



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

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February 28, 2012

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

Date: Tuesday, February 28, 2012

Time: 4:00 p.m.

Place: Conference Room 308

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

Re: HB 2576 H.D. 1 - Relating to Employment Security Law

I. OVERVIEW OF PROPOSED LEGISLATION

HB2576HD1 amends section 383-69, Hawaii Revised Statutes (HRS), to clarify that employer's contribution rate notices should be appealed to the Employment Security Appeals Referees' Office (ESARO). This is a housekeeping measure intended to maintain uniformity in existing procedures for processing appeals of any determination rendered under Chapter 383, HRS.

The department strongly supports this measure.

II. CURRENT LAW

Section 383-69, HRS, specifies that the employer has fifteen days after the mailing of the contribution rate notice to file an application for review and redetermination. If the department grants the review, a fair hearing is held and the department's redetermination is final unless proceedings are commenced in circuit court. The existing statute does not specifically identify ESARO as the agency responsible for allowing or denying the review or conducting the fair hearing.

III. COMMENTS ON THE HOUSE BILL

The department strongly supports this administration initiative to ensure that responsibilities are clearly defined and delineated to the extent that all rate notice challenges are handled efficiently and without any misunderstanding. Current UI procedures are consistent with the provisions of this proposal.

The department wishes to clarify that this bill addresses the issue of appeals to the Circuit Court raised by the Committee on Economic Revitalization in Standing Committee Report No. 614-12 by the new language that references sections 383-38 and 383-39, HRS. While we feel that the procedures for judicial review proceedings are sufficiently addressed in those sections, we understand the Committee's concern and would recommend the following revisions to pg.2, lines 13-20, and pg.3, lines 1-2 of this measure:

~~"[The employer shall be promptly notified of the department's denial of the employer's application, or of the department's redetermination, both of which]~~
The referee's determination shall become final unless a proceeding for judicial review in the manner provided in chapter 91 is commenced in the circuit court of the judicial circuit in which the employer resides or has the employer's principal place of business or in the circuit court of the first judicial circuit. [The proceedings shall be heard in a summary manner and shall be given precedence over all other civil actions, except for proceedings arising under section 383-41 and the workers' compensation law of the State.] An appeal may be taken from the decision of the circuit court to the intermediate appellate court, subject to chapter 602."