GOV. MSG. NO. 669

EXECUTIVE CHAMBERS

HONOLULU

LINDA LINGLE
GOVERNOR

July 6, 2010

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith SB2324 SD2 HD2 CD1, without my approval, and with the statement of objections relating to the measure.

SB2324 SD2 HD2 CD1

A BILL FOR AN ACT
RELATING TO UNEMPLOYMENT INSURANCE BENEFITS.

Sincerely,

LINDA LINGLE

EXECUTIVE CHAMBERS

HONOLULU

July 6, 2010

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2324

Honorable Members
Twenty-Fifth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2324, entitled "A Bill for an Act Relating to Unemployment Insurance Benefits."

The purpose of this bill is to allow a partially unemployed individual who quits his or her part-time job without valid reason, or is terminated for cause, to still receive unemployment insurance benefits.

This bill is objectionable because it violates the foundation upon which the unemployment insurance benefits system was based, namely a person should receive financial assistance only when they lose their job through no fault of their own. If this bill became law, a partially unemployed individual would continue to be paid unemployment benefits even if the individual voluntarily quit a part-time job without good cause or was discharged for misconduct connected with work. All other unemployed individuals are subject to disqualification for voluntarily quitting full-time employment or when they are discharged for misconduct.

Additionally, payment of benefits resulting from this bill would increase the fiscal demands on the Unemployment Insurance Trust Fund, which could eventually increase employers' contributions. This impact would occur at a time when the fund is experiencing significant draw downs due to higher than anticipated unemployment rates. It would not be responsible

public policy to add beneficiaries who don't meet the appropriate threshold to enjoy these dwindling benefits.

For the foregoing reasons, I am returning Senate Bill No. 2324 without my approval.

Respectfully,

LINDA LINGLE
Governor of Hawaii

VETO

THE SENATE
TWENTY-FIFTH LEGISLATURE, 2010
STATE OF HAWAII

S.B. NO. 2324 S.D. 2 H.D. 2 C.D. 1

# A BILL FOR AN ACT

RELATING TO UNEMPLOYMENT INSURANCE BENEFITS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

SECTION 1. Section 383-30, Hawaii Revised Statutes, is amended to read as follows:

"**§383-30 Disqualification for benefits.** (a) An individual shall be disqualified for benefits:

(1) Voluntary separation. For any week prior to October 1, 1989, in which the individual has left work voluntarily without good cause, and continuing until the individual has, subsequent to the week in which the voluntary separation occurred, been employed for at least five consecutive weeks of employment. For the purposes of this paragraph, "weeks of employment" means all those weeks within each of which the individual has performed services in employment for not less than two days or four hours per week, for one or more employers, whether or not such employers are subject to this chapter. For any week beginning on and after October 1, 1989, in which the individual has

left the individual's work voluntarily without good cause, and continuing until the individual has, subsequent to the week in which the voluntary separation occurred, been paid wages in covered employment equal to not less than five times the individual's weekly benefit amount as determined under section 383-22(b).

An owner-employee of a corporation who brings about the owner-employee's unemployment by divesting ownership, leasing the business interest, terminating the business, or by other similar actions where the owner-employee is the party initiating termination of the employment relationship, has voluntarily left employment [~~.~~] ;

(2) Discharge or suspension for misconduct. For any week prior to October 1, 1989, in which the individual has been discharged for misconduct connected with work, and continuing until the individual has, subsequent to the week in which the discharge occurred, been employed for at least five consecutive weeks of employment. For the week in which the individual has been suspended for misconduct connected with work and

for not less than one or more than four consecutive weeks of unemployment which immediately follow such week, as determined in each case in accordance with the seriousness of the misconduct. For the purposes of this paragraph, "weeks of employment" means all those weeks within each of which the individual has performed services in employment for not less than two days or four hours per week, for one or more employers, whether or not such employers are subject to this chapter. For any week beginning on and after October 1, 1989, in which the individual has been discharged for misconduct connected with work, and until the individual has, subsequent to the week in which the discharge occurred, been paid wages in covered employment equal to not less than five times the individual's weekly benefit amount as determined under section 383-22(b) [~~.~~] ;

