

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LIEUTENANT GOVERNOR



JADE T. BUTAY
DIRECTOR

WILLIAM G. KUNSTMAN
DEPUTY DIRECTOR

STATE OF HAWAII
KA MOKU'ĀINA O HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
KA 'OIHANA PONO LIMAHANA

February 11, 2025

To: The Honorable Jackson D. Sayama, Chair,
The Honorable Mike Lee, Vice Chair, and
Members of the House Committee on Labor

Date: Tuesday, February 11, 2025
Time: 9:00 a.m.
Place: Conference Room 309, State Capitol

From: Jade T. Butay, Director
Department of Labor and Industrial Relations (DLIR)

Re: H.B. 477 RELATING TO HAWAII EMPLOYMENT SECURITY LAW

I. OVERVIEW OF PROPOSED LEGISLATION

The **DLIR strongly supports** this measure and respectfully requests an amendment.

This measure proposes to amend Chapter 383, Hawaii Revised Statutes (HRS) by the following:

- Modifying the process for individuals to register for work on the Department's internet job matching system;
- Clarifying the circumstances in which individuals were required to register for work;
- Allowing for electronic notifications for unemployment claim determinations, appeals, and hearing notices;
- Specifying that the electronic notification date is the equivalent of a mailing date;
- Permitting claimants to change their tax withholdings more than once; and
- Removing and updating various statutory provisions.

II. CURRENT LAW

Section 383-1, HRS, defines "registered for work" and "registration for work."

Section 383-12, HRS, specifies that an individual is required to post information that would be used for job matching on the Department's internet job matching system.

Section 383-29, HRS, specifies the circumstances in which individuals are required to register for work on the Department's internet job matching system.

Section 383-36, HRS, requires that unemployment insurance determinations and redeterminations be sent to parties by mail at their last known address.

Section 383-38, HRS, requires that appeals from unemployment insurance determinations or redeterminations be filed within ten days of after the mailing and provides for the option of electronic notification for unemployment insurance appeal documents only.

Section 383-66(a)(6), HRS, allows the Department to prescribe rules for the establishment, maintenance, and dissolution of joint accounts.

Section 383-163.6, HRS, permits an individual to change a previously elected withholding status once during their claim's benefit year.

III. COMMENTS ON THE HOUSE BILL

The Department strongly supports this measure as it lays the foundation for transitioning to a modernized unemployment insurance system while improving services for individuals. By streamlining the process for individuals to register on the Department's job-matching system, the measure addresses existing delays and denials caused by system navigation challenges. This enhanced process improves the current system and also facilitates the auto-registration for work registration in the future modernized system.

Furthermore, enabling the electronic delivery of unemployment insurance documents and appeal notifications ensures secure, faster, and more accessible communication for individuals and reduces dependency on traditional paper and mail processes. By specifying that the electronic notification date will be treated as equivalent to the mailing date, the measure also resolves complications stemming from a Hawaii Supreme Court ruling requiring certification of mailing dates for notices and decisions. This clarification strengthens the legal and operational framework necessary for a modernized system.

Additionally, allowing individuals to adjust their tax withholding multiple times enhances flexibility and responsiveness to changing financial circumstances and improves user experience.

The Department also respectfully requests the immediate repeal of Section 383-66(a)(6), HRS, to remove the provision for joint experience rating. The current law allows employers to request a joint experience rating by combining entities they own and control, which allows for unemployment tax rate manipulation. Act 114, SLH 2005, and Act 32, SLH 2009 aim to prevent State Unemployment Tax Act (SUTA) dumping, which is an illegal tax evasion scheme involving the manipulation of an unemployment tax rate.

About less than 1% of registered employers in the state request joint experience ratings. However, the ability to do so undermines the intent of anti-SUTA dumping laws and results in unfair tax burdens on other businesses. The purposes of experience rating are to ensure an equitable distribution of costs of the system among the employers who cause unemployment, to encourage employers to stabilize their workforce, and to encourage employers to participate in the unemployment system as charges to their accounts will directly influence their tax rates. When all employers do not pay their fair share, the burden unfairly shifts and increases costs for everyone.

For these reasons, the Department urges strong support for this measure, which addresses modernizing and strengthening Hawaii's unemployment insurance system, improves efficiency, and promotes fairness for all stakeholders.