

LINDA LINGLE
GOVERNOR



DARWIN L.D. CHING
DIRECTOR

COLLEEN Y. LaCLAIR
DEPUTY DIRECTOR

**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813
www.hawaii.gov/labor
Phone: (808) 586-8842 / Fax: (808) 586-9099
Email: dlir.director@hawaii.gov

February 22, 2010

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

Date: February 22, 2010

Time: 1:00 p.m.

Place: Conference Room 308, State Capitol

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

H.B. 2257 H.D. 1 - Relating to Unemployment Insurance Benefits

I. OVERVIEW OF PROPOSED LEGISLATION

H.B. 2257 H.D. 1 proposes to allow benefits to an individual that is attached to a regular employer even if that individual voluntarily or involuntarily separates from part-time employment.

II. CURRENT LAW

Currently, sections 383-30(1) and 383-30(2), Hawaii Revised Statutes (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.

III. HOUSE BILL

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.

The department currently follows the precedent court ruling relevant to the issue of disqualification provisions with respect to separations involving concurrent employment. In Brooks vs. Aagsalud, the Hawaii Supreme Court concluded that an individual can only be subject to potential disqualification under any provision of section 383-30, HRS if the individual was considered unemployed (as defined in section 383-1, HRS) at one job at the time of separation from another job.

Thus, if a partial claimant is "unemployed" and is terminated from part-time employment, the provisions under section 383-30 are applicable and must be applied accordingly. Conversely, if a partial claimant is not "unemployed" when a job termination occurs, no disqualification would be applicable. Since this procedure is similarly applicable to totally unemployed claimants, the department does not support this measure to change the existing policy.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

RANDY PERREIRA
Executive Director
Tel: 808.543.0011
Fax: 808.528.0922

NORA A. NOMURA
Deputy Executive Director
Tel: 808.543.0003
Fax: 808.528.0922

DEREK M. MIZUNO
Deputy Executive Director
Tel: 808.543.0055
Fax: 808.523.6879

The Twenty-Fifth Legislature, State of Hawaii
Hawaii State House of Representatives
Committee on Finance

Testimony by
Hawaii Government Employees Association
February 22, 2010

H.B. 2257, H.D. 1 – RELATING TO
UNEMPLOYMENT
INSURANCE BENEFITS

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly supports H.B. 2257, H.D. 1 which authorizes an individual to still receive unemployment insurance benefits even if that individual separates from part-time employment.

The measure seeks to fairly preserve unemployment insurance benefits for individuals still attached to their regular employer who is not offering work, under very specific and reasonable circumstances.

Thank you for the opportunity to testify in support of H.B. 2257, H.D. 1.

Respectfully submitted,

Nora A. Nomura
Deputy Executive Director

The Twenty-Fifth Legislature
Regular Session of 2010

HOUSE OF REPRESENTATIVES
Committee on Finance
Rep. Marcus R. Oshiro, Chair
Rep. Marilyn B. Lee, Vice Chair

State Capitol, Conference Room 308
Monday, February 22, 2010; 1:00 p.m.

**STATEMENT OF THE ILWU LOCAL 142 ON H.B. 2257, HD1
RELATING TO UNEMPLOYMENT INSURANCE BENEFITS**

The ILWU Local 142 strongly supports H.B. 2257, HD1, which authorizes an individual that is attached to a regular employer who is not offering work to still receive unemployment insurance benefits even if that individual voluntarily or involuntarily separates from part-time employment, with or without good cause.

When a worker who is "attached" to a regular employer but not offered work applies for unemployment insurance benefits, the claim is for "partial" unemployment and the claimant is exempt from registration for work and job search requirements. The employer must provide a "weekly report of low earnings" to verify the claimant's attached status with the employer. Furthermore, the claimant must be available for work offered by his regular employer but may voluntarily seek part-time or full-time work to supplement or supplant the unemployment benefit.

H.B. 2257, HD1 seeks to remedy what we believe to be an inequity in the current law. A claimant receiving partial unemployment benefits should not be disqualified for separation from a part-time employer *regardless of the reason for the separation* because the claimant is exempt from job search requirements and obligated to be available for work offered by his regular employer.

This issue was brought to our attention when an ILWU member was disqualified for partial unemployment benefits when she was separated from a casual position with another employer. Her secondary employer reported to the Unemployment Insurance Office that she voluntarily quit her job without good cause. The claimant said she did not quit her job but did become upset when her employer scheduled her for a four-hour meeting, then told her they made a mistake and needed to have her work a full shift instead. The employer virtually dismissed her concerns about child care, which were especially crucial to her due to an earlier incident when her son fell from a second story window while in the care of others and needed to be evacuated by air to Honolulu. Both the UI claims examiner and the appeal hearings officer apparently discounted her child care concerns and denied her benefits. The claimant has taken her case to Circuit Court.

In the meantime, the employee, who was still attached to her regular employer, lost all of her unemployment benefits while her co-workers with the regular employer received their full 26 weeks of state benefits plus federal extensions even while they did not seek other employment. The shutdown of her regular employer's business due to renovations extended from seven months to one year, causing our member considerable financial hardship.

H.B. 2257, HD1 seeks to amend the statute to prohibit disqualification of a partial claimant for separation from a secondary job. This prohibition will only apply to claimants for partial unemployment benefits who are attached to a regular employer, exempt from job search and registration for work requirements, and available for work offered by the regular employer. We believe this amendment of the law is fair.

The ILWU urges passage of H.B. 2257, HD1. Thank you for the opportunity to share our testimony on this bill.