

JAN 21 2010

S.B. NO. 2323

A BILL FOR AN ACT

RELATING TO EMPLOYMENT SECURITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 383, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§383- Requirement to post work availability online
5 prohibited. The department shall not require an individual to
6 register their availability to work online."

7 SECTION 2. Section 383-29, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) An unemployed individual shall be eligible to receive
10 benefits with respect to any week only if the department finds
11 that:

12 (1) The individual has made a claim for benefits with
13 respect to that week in accordance with rules the
14 department may prescribe and with section 383-29.7 for
15 partially unemployed individuals;

16 (2) The individual has [~~registered for work, as defined in~~
17 ~~section 383-1, and thereafter continued to report, at]~~



1 reported to an employment office in accordance with
2 rules the department may prescribe, except that the
3 department, by rule, may waive or alter [~~either or~~
4 ~~both of~~] the requirements of this paragraph for
5 partially unemployed individuals pursuant to section
6 383-29.8, individuals attached to regular jobs, and
7 other types of cases or situations with respect to
8 which it finds that compliance with those requirements
9 would be oppressive, or would be inconsistent with the
10 purpose of this chapter; provided that no rule shall
11 conflict with section 383-21;

- 12 (3) The individual is able to work and is available for
13 work; provided that no claimant shall be considered
14 ineligible with respect to any week of unemployment
15 for failure to comply with this paragraph if the
16 failure is due to an illness or disability, as
17 evidenced by a physician's certificate, which occurs
18 during an uninterrupted period of unemployment with
19 respect to which benefits are claimed and no work
20 which would have been suitable prior to the beginning
21 of the illness and disability has been offered the
22 claimant;



- 1 (4) The individual has been unemployed for a waiting
2 period of one week within the individual's benefit
3 year. No week shall be counted as a waiting period:
4 (A) If benefits have been paid with respect thereto;
5 (B) Unless the individual was eligible for benefits
6 with respect thereto as provided in this section
7 and section 383-30, except for the requirements
8 of this paragraph;
- 9 (5) In the case of an individual whose benefit year
10 begins:
11 (A) On or after January 2, 1966, but prior to
12 October 1, 1989, the individual has had during
13 the individual's base period a total of fourteen
14 or more weeks of employment, as defined in
15 section 383-1, and has been paid wages for
16 insured work during the individual's base period
17 in an amount equal to at least thirty times the
18 individual's weekly benefit amount as determined
19 under section 383-22(b). For the purposes of
20 this subparagraph, wages for insured work shall
21 include wages paid for services:



- 1 (i) Which were not employment, as defined in
- 2 section 383-2, or pursuant to an election
- 3 under section 383-77 prior to January 1,
- 4 1978, at any time during the one-year period
- 5 ending December 31, 1975; and
- 6 (ii) Which are agricultural labor, as defined in
- 7 section 383-9 except service excluded under
- 8 section [†]383-7(a)(1)[†], or are domestic
- 9 service except service excluded under
- 10 section [†]383-7(a)(2)[†]; except to the
- 11 extent that assistance under Title II of the
- 12 Emergency Jobs and Unemployment Assistance
- 13 Act of 1974 was paid on the basis of those
- 14 services;
- 15 (B) On and after October 1, 1989, to January 4, 1992,
- 16 the individual has been employed, as defined in
- 17 section 383-2, and has been paid wages for
- 18 insured work during the individual's base period
- 19 in an amount equal to not less than thirty times
- 20 the individual's weekly benefit amount, as
- 21 determined under section 383-22(b), and the
- 22 individual has been paid wages for insured work



1 during at least two quarters of the individual's
2 base period; provided that no otherwise eligible
3 individual who established a prior benefit year
4 under this chapter or the unemployment
5 compensation law of any other state, shall be
6 eligible to receive benefits in a succeeding
7 benefit year until, during the period following
8 the beginning of the prior benefit year, that
9 individual worked in covered employment for which
10 wages were paid in an amount equal to at least
11 five times the weekly benefit amount established
12 for that individual in the succeeding benefit
13 year; and

14 (C) After January 4, 1992, the individual has been
15 employed, as defined in section 383-2, and has
16 been paid wages for insured work during the
17 individual's base period in an amount equal to
18 not less than twenty-six times the individual's
19 weekly benefit amount, as determined under
20 section 383-22(b), and the individual has been
21 paid wages for insured work during at least two
22 quarters of the individual's base period;



1 provided that no otherwise eligible individual
2 who established a prior benefit year under this
3 chapter or the unemployment compensation law of
4 any other state, shall be eligible to receive
5 benefits in a succeeding benefit year until,
6 during the period following the beginning of the
7 prior benefit year, that individual worked in
8 covered employment for which wages were paid in
9 an amount equal to at least five times the weekly
10 benefit amount established for that individual in
11 the succeeding benefit year.

