



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

March 3, 2026

To: The Honorable Scot Z. Matayoshi, Chair,
The Honorable Tina Nakada Grandinetti, Vice Chair, and
Members of the House Committee on Consumer Protection & Commerce

Date: Tuesday, March 3, 2025
Time: 2:00 p.m.
Place: Conference Room 329, State Capitol

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

Re: H.B. 2165 HD1 RELATING TO HAWAII EMPLOYMENT SECURITY LAW

I. OVERVIEW OF PROPOSED LEGISLATION

The **DLIR strongly supports** this measure as it strengthens the integrity of the UI program, improves operations, and aligns state law with required federal unemployment regulations.

HB2165 HD1 proposes to amend HRS Chapter 383 by:

- Clarifying the circumstances in which individuals are required to register for work,
- Removing the two-year limitation on the recoupment of overpaid benefits,
- Allowing the Department to assess and collect a service charge for dishonored payments,
- Specifying that the Department may use electronic notification to inform employers to submit separation responses and wage information,
- Increasing the penalties for failure to file wage reports and reports of separations; and
- Removing and updating various statutory provisions.

II. CURRENT LAW

§383-29 specifies the circumstances in which individuals are required to register for work.

§383-44 specifies a claimant's liability to repay overpaid benefits.

§383-70 requires employers to pay contributions and submit reports to the Department.

§383-94 requires employers to maintain accurate records and furnish reports and information to the Department.

III. COMMENTS ON THE HOUSE BILL

The Department strongly supports this measure as it strengthens the integrity of the UI program, improves operations, and aligns state law with required federal unemployment regulations.

First, the measure strengthens the integrity of the UI program by enhancing the Department's ability to recover overpaid benefits. Removing the two-year limitation allows improperly paid benefits to be recovered through authorized offsets, thereby protecting the Unemployment Compensation Trust Fund (UCTF). Furthermore, federal law requires states to maintain effective overpayment recovery procedures, including through offsets, and the existing two-year limitation on recovery through offsets is not aligned with federal requirements.

Overpayments are generally not caused by administrative errors. Improper payments may result from a variety of circumstances involving both claimants and employers, including underreporting of earnings, failure to accept work, being unavailable for work, or misreporting wages or job separations. Regardless of the cause of the overpayment, improperly paid benefits remain legally owed. This measure is focused on the recovery of overpaid benefits through authorized offsets against future benefits. The Department still retains its authority to waive overpayments. The Department also understands financial hardship and will continue to work with parties to establish payment plans.

Second, the measure improves operational efficiency by authorizing a service charge for dishonored payments and modernizing employer reporting requirements. Dishonored payments impose additional administrative costs to the Department and require staff to reconcile, reprocess, and account for the dishonored payments. Banks also assess the Department fees for the dishonored payments. Because the UI program is federally-funded, the service charges recovered will be returned to the UI Administrative Fund rather than being borne by the Department.

The measure also modernizes employer reporting requirements. Timely and accurate wage and separation information is essential to determining eligibility, preventing improper payments, and ensuring proper employer charging. Delayed and/or incomplete reporting imposes significant administrative costs and delays the payment of benefits to eligible individuals.

The penalty provisions have not been updated since the inception of the statute and no longer provide a meaningful deterrent for late or missing reports. In the previous committee, the Department recognized the concerns regarding the

increased penalties and agreed to lower the penalty amount to \$300. The Department strongly believes that the \$300 penalty amount is a meaningful incentive that will promote compliance and timely reporting, while still preserving the Department's discretion in cases of excusable failure.

Finally, the measure updates statutory language to reflect federal law and requirements. On January 8, 2026, the U.S. Department of Labor (U.S. DOL) issued formal guidance emphasizing that states are required to enforce eligibility requirements for work registration, availability for work, and active work search, and may not create exceptions to those requirements for individuals involved in labor disputes. The U.S. DOL further reiterated that states are required to actively monitor an individual's eligibility for each week of benefits that is claimed, and that failure to do so may result in conformity and/or compliance findings that jeopardize federal funding for the UI program and the employer tax credits.

The measure does not amend HRS Chapter 89, does not prohibit strikes, and does not penalize individuals for participating in labor disputes. The measure does not require individuals involved in labor disputes to resign from or leave their current employer and does not interfere with collective bargaining rights and negotiations. Rather, the measure clarifies eligibility requirements. The Department also notes that the requirements set forth in the guidance do not apply to individuals who are members in good standing of a union with a hiring hall.

