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March 15, 2010

To: The Honorable Karl Rhoads, Chair
and Members of the House Committee on Labor & Public Employment

Date: Tuesday, March 16, 2010
Time: 10:00 a.m.
Place: Conference Room 309, State Capitol

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

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

I. DLIR'S OPPOSITION TO S.B. 2324 S.D.2

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, Hawaii Revised Statutes (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 employee's 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 proposes to amend section 383-29.6, Hawaii Revised Statute (HRS), by allowing benefits to an individual that is still attached to a regular employer even if that individual separates from another employer offering part-time employment. The individual must have established eligibility for partial unemployment and have wages in the base period of the partial claim of at least 75% from the regular employer.

III. CURRENT LAW

Currently, sections 383-30(1) and 383-30(2), HRS, which disqualifies individuals who quit a job without good cause or are 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.

The Twenty-Fifth Legislature
Regular Session of 2010

HOUSE OF REPRESENTATIVES
Committee on Labor & Public Employment
Rep. Karl Rhoads, Chair
Rep. Kyle T. Yamashita, Vice Chair

State Capitol, Conference Room 309
Tuesday, March 16, 2010; 10:00 a.m.

**STATEMENT OF THE ILWU LOCAL 142 ON S.B. 2324, SD2
RELATING TO UNEMPLOYMENT INSURANCE BENEFITS**

The ILWU Local 142 supports the intent of S.B. 2324, SD2, which authorizes an individual that is attached to a regular employer who is not offering work to still receive unemployment insurance benefits under certain circumstances if the individual separates from an employer offering part-time employment. However, the ILWU would prefer language in H.B. 2257, HD2.

H.B. 2257, HD2 seeks to amend the statute related to unemployment insurance to prohibit disqualification of a partial claimant due to 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.

Claimants who are attached to a regular employer include those who have reduced work hours and those who are not offered work due to a short-term layoff, resulting, for example, from renovation of the regular employer's property. In both cases, the workers continue to be considered employees of the regular employer and may be receiving benefits such as medical coverage. Similarly, in both cases, unemployment benefits allow the workers to be available to the regular employer once work opportunity picks up or the renovation is completed and business resumes. Thus, unemployment benefits provide the regular employer with assurance that the workers will be available when needed, thus minimizing the need for potentially costly training and other adjustment.

We believe amendment of the law as proposed in H.B. 2257, HD2 is fair. The ILWU recommends passage of S.B. 2324 with the insertion of language from H.B. 2257, HD2. Thank you for the opportunity to testify on this matter.

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GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

March 15, 2010

TO: THE HONORABLE REPRESENTATIVE KARL RHOADS, CHAIR AND MEMBERS
OF THE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

SUBJECT: S.B. 2324, SD2 RELATING TO UNEMPLOYMENT INSURANCE BENEFITS.

NOTICE OF HEARING

DATE: Tuesday, March 16, 2010
TIME: 10:00 A.M.
PLACE: Conference Room 309

Dear Chair and Members of the Committee:

The General Contractors Association (GCA), an organization comprised of over five hundred and seventy (570) general contractors, subcontractors, and construction related firms, is **opposed** to the passage of S.B. 2324, SD2 Relating To Unemployment Insurance Benefits.

This bill would automatically allow benefits to an individual who, while on partial claim status, accepts a job with another employer and subsequently voluntarily or involuntarily separates from the part time employment. We are particularly opposed to language that indicates that benefits will be paid regardless of whether the employee was separated for good cause or not. This provision would not permit the employer to challenge the payment of unemployment benefits.

The GCA believes that the existing policies enforced by the Department of Labor and Industrial Relations are fair and should be maintained. If this bill is passed and enacted, the result would be a greater demand on the unemployment insurance reserve fund which is already underfunded and will already require a substantial increased payment by the employer.

The GCA is **opposed** to the passage of S.B.2324, SD2 and recommends that the bill be held.

Thank you for the opportunity to provide our views on this issue.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

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The Twenty-Fifth Legislature, State of Hawaii
House of Representatives
Committee on Labor & Public Employment

Testimony by
Hawaii Government Employees Association
March 16, 2010

S.B. 2324, S.D. 2 - RELATING
TO UNEMPLOYMENT
INSURANCE BENEFITS

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly supports the purpose and intent of legislation 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. We suggest the contents of S.B. 2324, S.D. 2 be deleted and replaced with the contents of H.B. 2257, H.D. 2, the form in which this measure passed out of the House Committee on Finance on February 22, 2010.

The language of H.B. 2257, H.D. 2 is straight-forward and clear. The measure fairly seeks to 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 the purpose and intent of S.B. 2324, S.D. 2.

Respectfully submitted,

Nora A. Nomura
Deputy Executive Director