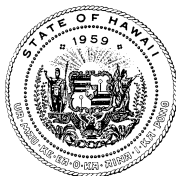


HB 58



STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813
<http://labor.hawaii.gov>

February 4, 2013

To: The Honorable Mark Nakashima, Chair,
The Honorable Mark J. Hashem, Vice Chair, and
Members of the House Committee on Labor & Public Employment

Date: February 5, 2013

Time: 9:00 a.m.

Place: Conference Room 309, State Capitol

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

Re: H.B. No. 58 Relating to Employment Security

I. OVERVIEW OF PROPOSED LEGISLATION

HB 58 proposes to create a new part in Chapter 383, Hawaii Revised Statutes (HRS) to establish 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 layoffs by reducing the number of usual scheduled hours of work for all, or a group of employees. In this measure, the percentage of reduction in work hours is no less than 10 percent and not more than 50 percent. 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 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. However, while a claimant may be ineligible for UI benefits under the existing partial unemployment provisions if earnings exceed the WBA, this

individual will qualify for UI payments under an approved work sharing plan, Furthermore, ICSD is also currently inundated with UI projects and hampered by staff shortages.

III. COMMENTS ON THE HOUSE BILL

While the department appreciates the overall concept of this measure to assist employers in maintaining their workforce and employees in retaining employment, we note the following serious concerns:

1. While a work sharing program is voluntary, the program must be consistent with the requirements of Section 3306(v) of the Federal Unemployment Tax Act (FUTA) as added by The Layoff Prevention Act of 2012 (Subtitle D of Title II of P.L. 112-96). Section 3306(v), FUTA, provides the criteria that a state must follow to assure that approval of an STC plan is consistent with Federal requirements. In its current form, this proposed measure does not conform to federal law.
2. To accommodate the provisions in this bill, major computer reprogramming must be initiated to accommodate UI benefit payments based on the percentage of reduced hours in a workweek even if wages exceed the UI WBA. Although current estimates of the time and cost to implement a computer change by ICSD are still being prepared, the resources necessary to plan, develop, test and administer this new program will impinge upon the department's ability to complete multiple ongoing projects in 2013 with time constraints for completion due to funding restrictions.
3. Under this measure, an individual can conceivably collect from a work sharing plan and a regular unemployment claim. The UI benefits system currently cannot maintain two concurrent claims and permit an individual to alternate between a work sharing claim and a regular UI claim from week to week.

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LATE TESTIMONY