seeks to help since it can jeopardize the owner's efforts to reconstitute the business.

Although this bill exempts from the notice requirement an owner actively seeking a buyer for the business, it does not provide a similar exemption for an owner actively renegotiating a lease, seeking refinancing, seeking additional credit, or making other last minute efforts to save a business that is in imminent danger of closure. Requiring a business to post public notice of impending closure may jeopardize any attempts to save the

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businesses, because financial institutions may stop extending credit or refuse to grant loans. Customers may take their business elsewhere and employees may seek immediate employment elsewhere.

By including bankruptcies, this bill will unreasonably burden businesses least able to afford added burdens and may force a failing company to close sooner than expected or lay off more workers to retain sufficient finances for payments.

This bill also adds additional penalties to section 394B-9 for back pay and benefits and a \$500 civil penalty for each day of violation. Current law already makes employers liable to all affected employees in an amount equal to the value of all their wages, benefits, and other compensation for the three months preceding the closure, partial closure, or relocation of the covered establishment.

Additionally, the federal law under Worker Adjustment and Retraining Notification Act of 1989 (WARN) allows an employer to give less than sixty days notice under certain circumstances where, at the time notice would have been required, the employer was actively seeking capital to avoid or postpone closure and believed that public notice would jeopardize the business transition. This bill has no similar provision. Thus, this bill creates inconsistencies between federal and state law without good reason.

Although this measure intends to protect employees from the effects of unexpected and sudden layoffs or terminations, it may result in earlier business closures and less monetary benefit for the employee.

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For the foregoing reasons, I am returning House Bill 1503  
without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read "Linda Lingle", written in a cursive style.

LINDA LINGLE  
Governor of Hawaii