



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

February 10, 2026

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

Date: Tuesday, February 10, 2025  
Time: 9:30 a.m.  
Place: Conference Room 309, State Capitol

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

**Re: H.B. 2165 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. The Department also **suggests amending** the current penalty amounts in the bill.

HB2165 proposes to amend Chapter 383, Hawaii Revised Statutes (HRS) by:

- Clarifying the circumstances in which individuals were 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. 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, and failure to do so may result in concerns about maintaining conformity with federal law.

In addition, the measure improves operational efficiency by authorizing a service charge for dishonored payments and modernizing employer reporting requirements. Timely and accurate wage and separation information is essential to determining eligibility, preventing improper payments, and ensuring proper employer charging. While the Department recognizes concerns regarding increased penalties, these provisions are intended to promote compliance and timely reporting. To address these concerns, the Department is open to adjusting the proposed penalty amount to \$300, while still maintaining a meaningful incentive for compliance and 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 requirements set forth in the guidance do not apply to individuals who are members in good standing of a union with a hiring hall. Therefore, these critical amendments are needed to ensure that the state law remains consistent with the federal requirements.

For these reasons, the Department urges strong support for this measure, which strengthens and modernizes the UI program, improves administrative efficiency, and promotes fairness and accountability for all stakeholders.

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

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The House Committee on Labor  
February 10, 2026  
Room 309  
9:30 AM

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

Attention: Chair Jackson D. Sayama, Vice Chair Mike Lee, 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, **opposes HB 2165.**

While we understand the need for the efficient administration of the Unemployment Insurance Trust Fund, this measure introduces drastic changes that undermine the constitutional right to strike, disproportionately penalize workers for administrative errors, and impose excessive financial liabilities on public employers.

#### **Removal of Protections for Workers Involved in Labor Disputes**

We strongly object to Section 1, which amends HRS §383-29(a) by removing the waiver of work registration requirements for "individuals involved in a labor dispute." This change appears 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 exempt from registering for new employment. If HB 2165 passes, and UHPA members engage in a lawful strike, this bill would force them to actively register for new jobs to qualify for benefits, effectively pressuring them to abandon their positions at the University to survive financially. This undermines the collective bargaining power protected under Chapter 89 by treating striking workers—who fully intend to return to work once a contract is settled—as if they have voluntarily severed their employment. We urge you to retain the existing waiver, which correctly recognizes that a labor dispute is not a termination of employment.

#### **Removal of Statute of Limitations on Overpayment Recovery**

By deleting the phrase "within two years" from HRS §383-44, the bill effectively allows the State to recoup overpaid benefits indefinitely. Subjecting workers to lifetime liability for the State's administrative errors is fundamentally unfair, and the current two-year window remains a reasonable standard for finalizing accounts.

#### **Excessive Increase in Employer Penalties**

Finally, we oppose the excessive increase in employer penalties proposed in Section 4. Increasing the penalty for failing to file a separation or wage report within five days from \$10 to \$1,000 per incident is drastic. For the University of Hawai'i, which manages a massive and

University of Hawaii  
Professional Assembly

1017 Palm Drive ♦ Honolulu, Hawaii 96814-1928  
Telephone: (808) 593-2157 ♦ Facsimile: (808) 593-2160  
Website: [www.uhpa.org](http://www.uhpa.org)



complex payroll system, a clerical delay could result in significant, unfunded liabilities. These excessive fines would ultimately drain resources that should be dedicated to instruction and research, diverting them instead to pay administrative penalties to another state department.

**For these reasons, we respectfully urge the Committee to DEFER HB 2165.**

Respectfully submitted,

Christian L. Fern  
Executive Director  
University of Hawaii Professional Assembly