

# LEGISLATIVE Digest



HAWAII  
EMPLOYERS  
COUNCIL

MAY 8, 2009

## 2009 – Employment Bills Passed at Close of Session

### Employment Practices and Employment Rights

- SB 1183 SD2 HD2 CD1 **Disability Discrimination** – Conforms Hawaii disability discrimination law to recent changes under the federal Americans with Disabilities Act Amendments, authorizes the Hawaii Civil Rights Commission to define the terms “low-vision devices,” “major life activities,” “ordinary eyeglasses or contact lenses,” “being regarded as having an impairment,” and “disability.” *Effective upon approval.*
- HB 31 SD1 CD1 **Credit History Discrimination** – Amends HRS Chapter 378 to prohibit discrimination in employment based upon an individual’s credit history or credit report, unless the information relates to a *bona fide* occupational qualification (“BFOQ”). Permits inquiries into credit history or a credit report after a conditional offer of employment, but adverse employment action may only be taken if information relates to BFOQ. Makes exceptions for: employers who are expressly permitted or required to inquire into an individual’s credit history under state or federal law, “managerial or supervisory employees”; and financial institutions insured by a federal agency. *Effective July 1, 2009.*
- HB 319 HD1 SD1 **Family Leave Notices** – Requires employers to post notices to employees of their rights under the Hawaii Family Leave Law in a form prescribed by the Director. *Effective upon approval.*
- HB 982 HD3 SD1 **HFLL Data Bank** – Establishes a Hawaii Family Leave Law data collection system to collect Employment information on private and public employees’ need for and use of Hawaii Family Leave. Appropriates a total of \$20,000 for fiscal years 2009 and 2010 to establish data collection system. *Effective July 1, 2009.*

### Workers’ Compensation

- SB 695 SD1 HD1 CD1 **Medical Benefits** – Requires employers to continue to pay for medical services despite a dispute over continued treatment, and prevents termination of medical benefits until after the Director of DLIR issues a decision. After an employer/insurer files to dispute medical benefits, Director must issue a decision within 30 days. In the event that medical services are disallowed, the employer or insurer may seek reimbursement from the employee’s health care provider or from an appropriate insurer. *Effective July 1, 2009.*
- ACT 003  
(HB 442) **LIRAB Hearing Officer** – Permits Labor and Industrial Relations Appeals Board (“LIRAB”) to utilize a hearings officer for workers’ compensation hearing on matters including treatment plan issues, TTD, and vocational rehabilitation. *Effective upon approval.*

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- SB 1664 SD2 HD1 CD1 **Partial Unemployment Benefits** – Adds definitions relating to partial unemployment and establishes requirements for eligibility, claims filing, registration requirements, and employer reporting. Extends duration of partial unemployment benefits from (current) 4 weeks to 8 weeks. *Effective July 1, 2009, sunsets July 1, 2012.*
- SB 1568 SD2 HD1 **UI Benefits for Part-Time Work** – Provides UI benefits for employees only seeking part-time work. Authorizes UI benefits where individual voluntarily terminates employment for a “compelling family reason,” including domestic violence, illness or disability of a family member (as defined by U.S. Secretary of Labor), or relocation due to change in spouse’s employment to a location where it is impractical for the employee to commute to work. *Effective July 1, 2009.*
- ACT 032  
(SB 947 SD1) **UI Conformity** – Conforms state unemployment law to federal law to ensure uniform application of state unemployment insurance experience rating transfers for employers. Recalculates rate when businesses are transferred at the beginning of the calendar year (instead of calendar quarter) immediately following the transfer. *Effective upon approval and retroactive to June 9, 2005.*

#### Collective Bargaining

- HB 952 HD1 SD2 CD1 **“Card Check” in Union Organizing** – For employees not subject to the National Labor Relations Act (generally agricultural employees) working for businesses having annual gross revenues of \$5 million or more, eliminates secret ballot elections for union certification if a majority of employees provide written authorization for a union to be their bargaining representative. Requires initial bargaining within 10 days of recognition. If no initial collective bargaining agreement is reached within 90 days, provides for 20 day conciliation period with Hawaii Employee Relations Board. If no agreement on initial contract is reached within 110 days, arbitration panel is to decide terms of the parties’ contract, which shall be effective for up to 2 years. Provides penalties of up to \$10,000 per violation for unfair or prohibited labor practices. *Effective July 1, 2009.*

#### Public Contracts

- HB 643 HD2 SD2 CD1 **Unauthorized Aliens** – Authorizes the contractors licensing board to revoke, suspend, or refuse to renew the license of a contractor who knowingly or intentionally employs a person who is not authorized to work in the U.S. *Effective July 1, 2009.*
- HB 1479 HD2 SD1 CD1 **Little Davis Bacon -Prevailing Wage Determinations** – Requires contractors to report on a weekly basis the fringe benefits (health and welfare, pension/annuity, vacation, continuing education, etc.) for workers on public construction projects. Requires contractors to keep an itemized list of costs of fringe benefits paid to each employee. *Effective October 1, 2009.*
- HB 1676 HD1 SD2 CD1 **Little Davis Bacon** – Requires that when a project financed by a special revenue bond is performed by a contractor who is party to a collective bargaining agreement, the CBA must be submitted to the DLIR in order to dictate the prevailing wages for the project. *Effective July 1, 2009.*

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### Health And Insurance

HB 690 HD2 SD2 CD1 **Health Coverage for Part-Time Employees** – Requires health insurers (including mutual benefit associations, HMOs, and fraternal benefit societies) to offer the same coverage to part-time employees as is offered to full-time employees under a group health plan, with the cost of premiums to be borne by the employee. Defines “part-time” employee as one who works at least 15 but less than 20 hours per week, and has worked for the employer for at least 18 months. Provides that part-timers must enroll for coverage on at least a monthly basis, and allows insurer to enforce one year waiting period for re-enrollment when a part-timer terminates coverage. *Effective upon approval, sunsets July 1, 2014.*