

JAN 24 2013

S.B. NO. 1156

A BILL FOR AN ACT

RELATING TO THE EMPLOYMENT SECURITY APPEALS REFEREE'S OFFICE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 383-38, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§383-38 Appeals, filing, and hearing.** (a) The claimant or
4 any other party entitled to notice of a determination or
5 redetermination as herein provided may file an appeal from the
6 determination or redetermination at the office of the department
7 in the county in which the claimant resides or in the county in
8 which the claimant was last employed, or with a copy of the
9 contested determination at the employment security appeals
10 referee's office, within ten days after the date of mailing of
11 the notice to the claimant's or party's last known address, or
12 if the notice is not mailed, within ten days after the date of
13 delivery of the notice to the claimant or party. The department
14 may for good cause extend the period within which an appeal may
15 be filed to thirty days. Written notice of a hearing of an
16 appeal shall be sent by first class, nonregistered, noncertified
17 mail to the claimant's or party's last known address[.] at least
18 twelve days prior to the initial hearing date.

1 (b) The appeal under subsection (a) shall be heard in the
2 county in which the appeal is filed, except that the department
3 may by its rules provide for the holding of a hearing in another
4 county with the consent of all parties or where necessary in
5 order that a fair and impartial hearing may be had, and may
6 provide for the taking of depositions. Unless the appeal is
7 withdrawn with the permission of the referee, the referee after
8 affording the parties reasonable opportunity for a fair hearing
9 shall make findings and conclusions and on the basis thereof
10 affirm, modify, or reverse such determination or
11 redetermination. The parties to any appeal shall be promptly
12 notified of the decision of the referee and shall be furnished
13 with a copy of the decision and the findings and conclusions in
14 support thereof and the decisions shall be final and shall be
15 binding upon each party unless a proceeding for judicial review
16 is initiated by the party pursuant to section 383-41; provided
17 that within the time provided for taking an appeal and prior to
18 the filing of a notice of appeal, the referee may reopen the
19 matter, upon the application of the director or any other party,
20 or upon the referee's own motion, and thereupon may take further
21 evidence or may modify or reverse the referee's decision,
22 findings, or conclusions. If the matter is reopened, the
23 referee shall render a further decision in the matter either

1 reaffirming or modifying or reversing the referee's original
2 decision, and notice shall be given thereof in the manner
3 hereinbefore provided. Upon reopening, the referee who heard
4 the original appeal shall reconsider the matter, except where
5 the referee is no longer employed as a referee or the referee
6 disqualifies oneself from reconsidering the referee's decision.

7 (c) The time to initiate judicial review under section
8 383-41 shall run from the notice of such further decision, if
9 the matter has been reopened under subsection (b).

10 (d) If a claimant or party does not receive the written
11 notice under subsection (a), a second written notice shall be
12 sent by certified mail, and the hearing on the appeal shall be
13 rescheduled accordingly.

14 (e) Upon application to, and approval by, the employment
15 security appeals referee's office, a claimant or party to an
16 appeal may elect to receive hearing notices, decisions, and
17 other appeal documents from the referee's office in electronic
18 format in lieu of notice by mail. The date of electronic
19 transmission is equivalent to the mailing date for purposes of
20 this section. Electronic notification status may be rescinded
21 at any time by the referee's office, claimant, or any party upon
22 written notification."

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1 SECTION 2. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: *Jose Mercado Ki*

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BY REQUEST

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Report Title:

Employment Security Appeals Referee's Office; Electronic Filing

Description:

Modifies the notice period for unemployment appeal hearings from fifteen days to twelve days and authorizes notices and correspondence to be sent electronically in lieu of notice by mail.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent

JUSTIFICATION SHEET

SB. NO. 1156

DEPARTMENT: Labor and Industrial Relations

TITLE: A BILL FOR AN ACT RELATING TO THE EMPLOYMENT SECURITY APPEALS REFEREE'S OFFICE.

PURPOSE: Modify the notice period for unemployment appeal hearing from 15 days to 12 days. Authorizes notices and correspondence to be sent in electronic format in lieu of notice by mail for those who voluntarily select that revocable option.

MEANS: Amend section 383-38, Hawaii Revised Statutes.

JUSTIFICATION: Governor Abercrombie's New Day plan envisions transforming state government into an efficient and effective enterprise. If enacted, this measure would allow the Employment Security Appeals Referee's Office (ESARO) to more efficiently allocate resources. Therefore, ESARO is proceeding in stages to upgrade its use of technology including electronic filing and document management.

Parties who file an appeal can receive an earlier hearing date and appeal decision, more consistent with the ten-day nationwide average notice requirement for unemployment appeal hearings.

Using over \$600,000 in supplemental budget request (SBR) funds, ESARO also established an online appeals system, which will be operational in early 2013. Using this system, parties will be able to file appeals online, electronically receive hearing notices and appeal documents, and monitor the status of their appeals through an existing system operated by the Unemployment Insurance Division (UID).

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This bill specifically recognizes that individuals and companies who voluntarily elect to use this online system accept electronic service in lieu of notice by mail.

Impact on the public: Individuals and employers will have their unemployment appeals resolved at an earlier date. ESARO will continue to grant valid postponement or rescheduling requests. Parties will also be able to receive information about their appeal through more cost-effective electronic means.

Impact on the department and other agencies: This bill is anticipated to eventually result in labor savings from decreased public inquiries for information obtainable through electronic means and operational cost savings from a reduced need for postage and paper supplies. The bill will also result in an increased ability to continue meeting federal timeliness and performance standards.

GENERAL FUND: None.

OTHER FUNDS: Federal.

PPBS PROGRAM
DESIGNATION: LBR 871.

OTHER AFFECTED
AGENCIES: Department of Accounting and General
Services

EFFECTIVE DATE: Upon approval.