



**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. 837 Relating to Unemployment Insurance Benefits

I. OVERVIEW OF PROPOSED LEGISLATION

H.B. 837 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.

II. 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.

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.

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. It is also a disincentive for employers to hire a part-time worker who is attached to a regular worker if that worker can separate from employment without any adverse consequences on his/her UI claim. 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.

The Department is willing to discuss alternatives for this measure. Below are two options that can be considered for further discussion.

Option 1:

“§383- Good cause for leaving part-time employment. (a) Good cause for voluntarily leaving part-time employment may be found where an individual has established eligibility for partial unemployment in accordance with section 12-5-1, Administrative Rules and the following conditions contributed to the voluntary leaving:

- (1) Loss of full-time work with a regular employer made it economically unfeasible to continue part-time employment;*
 - (2) The part-time employment was outside of the individual's customary occupation and would not have been considered suitable work under section 12-5-55 (c), Administrative Rules, at the time that the individual accepted the part-time employment;*
 - (3) The employer failed to provide sufficient advance notice of a work schedule change;*
 - (4) There was a work schedule conflict with the regular full-time employer; or*
 - (5) Any other factor relevant to a determination of good cause.*
- (b) “Part time” is considered less than “full-time” as defined in section 12-5-1, Administrative Rules.”*

Option 2:

“§383- . Disqualification for benefits; part-time employment. Notwithstanding the disqualification provisions of section 383-30(1) and section 383-30(2), an individual who:

- (6) is in “partial unemployment” as defined in section 383-1, Hawaii Revised Statutes and section 12-5-1, Administrative Rules; and*
- (7) continues to have partial unemployment status pursuant to sections 383-29.6 to 383-29.9 or sections 12-5-1, 12-5-31 and 12-5-81, Administrative Rules; and*
- (8) is concurrently employed in part-time work,*
shall be disqualified for benefits for any week in which the individual, with respect to the part-time work only, has been discharged or suspended for misconduct connected with work, or has left work voluntarily without good cause, and for four consecutive weeks which immediately follow such week.

(b) “Part time” is considered less than “full-time” as defined in section 12-5-1, Administrative Rules.”