

HB 915



**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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January 29, 2013

To: The Honorable Mark M. Nakashima, Chair,
The Honorable Mark J. Hashem, Vice Chair, and
Members of the House Committee on Labor & Public Employment

Date: February 1, 2013

Time: 8:00 a.m.

Place: Conference Room 309, State Capitol

From: Dwight Y. Takamine, Director
Department of Labor and Industrial Relations (DLIR)

Re: H.B. No. 915 Relating to Employment Security Law

I. OVERVIEW OF PROPOSED LEGISLATION

H.B. No. 915 proposes to amend sections 383-33 and 383-44, Hawaii Revised Statutes, to conform to P.L. 112-40, Trade Adjustment Assistance Extension Act of 2011 (TAAEA), which requires states to:

- charge overpaid amounts to an employer's account when an employer fails to respond timely or adequately to the department's written request for information, and
- impose a minimum 15% penalty on individuals' fraudulent overpayments.

H.B. No. 915 also proposes to amend section 383-123(a) to allow the department to intercept federal income tax refunds for:

- individuals with overpayments resulting from fraud or unreported earnings, and
- employers with delinquent accounts.

The Department strongly supports this Administration measure to ensure that Hawaii's law is in conformity with federal law by October 21, 2013.

II. CURRENT LAW

Section 383-33 holds a noncomplying employer liable for an overpayment up to the week that corrected information is received. However, federal law requires that

liability extend until a determination is made by the state agency to stop paying benefits because the individual is no longer eligible for unemployment.

Section 383-44 does not impose any penalty for fraudulent overpayments.

Hawaii does not currently participate in the Treasury Offset Program (TOP) authorized under the SSI Extension for Elderly and Disabled Refugees Act in 2008 (Public Law 110-328) to permit states to recover certain unemployment debts from federal income tax refunds. In the first 10 months of 2012, UI debt collection under TOP totaled over \$133 million in 19 participating states.

III. COMMENTS ON THE HOUSE BILL

The U.S. Department of Labor (USDOL) has established a priority to improve the integrity of state UI programs by establishing incentives to enact certain provisions or face serious sanctions for failure to enact federal mandates.

Hawaii must participate in TOP to continue to qualify for future supplemental funding available from the USDOL. Receipt of \$13 million in administration grants allocated under section 303(a)(1) of the Social Security Act may be jeopardized if state law is not amended to include the 15% penalty on overpayments. Denial of FUTA tax offset credits for employers may result if state law does not provide for employers to be charged for overpayments they have caused.