



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

April 1, 2026

To: The Honorable Donovan M. Dela Cruz, Chair,  
The Honorable Sharon Y. Moriwaki, Vice Chair, and  
Members of the Senate Committee on Ways and Means

Date: Wednesday, April 1, 2026  
Time: 10:03 p.m.  
Place: Conference Room 211, State Capitol

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

**Re: H.B. 2165 HD2 SD1 RELATING TO HAWAII EMPLOYMENT SECURITY LAW**

**I. OVERVIEW OF PROPOSED LEGISLATION**

The **DLIR supports the intent** of this measure and **respectfully requests** an amendment in SECTION 1 to remove individuals involved in a labor dispute and for whom an employer-employee relationship continues to exist to conform to federal law in response to formal guidance (attached) issued by the U.S. Department of Labor (U.S. DOL).

HB2165 HD2 SD1 proposes to amend HRS Chapter 383 to conform it to federal law and improve operations by:

- Limiting individuals' liability for overpaid benefits to 50% of the weekly benefit amount up to \$250 per week,
- 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 provides eligibility criteria for benefits and specifies the circumstances in which individuals are required to register for work.

§383-44(c) requires the repayment of overpaid benefits and limits recovery of overpaid benefits from new claims benefits within two years of a final determination or decision. It also enables the Department to recover overpaid benefits from federal income tax refunds.

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

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

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

The Department supports the intent of this measure to improve operations and align state law with federal unemployment insurance requirements. However, the Department has grave concerns about retaining the work registration exemption for individuals involved in a labor dispute and respectfully requests its removal by striking out (D) on Pg. 2, lines 12-14.

On January 8, 2026, the U.S. DOL issued formal guidance to states pertaining to labor disputes (attached), which makes it clear that the amendment requested by the DLIR last session and that was enacted is not in conformity to the federal law (Act 214, SLH 2025). The requirements set forth in the guidance do not apply to workers who are members in good standing of a union with a hiring hall.

The U.S. DOL guidance emphasizes 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, unless they are members in good standing of a union with a hiring hall. Failure for the State to comply jeopardizes the UI administrative grant (≈ \$14,000,000) and employer tax credits. The Department is awaiting further clarification from the U.S. DOL, but the risk to the program is significant and immediate.

In addition, the measure addresses the recovery of unemployment insurance overpayments, which is a critical component of maintaining program integrity. Federal law requires states to maintain effective methods to detect and recover improperly paid benefits and to safeguard the UCTF, which is funded entirely by employer contributions. The U.S. DOL expects states to utilize available recovery tools, including offsets from future benefits, as a primary and effective method of recovery.

The Department strongly supports the other provisions of this measure that improve the administration of the UI program. 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. These payments impose

administrative and banking costs on the Department, including staff time for reconciliation and reprocessing, as well as fees assessed by financial institutions.

The service charge language is drafted in general terms to allow flexibility as these costs may change over time. This approach ensures that the Department can recover actual costs without requesting statutory amendments. This language also supports program operations by having recovered amounts deposited into the special unemployment insurance administration fund.

The measure also modernizes employer reporting requirements by requiring responses from employers to electronic requests from the DLIR within five calendar days. This five-day response requirement already exists in §383-94, which is being amended in this measure to require electronic communications, and which is essential to ensure that claims are processed accurately and that benefits are paid when due.

Employers have access to the State Information Data Exchange System (SIDES), which is a free, federally supported platform that allows employers to receive requests electronically and respond quickly and efficiently. The Department has conducted substantial outreach and provided training to employers on SIDES to facilitate employer adoption. Timely responses benefit employers as delayed responses can result in benefits being paid before issues are identified, leading to redeterminations, appeals, and potential improper charges to employer accounts.

The measure also updates penalty provisions that have not been updated since the adoption of the statute and which no longer provide a meaningful deterrent for late or missing reports. In response to concerns about a large increase, the Department suggested amending the penalty amounts to \$300. This amount is a meaningful incentive that will promote compliance and timely reporting. The DLIR notes it retains the discretion to waive or reduce penalties pursuant to §383-73.

Thank you for the opportunity to provide testimony on this measure.



The Senate Committee on Ways and Means  
April 1, 2026  
Room 211  
10:03 AM

RE: **HB 2165 HD2, SD1 Relating to the Hawaii Employment Security Law**

Attention: Chair Donovan M. Dela Cruz, Vice Chair Sharon Moriwaki, Members of the Committee

The University of Hawaii Professional Assembly (UHPA), the exclusive bargaining representative for all University of Hawai'i faculty members across Hawai'i's statewide 10-campus system, **supports HB 2165 HD2 SD1.**

**Restoration of Work Registration and Reporting Waivers.** UHPA strongly supports the HD2 SD1 draft's restoration of the existing statutory language that permits waivers for work registration and reporting requirements for "individuals involved in a labor dispute." During the initial hearing on this measure, UHPA opposed the removal of this language because it appeared punitive toward union members exercising their constitutional right to strike. Under current law, workers involved in a labor dispute where the "employer-employee relationship continues to exist" are rightfully exempt from registering for new employment. Without this waiver, striking workers—who fully intend to return to work once a contract is settled—would be forced to actively register for new jobs to qualify for benefits, effectively pressuring them to abandon their positions at the University to survive financially. This would severely undermine the collective bargaining power protected under Chapter 89 by treating striking workers as if they had voluntarily severed their employment.

While we suspended our objections after being advised that the deletion was strictly mandated by federal law, we appreciate the prior Committee's further scrutiny of this issue, which clarified that this vital exemption can and should be maintained under state law.

**Appreciation for Capping Overpayment Deductions.** We also extend our appreciation to the prior committee for continuing to address the burdensome nature of overpayment recoveries. We recognize that this bill removes the existing two-year limit on the State's ability to recover overpayments by offsetting an individual's future unemployment benefits. To mitigate the harm of removing that time limit, the previous HD2 draft included a provision that capped an individual's *total liability* at fifty percent of the weekly benefit amount. We understand that this total liability cap was removed in the HD2 SD1 draft to ensure conformity with federal law and avoid the potential loss of federal administrative funding.

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While we were disappointed that federal conformity requirements prevented a cap on total liability, we support the HD2 SD1 draft's alternative solution. By amending the law to instead cap the *rate of deduction* from future benefits at fifty percent of the weekly benefit amount, and ensuring weekly benefits are not reduced below \$250, this measure still provides a vital safety net. While workers may remain liable for the full amount of an overpayment, this crucial protection ensures that public employees will not be completely deprived of their lifeline benefits while repaying unintentional administrative errors made by the State.

**UHPA supports the passage of HB 2165 HD2 SD1.**

Respectfully submitted,

Christian L. Fern  
Executive Director  
University of Hawaii Professional Assembly

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March 31, 2026

Senate Committee on Ways and Means  
Sen. Donovan Dela Cruz, Chair  
Sen. Sharon Moriwaki, Vice Chair

### **Testimony with Comments on HB 2165 SD1**

Chair Dela Cruz, Vice Chair Moriwaki, and Members of the Committee,

UNITE HERE Local 5 represents 10,000 working people in the hotel, food service and health care industries across Hawai'i. We previously raised concerns about the HD2 version of HB 2165; and we appreciate the Labor and Technology Committee taking these concerns seriously and amending the bill in a way that provides more balance and meets the Department's needs.

**HB 2165 SD1 fully allows DLIR to follow current federal administration guidance.** Further, the SD1 version of HB2165 achieves a good balance between the need for the Department to recoup overpayments and the need for recipients to have predictability and certainty around the process.

Thank you.