(3) Failure to apply for work, etc. For any week prior to October 1, 1989, in which the individual failed, without good cause, either to apply for available, suitable work when so directed by the employment office or any duly authorized representative of the

department of labor and industrial relations, or to accept suitable work when offered and continuing until the individual has, subsequent to the week in which the failure occurred, been employed for at least five consecutive weeks of employment. For the purposes of this paragraph, "weeks of employment" means all those weeks within each of which the individual has performed services in employment for not less than two days or four hours per week, for one or more employers, whether or not such employers are subject to this chapter. For any week beginning on and after October 1, 1989, in which the individual failed, without good cause, either to apply for available, suitable work when so directed by the employment office or any duly authorized representative of the department of labor and industrial relations, or to accept suitable work when offered until the individual has, subsequent to the week in which the failure occurred, been paid wages in covered employment equal to not less than five times the individual's weekly benefit amount as determined under section 383-22(b) [~~.~~] ;

(A) In determining whether or not any work is suitable for an individual there shall be considered among other factors and in addition to those enumerated in paragraph (3)(B), the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness and prior training, the individual's experience and prior earnings, the length of unemployment, the individual's prospects for obtaining work in the individual's customary occupation, the distance of available work from the individual's residence, and prospects for obtaining local work. The same factors so far as applicable shall be considered in determining the existence of good cause for an individual's voluntarily leaving work under paragraph (1) [~~.~~] ;

(B) Notwithstanding any other provisions of this chapter, no work shall be deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(i) If the position offered is vacant due directly to a strike, lockout, or other labor dispute;

(ii) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; and

(iii) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization[~~.~~];

(4) Labor dispute. For any week with respect to which it is found that unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which the individual is or was last employed; provided that this paragraph shall not apply if it is shown that:

(A) The individual is not participating in or directly interested in the labor dispute which caused the stoppage of work; and

(B) The individual does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or directly interested in the dispute; provided that if in any case separate branches of work, which are commonly conducted as separate businesses in separate premises, are conducted in separate departments of the same premises, each such department shall, for the purpose of this paragraph, be deemed to be a separate factory, establishment, or other premises[~~.~~];

(5) If the department finds that the individual has within the twenty-four calendar months immediately preceding any week of unemployment made a false statement or representation of a material fact knowing it to be false or knowingly failed to disclose a material fact to obtain any benefits not due under this chapter, the individual shall be disqualified for benefits beginning with the week in which the department makes the determination and for each consecutive week during

the current and subsequent twenty-four calendar months immediately following such determination, and such individual shall not be entitled to any benefit under this chapter for the duration of such period; provided that no disqualification shall be imposed if proceedings have been undertaken against the individual under section 383-141[~~.~~]<u>;</u>

(6) Other unemployment benefits. For any week or part of a week with respect to which the individual has received or is seeking unemployment benefits under any other employment security law, but this paragraph shall not apply<u>:</u>

(A) [~~if~~] <u>If</u> the appropriate agency finally determines that the individual is not entitled to benefits under such other law[~~.~~]<u>;</u> or

(B) [~~if~~] <u>If</u> benefits are payable to the individual under an act of Congress which has as its purpose the supplementation of unemployment benefits under a state law.

<u>(b) Effective July 1, 2010, notwithstanding any law or rule to the contrary, a partially unemployed individual shall not be disqualified for benefits for any week in which the</u>

individual separates involuntarily or voluntarily, with or without good cause, from an employer offering part-time employment, if the individual is:

(1) Receiving benefits while attached to a regular employer that is not offering work;

(2) Receiving partial unemployment benefits; and

(3) Exempt from work search and registration for work requirements.

For the purposes of this subsection:

"Attached to a regular employer" means:

(1) The employee is being offered work each week by the employee's regular employer; or

(2) If no work is being offered:

(A) The employer is maintaining the individual on the payroll by paying for a medical insurance plan or by maintaining the employee's sick leave or vacation credits; or

(B) There is a definite return to work date with the same employer within eight weeks.

"Partially unemployed" means the unemployment of any individual who, during a particular week, was still attached to that individual's regular employer, had no earnings or earned

less than that individual's weekly benefit amount, and who worked less than or did not work that individual's normal, customary full-time hours for the individual's regular employer because of a lack of full-time work.

"Registration for work" means that an individual provides information to the employment office to be posted on the department's internet job-matching system, including but not limited to the individual's name, job skills, education, training, prior employment history and work duties, preferred working conditions, occupational licenses, and other relevant occupational information to facilitate work search efforts by the individual and increase job referrals by the employment office."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.