

Honolulu, Hawaii

February 12, 2016

RE: H.B. No. 2208
H.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Labor & Public Employment, to which was referred H.B. No. 2208 entitled:

"A BILL FOR AN ACT RELATING TO LABOR,"

begs leave to report as follows:

The purpose of this measure is to:

- (1) Require the Department of Labor and Industrial Relations (DLIR) to issue written determinations to investigated individuals and employers if the determination as to whether a worker is an employee or self-employed as an independent contractor is part of an unemployment insurance investigation;
- (2) Authorize employers to appeal DLIR's determination of employment status and require DLIR to respond to an employer's appeal within 30 days or the appeal will be dismissed in favor of the employer;
- (3) Authorize employers to request an advisory opinion from DLIR regarding an individual's employment status, if the request is made prior to an investigation;
- (4) Require DLIR to provide a written advisory opinion determining whether an individual's services could be employment; and



- (5) Require DLIR to place all advisory opinions on its website with personal information redacted.

DLIR testified in opposition to this measure.

Your Committee has amended this measure by deleting its contents and inserting provisions that:

- (1) Change references to the common law relationship of "employee and employer" instead of "master and servant";
- (2) Provide that if an employer files an appeal of a coverage determination, the Employment Security Appeals Referee's Office (ESARO) must render a decision within 30 days after the filing of the appeal. If the ESARO fails to render a decision on appeal within 30 days, the employer will be reimbursed for any contribution or penalty paid;
- (3) Require DLIR to publish findings of all issued determinations, redeterminations, appeals, and written advisory opinions on its website, provided that all personal or identifiable information is redacted; and
- (4) Prior to an unemployment insurance investigation by DLIR, allow an individual or employer to request that DLIR issue a written advisory opinion about whether the individual's services would be considered employment. The advisory opinion must be issued no later than 30 days after the request was received.

As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2208, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2208, H.D. 1, and be referred to your Committee on Judiciary.



Respectfully submitted on
behalf of the members of the
Committee on Labor & Public
Employment,



MARK M. NAKASHIMA, Chair



