

LEGISLATIVE Digest



HAWAII
EMPLOYERS
COUNCIL

JULY 16, 2009

Employment Bills Passed In 2009 Session

Employment Practices and Employment Rights

SB 1183 SD2 HD2 CD1

VETOED
VETO OVERRIDE

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

VETOED
VETO OVERRIDE

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 only after a conditional offer of employment, but adverse employment action may only be taken if information relates to a BFOQ. Creates 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.*

ACT 048

HB 319 HD1 SD1

Family Leave Notices –Requires employers to post notices to employees informing them of their rights under the Hawaii Family Leave Law in a form prescribed by the Director of the DLIR. *Effective upon approval.*

HB 982 HD3 SD1 CD1

VETOED
VETO OVERRIDE

HFLL Data Bank – Establishes a Hawaii Family Leave Law data collection system to collect information on private and public employees’ need for and use of Hawaii Family Leave. When employees take foreseeable Hawaii family leave, requires employee to certify to employer that he/she has submitted information to the state data collection system. Appropriates a total of \$20,000 for fiscal years 2009 and 2010 to establish a data collection system. *Effective July 1, 2009.*

Workers’ Compensation

SB 695 SD1 HD1 CD1

VETOED
VETO OVERRIDE

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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Unemployment Insurance

[ACT 170](#) **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 1664)

[ACT 171](#) **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.*
(SB 1568)

[ACT 032](#) **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.*
(SB 947)

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 Labor Relations Board. If no agreement on initial contract is reached within 110 days, an arbitration panel will set the 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.*
VETOED
VETO OVERRIDE

Public Contracts

[ACT 145](#) **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 643)

[SB 19 SD1 HD2 CD1](#) **Apprenticeship Programs** – Provides a procurement preference to bidders for public works projects of \$250,000 or more, when the bidder is a party to an apprenticeship agreement registered with the DLIR. If the bidder has an apprentice program for each “apprenticeable” trade which will be employed under the contract, the contractor’s bid shall be decreased by 5% for purposes of bid consideration, although the bid award will be paid based on the actual bid amount. Requires successful bidders to maintain their apprenticeship programs during the term of an awarded contract, or face contract termination or debarment. *Effective upon approval.*
VETOED
VETO OVERRIDE

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[HB 1479 HD2 SD1 CD1](#)

VETOED

VETO OVERRIDE

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](#)

VETOED

VETO OVERRIDE

Little Davis Bacon –Special Revenue Bonds– Requires that when a project financed by a special revenue bond is performed by a contractor who is a party to a collective bargaining agreement, the CBA must be submitted to the DLIR, and the CBA shall set the prevailing wages (including benefits) for the applicable workers under the project. *Effective July 1, 2009.*