

**TESTIMONY**

**SB 2324**

**LATE**

The Twenty-Fifth Legislature  
Regular Session of 2010

THE SENATE  
Committee on Labor  
Senator Dwight Y. Takamine, Chair  
Senator Brian T. Taniguchi, Vice Chair

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State Capitol, Conference Room 224  
Thursday, January 28, 2010; 2:45 p.m.

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

The ILWU Local 142 supports S.B. 2324, 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.

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 claimant must be available for any work offered by his regular employer and may voluntarily seek part-time or full-time work to supplement or supplant the unemployment benefit.

A claimant for partial unemployment is obligated to be available for work offered by his regular employer. However, separation from a secondary employer should not be grounds for disqualification since the claimant is exempt from job search requirements.

A member of the ILWU was disqualified for partial unemployment benefits because she became separated from her secondary job as a casual. In her view, her "voluntary quit" was justified, but neither the claims examiner nor the hearings officer agreed. She has been forced to take the matter to Circuit Court.

In the meantime, the employee, who was still attached to her regular employer, did not receive any unemployment benefits for eight months while her co-workers received their full 26 weeks of benefits plus federal extensions. The shutdown of her regular employer's business due to renovations extended from seven months to one year, causing our member considerable financial hardship.

S.B. 2324 seeks to amend the statute to prohibit disqualification of a partial claimant for separation from a secondary job. We would like to suggest a couple of amendments to S.B. 2324 to clarify what we believe to be the intent of the bill.

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First, we recommend that the opening paragraph of the new section (b) read: *"Effective July 1, 2010, notwithstanding any law or rule to the contrary, an individual shall not be disqualified for benefits for any week in which the individual separates involuntarily or voluntarily, with or without good cause, from any employer offering part-time employment, if the individual is...."*

This section refers only to partial claimants who are attached to a regular employer and available for work offered by the regular employer. Separation from another employer, whether voluntary or involuntary, with or without cause, should not be a consideration in determining eligibility for benefits.

Second, we recommend that item (1) following the opening paragraph of the new section (b) read: *"(1) Receiving benefits ~~due to separation from~~ while attached to a regular employer that is not offering work."* Items (1), (2), and (3) are meant to describe who shall not be disqualified for benefits. The description should be restricted to partial claimants who are attached to a regular employer not offering work, receiving partial unemployment benefits, and exempt from work search and registration for work requirements.

The ILWU urges passage of S.B. 2324 with the amendments as offered. Thank you for the opportunity to share our testimony on this bill.

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GOVERNOR



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January 28 2010

To: The Honorable Dwight Y. Takamine, Chair  
and Members of the Senate Committee on Labor

Date: January 28, 2010

Time: 2:45 p.m.

Place: Conference Room 224, State Capitol

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

**S.B. 2324 - Relating to Unemployment Insurance Benefits**

**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. 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. Agsalud*, 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.