



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

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February 04, 2019

To: The Honorable Brian T. Taniguchi, Chair,  
The Honorable Les Ihara Jr, Vice Chair, and  
Members of the Committee on Labor, Culture, and the Arts

Date: Tuesday, February 05, 2019  
Time: 02:45 p.m.  
Place: Conference Room 224, State Capitol

From: Scott T. Murakami, Director  
Department of Labor and Industrial Relations (DLIR)

**Re: S.B. No. 576 RELATING TO EMPLOYMENT SECURITY**

**I. OVERVIEW OF PROPOSED LEGISLATION**

SB576 proposes to do the following:

- Amend section 383-29(a)(2), Hawaii Revised Statutes (HRS), to allow an individual who has registered for work as defined in 383-1, HRS, the option to report in person or via electronic communication, at an employment office.
- Amend section 383-29(a)(3), HRS, to provide a new exception to the able and available requirement to weeks of unemployment if the claimant is out of state with access to facilities and methods that are prevailing or customarily used by persons to work remotely in the person's customary occupation.

DLIR opposes the measure and notes it raises a potential federal conformity issue.

**II. CURRENT LAW**

Section 383-29(a)(2), HRS, and Hawaii Administrative Rule (HAR) 12-5-31 require individuals on unemployment to register for work and to post resumes online in the Department's internet job-matching system at [www.hirenethawaii.com](http://www.hirenethawaii.com). The administrative rules took effect on November 6, 2006. The Workforce Development Division (WDD) has an interactive system in effect since 2003 which allows

individuals to post resumes online and to do job searches and job referrals using the

internet.

### **III. COMMENTS ON THE SENATE BILL**

The Department opposes SB576 for the following reason:

The federal-state Unemployment Insurance (UI) program is a cooperative arrangement between the Federal Government and individual states. Federal UI laws provide broad requirements that state UI laws must contain. Failure to adhere to these requirements jeopardizes approximately \$12,500,000 in federal administrative funding.

Federal law at § 20 C.F.R. 604.3(a) requires that a state “may pay [Unemployment Compensation (UC)] only to an individual who is able to work and available for work for the week for which UC is claimed.” Hawaii’s unemployment insurance law, section 383-29(a)(3), HRS, mirrors the Federal law and provides the claimant to be available for work to establish their eligibility for benefits.

The proposed amendment to Section 383-29(a)(3) adds a second exception to the able and available for work requirement by providing that no claimant shall be held ineligible with respect to any week of unemployment if the claimant is out-of-state with access to facilities and methods that are prevailing or customarily used by persons to work remotely in the claimant’s customary occupation.

Federal law at § 20 CFR 604.4(b) only provides for an exception to the able and available requirement if a claimant has an illness or disability. Therefore, the proposed amendment raises a potential conflict with Federal law.