



**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: dlir.director@hawaii.gov

February 27, 2012

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

Date: Tuesday, February 28, 2012
Time: 4:00 p.m.
Place: Conference Room 308, State Capitol

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

Re: HB2264HD1 - Relating to Employment Security

I. OVERVIEW OF PROPOSED LEGISLATION

H.B. 2264 H.D. 1 proposes the following effective January 1, 2013:

- Amend section 383-66, HRS, to permanently change the standard rate of contributions from 5.4 per cent to 6.6 per cent; and
- Amend section 383-68, HRS to permanently increase contribution rates for employers up to a maximum of 6.6%.

The department has serious concerns about this bill in its current form and offers comments below.

II. CURRENT LAW

Section 383-66, HRS, was amended in 1984 to increase the standard rate of contribution from 3.0 per cent to 5.4 per cent beginning January 1, 1985 in conformance with the Federal Unemployment Tax Act (FUTA). The standard rate refers to the tax rate on the basis of which reasonable variations therefrom are computed. Federal law requires that reductions in rates from the standard rate be assigned according to an employer's actual experience with unemployment.

III. COMMENTS ON THE HOUSE BILL

The department offers the following comments:

Changing the standard rate of contributions under section 383-66 from 5.4 per cent to 6.6 per cent will raise a federal issue if each schedule from A through H in

- section 383-68(d) does not contain that standard 6.6 per cent rate. If a state law fails to meet this experience rating requirement in section 3303(a), Federal Unemployment Tax Act (FUTA), employers will lose their federal offset credit and pay the full 6.0% FUTA tax (\$420 per employee instead of \$42 per employee) in addition to their State UI taxes.

To avoid any potential federal intervention, the department recommends that the amendments contained in section 383-68, HRS, be revised to add the 6.6% rate to tax schedules A through G, that do not currently include the proposed new standard rate. This modification will accord with the purpose of the UI program to be a self-financing system that builds trust fund balances during periods of economic prosperity to support the demand for sharply increasing benefits when recessions occur. Theoretically, higher assessments on the lower schedules applicable in good times will sustain trust fund adequacy during cyclical downturns, and mitigate drastic fluctuations in tax rates as the fund is depleted.

- For consistency, amendment to section 383-129, HRS, which references "the maximum rate of five and four-tenths percent in accordance with section 383-68" is necessary to accurately reflect the increased maximum tax rate. The department recommends that the "five and four-tenths percent" be replaced with "six and six-tenths percent," assuming that percentage appears in each tax rate schedule from A to H.