

Speech Outline – 2003 Hawaii Employment Seminar
Chamber of Commerce of Hawaii and
Torkildson Katz Fonseca Moore and Hetherington
August 5, 2003 – 8:35 a.m. – 9:00 a.m.
Sheraton Waikiki Hotel, Maui Ballroom

*“The Lingle Administration’s Agenda:
Hawai’I Dept. of Labor and Industrial Relations”*

Good morning and aloha,

I am delighted to be here with all of you today. It is great to see that so many of you have taken time out of your busy schedules to attend this very important seminar.

I am sure that you will find this conference to be very informative, productive and worthwhile as you will learn about best practices in reducing your liability and employee-related costs.

I would like to thank the Chamber of Commerce of Hawaii and the Torkildson Katz law firm for providing me this opportunity to speak with you.

First, I would like to recognize two people, who I hope you will get to know better today and in the future. Our Department’s Deputy Director, Colleen LaClair, and my assistant, James Hardway.

Today, I want to discuss two areas. First, our administration’s goals for establishing a business-friendly Hawaii. Second, some of the efforts taken by the Department of Labor in improving the business climate in our State.

As you know, improving the economy is one of Governor Lingle’s top three priorities. Reforming our public education system and restoring trust in government are the other two priorities.

In order to expand and diversify our economy, we must establish at the Department of Labor, a business-friendly attitude and policy by not treating businesses as adversaries. We must seriously consider the voices of the business community when formulating any legislation, rules, policies or procedures, and work with businesses in partnership - not against them.

We need to remove ill-conceived policies and heavy-handed practices that stifle businesses by cutting unnecessary regulations; sharing information openly to the public on how we interpret rules, policies and procedures; finding ways to reduce the costs of doing business in this State; being more efficient in providing answers, rendering decisions, and processing claims; and significantly increasing our assistance and outreach program from expanding the information on our website to forming formal partnerships.

During the first five months of our term, we spent the majority of our time at the Legislature. We analyzed every bill from the perspective of how it would impact businesses. The general rule was that we opposed a bill if it financially impacted on businesses without a compelling reason; overly burdened businesses with unnecessary regulations; and/or perpetuated Hawaii's anti-business reputation. Some of our testimony was a complete departure from previous labor directors' positions.

Some of the anti-business bills we testified against and the Governor vetoed:

- HB 290: This would have provided unemployed workers an additional 13 weeks of unemployment insurance benefits, which may have caused an increase in your unemployment insurance taxes.**
- HB 968: This would have allowed unemployed workers to collect their entire part-time wages and unemployment insurance benefits.**
- HB 29: This would have required employers to provide meal breaks to their employees who work more than eight consecutive hours. We believe employers already provide meal breaks to their employees, and that this would have created another layer of unnecessary regulations.**

Health care costs are a significant burden for businesses. Accordingly, our administration is working to encourage competition in the area of health insurance. We enacted a law to prohibit the two largest health

care providers from sitting on the Prepaid Health Care Council, which oversees new providers entering the market. We are also encouraging the use of Medical Savings Account, or MSAs, which are an innovative tool for financing health care. We believe MSAs provide employees financial incentives to be responsible consumers of health care services, and thereby reduce health care costs.

As part of our administrative package, we introduced bills that would help businesses and level the playing field between the business community and labor. For example, we introduced a workers' compensation measure that will preclude stress claims resulting from a personnel action taken in good faith. We also introduced a measure that will provide employers the right to a jury trial in a discrimination claim filed with the Hawaii Civil Rights Commission. Employees have the right to remove their case from the Civil Rights Commission and have it heard in Court before a jury. We believe employers should have this same right. A few months ago the Supreme Court agreed.

As we prepare for the next legislative session, we want to hear from you – the business community – what must be done legislatively to create a more business- friendly environment.

We have been talking to the business community on how we can best serve them. In order to better serve the business community, we need to make some changes within the following agencies: Hawaii Civil Rights Commission; HIOSH; Work Force Development Council; and Workers Compensation.

Some of you have experienced the current Hawaii Civil Rights Commission (HCRC) process and know that it sometimes takes too long for HCRC to render an initial decision on whether the complaint is valid or has no merit. This is not good for business.

We must disclose to insurance carriers, and put you in a high risk category. It's not a good feeling to have a cloud of a pending lawsuit over your head, especially if you believe the complaint is frivolous and should have been dismissed. This furthers the perception of HCRC being anti-business.

How do we plan to reduce the backlog of cases? We will put together a working group of stakeholders, which will convene in September. The working group will consist of employers, employee organizations, and attorneys, who practiced before the Commission. They will explore ideas on how we can make the investigation process more efficient and also look at other states for models. We have no other option. We currently have approximately 400 pending cases and would like to reduce the backlog to 200 cases.

Our goal is to implement a procedure that will ensure that most of the cases go through the investigation process within the six-month statutory deadline.

The Hawaii Occupational Safety and Health (HIOSH) Consultation program's duty is to make our workplaces safe. To carry out our responsibility, we can work and educate businesses or use our enforcement authority.

We have been concentrating too much on using our enforcement authority, and not enough on working in partnership with businesses. Our goal is to improve and expand our consultation program by working with companies who share the same goal of ensuring a safe work environment for their employees.

We want HIOSH to be known as a consultation agency first, rather than just an enforcement agency. So, I encourage your company to partner with our administration in creating a safe work environment by participating in one of HIOSH's consultation programs.

You will receive free advice on how to make your workplace safer, and if you complete the consultation program, you will be exempt from routine inspections. We believe this is a more effective approach in preventing accidents.

We are removing HIOSH policies that create an anti-business environment unnecessarily overburdening businesses. We are working with the federal government that will allow our inspectors to provide you warning letters for violations that can be fixed on the spot, rather than issuing citations. This will allow us to concentrate on the more serious violations, and create a more business- friendly environment.

Finally, while we want to first work with companies to prevent accidents, we are also committed to exercising the full measure of our enforcement authority against employers who seriously violate our safety rules or continuously ignore them.

Improving the Workforce Development Program. The State receives approximately \$20 million a year under the Workforce Investment Act. The state as a whole receives a little over \$100 million in federal and state monies for workforce development.

We have a Workforce Development Council (WDC) that is responsible for producing a comprehensive strategic plan on how we should develop our workforce.

The business community has been disappointed with progress of WDC in coming up with a workforce strategic plan. The Council serves an important function, and we intend to increase productivity of the Council. We have made 10 appointments to the Council and these are people of high caliber, with a track record of getting things done.

We are always looking for ways to reduce the cost of your workers compensation premiums. We believe we can help reduce some of the costs, by providing employers and employees a “fair and efficient hearings process.” Currently, there are no administrative rules governing the work comp hearings process. In other words, there are no written rules informing the injured employee and the employer on how the work comp hearings process works. Not having rules lead to arbitrary and inconsistent results.

We need to take the guessing game out of the work comp hearings process and make it more efficient. Our goal is to establish rules on the hearings process, and we believe this will lead to more efficient and fair hearings.

We are currently building a new website with expanded information. We will have a Business Center on the Website to inform and educate the business community on the rules and regulations they need know on work comp, wage standards, Prepaid Health Care Act; the services and forms we provide; our procedures; and guidance on our interpretation of the law.

In conclusion, this is just a snapshot of our goals and initiatives. You have a business-friendly administration, including a labor department that is willing to work with you.

I encourage you to meet with us to provide your input and suggestions on how we can serve you better.

Thank you and have a great seminar.