



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

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February 2, 2011

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

The Honorable Angus L.K. McKelvey, Chair
and Members of the House Committee on Economic Revitalization & Business

Date: Friday, February 4, 2011
Time: 9:00 a.m.
Place: Conference Room 309, State Capitol

From: Dwight Takamine, Director
Department of Labor and Industrial Relations

Re: H.B. 1077 Relating to Employment Security Law

I. OVERVIEW OF PROPOSED LEGISLATION

Act 2, approved by the Legislature in 2010, gave the Director of the Department of Labor and Industrial Relations (DLIR) the authority to assess all employers the amounts necessary to pay interest costs on the Title XII loans. However, as the method determined most feasible to collect the special surtax requires statutory amendments, the intent of this housekeeping measure is to satisfy any legal requirements to accomplish the purposes of Act 2.

H.B. 1077 will permit a temporary increase in the E&T assessment beginning January 2011, for one year only, for purposes of collecting the interest payment surtax from all contributory employers. As the interest due must be paid on September 30, 2011, passage of this measure by early March 2011 is critical. In January 2012, the special assessment will sunset and the previous statutory provisions will be reinstated.

II. CURRENT LAW

Currently, section 383-128, Hawaii Revised Statutes, provides for employers to be

assessed a rate of .01% of UI taxable wages for purposes of funding training programs administered by the DLIR Workforce Development Division. The assessment is collected with the UI contributions on a quarterly basis.

III. HOUSE BILL

The Department strongly supports this measure and recommends passage of this bill.

1. Hawaii's UI trust fund is currently insolvent and Title XII loans were received beginning December 2010. Federal law requires that the interest payment on outstanding loans be paid by September 30, 2011. Current projections show that the outstanding loan balances will be \$7 million in September 2011 and the interest due will be approximately \$1 million. Barring any further changes to the law which could affect solvency, the UI trust fund is expected to repay all advances due in 2012.
2. Failure to pay interest when due may result in the loss of the employer's 5.4% FUTA tax offset credit and the loss of approximately \$15,000,000 in administrative grants to operate the UI program in Hawaii. Employers will be liable for the full 6.2% FUTA tax resulting in an increase from \$56 to \$434 per employee annually. If the administrative grant is withheld, jobless workers will not be able to file UI claims due to the total shutdown of all UI offices.
3. Section 383-61.5 provides that the director (of DLIR) may assess all employers the amounts that are sufficient to pay the principal and interest costs on the Title XII loans; provided that the director develops a mechanism of distributing these payments among employers in a fair and equitable manner.

The E&T assessment provides the most cost effective mechanism available to collect the interest due. As such, the current law under section 383-128 is temporarily amended by this measure to include the payment of interest on Title XII loans as one of the uses of the E&T fund. Section 383-129 is amended to provide authority to the director to determine the amount of increase in the E&T assessment rate for 2011 sufficient to pay interest costs.

4. The E&T assessment is applicable to a calendar year and must be retroactive to the beginning of 2011. The experience rating for calendar year 2011 must be done by mid-March and the UC-B6 quarterly contribution rate forms (which include the E&T assessment rate) must be generated and mailed out to the employers before the first quarter report is due from April 1 to April 30, 2011.

Fast tracking this measure is essential because of the tight schedule to run the experience rating job, print the experience rating notices, mail out the experience rating notices, run the UC-B6 quarterly contribution rate job, print the UC-B6 forms, mail out the UC-B6 forms and allow enough time for employers to appeal their experience rating notices. This information is essential if employers are expected to file and pay their contributions on time as required by existing law.