



**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: dllr.director@hawaii.gov

LATE

February 28, 2011

To: The Honorable David Y. Ige, Chair
and Members of the Senate Committee on Ways and Means

Date: Tuesday, March 1, 2011
Time: 9:20 a.m.
Place: Conference Room 211, State Capitol

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

Re: S.B. 1088 S.D. 1 Relating to Unemployment Insurance Benefits

I. OVERVIEW OF PROPOSED LEGISLATION

S.B. 1088 S.D. 1 proposes to amend section 383-30, Hawaii Revised Statute (HRS), by prohibiting the disqualification of an individual who is collecting partial benefits and still attached to a regular employer based on the individual's separation from a secondary part-time job. This bill also provides for partial claimants to be exempt from work search and work registration requirements for an indefinite period, even if no work is offered and no wages are earned for such period, as long as there is evidence of attachment to the regular employer. Finally, the June 30, 2012 sunset date of the provisions related to partial unemployment is repealed.

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. Sections 383-29.6 - 29.9 also provide that individuals must convert from partial unemployment to total unemployment status after 8 weeks of no earnings, a strong indication of a layoff with no imminent return to work date. As such, they are similarly situated as totally unemployed claimants, who must register for work with the Workforce Development Division unless they are active union

members and make weekly job contacts.

The fundamental purpose of the Unemployment Insurance (UI) program is to pay benefits to all individuals who are unemployed through no fault of their own, whether they are on partial or total status. 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. SENATE 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.

Alternatively, the Department supports H.B.837 H.D. 1 which codifies the determination of good cause for leaving part-time work and allows benefits to individuals who quit from part-time employment while still attached to their regular employer in specific clearly defined situations. That discharge situations were not included in this measure is consistent with the intent of the purpose of the UI program, i.e. that any individual who willfully disregard the standards of behavior which an employer has a right to expect of an employee should be disqualified for misconduct and thus, be denied UI benefits.