



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

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February 27, 2012

To: The Honorable Marcus R. Oshiro, Chair
and members of the House Committee on Finance

Date: Tuesday, February 28, 2012
Time: 3:00 p.m.
Place: Conference Room 308, State Capitol

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

Re: H.B. 2025 H.D. 1 Relating to Employment Security

I. OVERVIEW OF PROPOSED LEGISLATION

HB 2025 HD 1 establishes a voluntary work sharing program within the Department of Labor and Industrial Relations (DLIR) that would allow a worker who is employed for a portion of the week to collect unemployment benefits to compensate for lost wages. Under work sharing, an employer elects to avoid temporary layoffs by reducing the number of regularly scheduled hours of work for all, or a group of employees. Upon approval by the state UI agency of a work sharing plan agreed upon by the employer and union (if unionized), UI payments are based on the percentage of hours of work reduced as a proportion of the individual's weekly benefit amount (WBA).

The department appreciates the overall concept of this bill and offers comments below.

II. CURRENT LAW

There is no work sharing provision in current law, although partial unemployment benefits are payable under a formula that deducts earnings from an individual's WBA. While claimants may be ineligible for UI benefits under existing law if earnings exceed the WBA, under approved work sharing plans, individuals will

always qualify for a percentage of their WBA. The amount of UI payable will differ when the provisions of work sharing or partial unemployment are applied to each situation.

Example A: Claimant earns \$500 per week, works 40 hours per week. Under work sharing, hours reduced by 20%, or a 32 hour work week. If UI WBA is \$310, claimant will receive $\$310 \times 20\% = \62 in UI benefits for each work share week. Total earnings for the week = \$462 (\$400 in wages + \$62 in UI payment). Alternatively, if claimant filed for partial benefits for that week, no UI benefits would be payable because the weekly earnings from employment (\$400) exceeds the UI WBA of \$310.

Example B: Same as example A but claimant's reduction in hours under work sharing is 40%, or 24 hours per week. Claimant will receive $\$310 \times 40\% = \124 in UI benefits for each work share week. Total earnings for the week = \$424 (\$300 in wages + \$124 in UI payment). Alternatively, if claimant filed for partial benefits for that week, would receive \$450 (\$300 - \$150 earnings disregard = \$150 plus \$300 in wages).

III. COMMENTS ON THE HOUSE BILL

The department appreciates the overall concept of this measure to assist employers in maintaining their workforce and employees in retaining employment but has the following concerns:

1. To accommodate the provisions in this bill, the automated UI benefit system must undergo major modifications to create a special work sharing program that calculates a UI benefit payment based on the percentage of reduced hours in a workweek to permit payment of UI benefits even if wages exceed the UI WBA and to charge only one employer if multiple employers exist while still enabling the use of all wages from all employers to calculate the UI WBA. Although current estimates of the time and cost to implement a computer change by ICSD are not available at this time, the administrative burden to create this new program, such as determining guidelines, making program modifications, testing the modifications, promulgating rules, preparing written procedures and forms, creating new federal reports, educating employers, and training staff, would be considerable at this time. As such, the department appreciates the delayed effective date of September 1, 2013.

2. A new federal law, Middle Class Tax Relief and Job Creation Act of 2012, was enacted on February 22, 2012 which allows states to receive limited federal financing (3 years) for 100 per cent of short-time compensation (STC) benefits. Some of the provisions in the new federal law:
 - The STC plan approved by the state shall not permit payment in excess of 26 times the weekly benefit amount during a benefit year.
 - No payment to an individual employed on a seasonal, temporary, or intermittent basis.
 - Employers must continue to provide health and retirement benefits to individuals as though the workweek of such employees had not been reduced.
 - Grants are available and must be submitted by December 31, 2014. At this time, the US Department of Labor (USDOL) has not issued guidelines for the specific requirements of the grant or additional information on the STC program including model legislative language, technical assistance, guidance, program and reporting requirements.

The department cannot fully comment on all aspects of the proposed state work sharing program and whether it will meet federal requirements until USDOL guidelines are received.

3. If the Legislature chooses to go ahead with the current bill, the department recommends the following:
 - The work-sharing program should not permit participants who are seasonal, temporary, or intermittent.
 - The program should allow only one plan from each employer at a time.
 - On page 9 under §383- Work-sharing benefits, delete "including any dependent's allowances," as the Hawaii Employment Security Law does not contain a provision to pay such allowances.
 - If the work-sharing weekly benefit is not an exact multiple of \$1, then the weekly benefit amount should be rounded up to the next higher multiple of \$1 rather than rounded down. This change would parallel current provisions under section 383-22.

- On page 11 under §383- Work-sharing benefits, section (i), that if an individual who performs no services during a week for the work-sharing employer, the department would revoke the work-sharing plan for all participants of the plan. The individual would be considered laid off due to lack of work and file for regular UI benefits. The benefit system currently cannot maintain 2 concurrent claims and permitting an individual to jump from a work sharing claim to a regular UI claim from week to week would present major problems in the benefit system.
- On page 12, lines 11-13 under §383 Benefit charges, move "No contributory employer with a negative reserve ratio or delinquent reimbursable shall be eligible to participate in the work-sharing program" to page 3 under §383 - Work-sharing program established; eligibility.

The Twenty-Sixth Legislature
Regular Session of 2012

HOUSE OF REPRESENTATIVES
Committee on Finance
Rep. Marcus R. Oshiro, Chair
Rep. Marilyn B. Lee, Vice Chair
State Capitol, Conference Room 308
Tuesday, February 28, 2012; 3:00 p.m.

**STATEMENT OF THE ILWU LOCAL 142 ON H.B. 2025, HD1
RELATING TO EMPLOYMENT SECURITY**

The ILWU Local 142 supports H.B. 2025, HD1, which authorizes certain private employers to administer a work-sharing plan to avoid temporary layoffs, if approved by DLIR; allows employees under a work-sharing plan to receive UI to compensate for lost wages; requires employees to be employed for not less than 90 days to be eligible for participation in a work-sharing program; and requires an employer to notify employees eligible to participate in a work-sharing program that UI benefits may be affected if an employee becomes unemployed in the future.

The intent of H.B. 2025, HD1 is to allow workers to share in work opportunity when economic conditions for an employer would otherwise require the employer to lay off employees, on either a temporary or permanent basis. This concept is a good one to ensure that all employees have the opportunity to retain their jobs and benefits.

When we first looked at this bill, we thought that employers interested in a work-sharing program could allow their employees to receive unemployment benefits under the partial unemployment provisions of the law. However, as was pointed out by the Department of Labor and Industrial Relations testimony, if the reduction in work hours is relatively small or the employee's earnings are high, the employee would not be eligible for partial unemployment benefits at all as their earnings would exceed the weekly UI benefit.

The work-sharing program proposed under H.B. 2025, HD1 would allow more workers to continue employment with the work-sharing employer and, if we are reading the bill correctly, would not count earnings from a non-work-sharing employer if the employee had earnings from a work-sharing employer during a week. This will serve as an incentive for employees to find other work to supplement their work-sharing and UI income.

Assuming the Department will be able to implement this program, the ILWU urges passage of H.B. 2025, HD1. Thank you for considering our testimony on this measure.