For these reasons, the Department urges strong support for this measure because it is necessary to strengthen and modernize the UI program, improve administrative efficiency, promote fairness and accountability for all stakeholders, and ensure that the state law remains consistent with the federal requirements.

Thank you for the opportunity to provide testimony on this important matter.



House Committee on Consumer Protection & Commerce
Rep. Scot Matayoshi, Chair
Rep. Tina Grandinetti, Vice Chair

March 3 2026, at 2:00 P.M.

RE: HB 2165, HD1 Relating to Hawaii Employment Security Law

Chair Matayoshi, Vice Chair Grandinetti, and Members of the Committee:

The Society for Human Resource Management – Hawaii (“SHRM Hawaii”) respectfully opposes HB 2165, HD1, Relating to Hawaii Employment Security Law. This bill provides, among other provisions, that employers must report separation and wage information within five calendar days of notice being sent, whether by mail or electronic notification.

While we support efficient administration of workforce programs, we have significant concerns with the provision requiring employers to report separation and wage information within five calendar days of notice being sent, whether by mail or electronic notification.

Using calendar days rather than business days creates an extremely compressed and inflexible reporting window. Notices sent late in the week or before a holiday may leave employers only one or two actual business days to retrieve wage records, confirm separation details, coordinate with payroll departments or third-party vendors, and review submissions for accuracy.

Many Hawai'i employers rely on third-party payroll providers, Professional Employer Organizations (PEOs), or centralized HR systems that operate on fixed processing schedules. Accessing verified wage and separation data often requires coordination that cannot reliably be completed within five calendar days. The bill does not account for vendor timelines, weekends, holidays, or unforeseen system delays, and would disproportionately impact small and neighbor island employers with limited administrative capacity.

Thank you for this opportunity to provide testimony.

Erin Kogen and Maggie Batangan
Co-chairs, SHRM Hawaii Legislative Affairs Committee



SHRM Hawaii, P. O. Box 3175, Honolulu, Hawaii (808) 447-1840



Cade Watanabe, Financial Secretary-Treasurer

Gemma G. Weinstein, President

Eric W. Gill, Senior Vice-President

March 3, 2026

House Committee on Consumer Protection and Commerce
Rep. Scot Matayoshi, Chair
Rep. Tina Grandinetti, Vice Chair

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Testimony in Strong Opposition to HB 2165

Chair Matayoshi, Vice Chair Grandinetti, and Members of the Committee,

UNITE HERE Local 5 represents 10,000 working people in the hotel, food service and health care industries across Hawaii. **We are strongly opposed to HB 2165**, which would, among other things, disallow workers in a labor dispute from being eligible for unemployment benefits. This appears to us as a gift to corporations who mistreat and disrespect their employees. When workers strike, they are making big sacrifices and taking big risks. They don't do it for fun – they do it to provide for the future for their own families, for their coworkers families, and for future generations of employees. It is a difficult decision, and this legislation would only make it more difficult and put more pressure on workers to accept whatever conditions the corporations and their investors want to impose on them in their attempts to maximize profits.

Other pieces of this bill are also harmful to working people. Removing the statute of limitations for clawing back overpayments is ridiculous. Receiving an overpayment from the government is not a crime; a lot of people probably have no idea they have been overpaid. Now this bill would hold it over their heads for the rest of their lives, that someday someone might claim they were once overpaid and need to pay back the state? The statute of limitations for filing a complaint about unpaid wages in Hawai'i is one year (see HRS §388-11(b)). Wage theft by employers in the U.S. accounts for a far greater amount of stolen value than all other forms of theft combined. How can the statute of limitations for wage theft be one year and the clawback for unemployment overpayments – again, not a crime - have no statute of limitations at all?

If we need to raise or retain more tax money, we should be taxing REITs and millionaires. But no – instead it is working people who are made to suffer, all to make profits for corporations who use their power and money to exploit us all further.

Furthermore, we seem to recall the Hawai'i Legislature replenishing the unemployment fund after the COVID shutdown with federal COVID relief money (taxpayer money), instead of getting the money from employers as it is supposed to do. This was a massive bailout to the tune of over \$700 million. So there are certainly better ways to recoup unemployment insurance fund money than to try to get it back from the people who need it the most and will have already used it.

We ask you not to make life harder for the very people whose sacrifices are the main force for building a decent standard of living in Hawai'i. **Do not pass HB 2165.**

Thank you.