12 For purposes of this paragraph, wages and weeks of
13 employment shall be counted for benefit purposes with
14 respect to any benefit year only if the benefit year
15 begins subsequent to the dates on which the employing
16 unit by which the wages or other remuneration, as
17 provided in the definition of weeks of employment in
18 section 383-1, were paid has satisfied the conditions
19 of section 383-1 with respect to becoming an employer.

20 Effective for benefit years beginning January 1,
21 2004, and thereafter, if an individual fails to
22 establish a valid claim for unemployment insurance



1 benefits under this paragraph, the department shall
2 make a redetermination of entitlement based upon the
3 alternative base period, as defined in section 383-1;
4 provided further that the individual shall satisfy the
5 conditions of section 383-29(a)(5) that apply to
6 claims filed using the base period, as defined in
7 section 383-1, and the establishment of claims using
8 the alternative base period shall be subject to the
9 terms and conditions of sections 383-33 and 383-94;
10 and

11 (6) Effective November 24, 1994, an individual who has
12 been referred to reemployment services pursuant to the
13 profiling system under section 383-92.5 shall
14 participate in those services or in similar services.
15 The individual may not be required to participate in
16 reemployment services if the department determines the
17 individual has completed those services, or there is
18 justifiable cause for the claimant's failure to
19 participate in those services.

20 For the purposes of this subsection, employment and wages
21 used to establish a benefit year shall not thereafter be reused
22 to establish another benefit year."



1 SECTION 3. Section 383-29.8, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~§~~383-29.8~~§~~] Partial unemployment; waivers. [~~(a)~~—The
4 registration for work requirements under section 383-29(a) may
5 be waived for individuals who are partially unemployed, as
6 defined in section 383-1.

7 ~~(b)~~] An individual who is partially unemployed, as defined
8 in section 383-1, may be exempted from the work search
9 requirements as determined by rules of the department, or may be
10 subject to modified work search requirements as authorized by
11 the department [~~if the individual is waived from the~~
12 ~~registration for work requirements, as defined in section~~
13 ~~383-1]~~."

14 SECTION 4. Section 383-1, Hawaii Revised Statutes, is
15 amended by repealing the definition of "registered for work" or
16 "registration for work":

17 [~~"Registered for work" or "registration for work" means~~
18 ~~that an individual shall provide information to the employment~~
19 ~~office to be posted on the department's internet job matching~~
20 ~~system, including but not limited to the individual's name, job~~
21 ~~skills, education, training, prior employment history and work~~
22 ~~duties, preferred working conditions, occupational licenses, and~~



1 ~~other relevant occupational information to facilitate work~~
 2 ~~search efforts by the individual and increase job referrals by~~
 3 ~~the employment office. The information shall be posted with the~~
 4 ~~department's assistance or independently by the individual. The~~
 5 ~~employment office shall provide the necessary information to the~~
 6 ~~unemployment office for purposes of determining that the~~
 7 ~~individual's registration for work requirements has been met."]~~

8 SECTION 5. The department shall adopt, modify, and repeal
 9 rules of general application as may be necessary to remove the
 10 terms, and any requirements arising from the terms, "registered
 11 for work" or "registration for work." Any rule of the
 12 department of labor and industrial relations that requires an
 13 individual to register for work through a computer shall be void
 14 on the effective date of this Act.

15 SECTION 6. Statutory material to be repealed is bracketed
 16 and stricken. New statutory material is underscored.

17 SECTION 7. This Act shall take effect upon its approval.
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INTRODUCED BY:

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Report Title:

Prohibiting Online Requirements by the Department of Labor and Industrial Relations

Description:

Removes definitions requiring online posting of workers' availability and prohibiting all department of labor and industrial relations' rules, current and future, that require posting of workers' availability online.

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

