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To: The Honorable Marcus R. Oshiro, Chair  
and Members of the House Committee on Finance

Date: Monday, March 29, 2010  
Time: 4:00 p.m.  
Place: Conference Room 308, State Capitol

From: Darwin L.D. Ching, Director  
Department of Labor and Industrial Relations

**S.B. 2324 S.D. 2 H.D. 1 - Relating to Unemployment Insurance Benefits**

**I. DLIR'S OPPOSITION TO S. B. 2324 S.D.2 H.D.1**

**The Department opposes this measure** to automatically allow benefits to an individual who, while on partial claim status, accepts a job with another employer and is subsequently separated for potentially disqualifying reasons. The disqualification provisions must be equally applicable to all unemployed individuals claiming benefits under Chapter 383, HRS. The fact that an individual is still attached to a regular employer is irrelevant if such individual is considered unemployed under the law. According to section 383-1, HRS, an individual shall be deemed "unemployed" in any week during which the individual performs no services and no wages are payable, or in any week of less than full-time work if the wages payable are less than the individual's weekly benefit amount.

Since UI benefits are intended as temporary financial support while the jobless seek suitable re-employment, claimants often find part-time or full-time work and stop filing for UI compensation. All claimants who are receiving UI benefits have met the legal requirements to collect such payments and assume the same risks in accepting new jobs that may affect their entitlement to UI. Consequently, the same potential disqualifications are applicable to partially or totally unemployed individuals.

Employers also subject their operations to risk when hiring a new worker should he/she quit for non-compelling reasons or have willfully acted against the employer's interests. Businesses have reasonable expectations of any employees' work performance and workers are compensated to accomplish their assignments accordingly. It is of little consequence to the employer that the newly hired worker is on partial claim status or not because business operations are harmed in any situation of quit without good cause or misconduct connected with work. As employers contribute 100% to the UI trust fund to pay benefits, additional UI payouts resulting from this measure would eventually increase their UI contributions.

In addition, the Department would like to point out that this provision would not be applicable under section 383-168 if the Extended Benefit (EB) period were to trigger on in Hawaii. The last time Hawaii triggered on to EB was in 1981. Section 202(a)(4) of the Federal-State Extended Unemployment Compensation Act of 1970 provides that disqualifications under regular benefits for voluntary leaving, misconduct, or refusal of suitable work must be satisfied by subsequent employment and no state law shall apply for purposes of determining eligibility for EB.

## **II. OVERVIEW OF PROPOSED LEGISLATION**

S.B. 2324 S.D. 2 H.D. 1 proposes to amend section 383-30, Hawaii Revised Statute (HRS), by allowing benefits to an individual who is still attached to a regular employer even if that individual separates from another employer offering part-time employment.

## **III. CURRENT LAW**

Currently, sections 383-30(1) and 383-30(2), HRS, which disqualifies individuals who quit a job without good cause or is discharged for misconduct, are applicable to all individuals receiving unemployment benefits regardless of whether that individual is on a partial, part-total or total claim status.

The fundamental purpose of the Unemployment Insurance (UI) program is to pay benefits to individuals who are unemployed through no fault of their own. Accordingly, any job separation that affects the payment of UI compensation is properly adjudicated to determine whether benefits will be allowed or denied. Where the voluntary quit is for good cause or the discharge is for no misconduct connected with work, UI benefits are allowed. Conversely, benefits are denied if the termination is without good cause or for misconduct.