

# LEGISLATIVE Digest



JANUARY 29, 2010

## 2010 – Employment Bills Introduced

### Employment Practices and Employment Rights

- SB 2241 **Sick Leave Discrimination** – Amends HRS § 378-32 to prohibit discrimination against an employee who uses accrued and available sick leave. Requires a doctor’s note for use of sick leave of more than 1 day. If an employee uses sick leave 3 times in a 6-month period, the employer may require the employee to be evaluated by a doctor of the employee’s choice from an employer’s healthcare provider list of no more than 3 doctors. Excludes collective bargaining agreements from the law.
- SB 2341 **Employer Practices; Domestic Violence** – Prohibits employers from discriminating against an employee or applicant for employment based upon the employee's or the applicant's status as a victim of domestic violence.
- SB 2369 **Domestic Violence Omnibus** – Requires unemployment compensation staff to be trained on domestic violence so they can properly identify and adjudicate those cases. Requires the Department of Labor and Industrial Relations (“DLIR”) to give claimants notice about their right to obtain unemployment benefits for separation from employment due to a “compelling family reason” as provided in HRS § 383-7.6.

**Employment Practices** – Amends Section 378 to prohibit employment discrimination because the employer perceives the individual to be a victim of domestic or sexual violence. Specifies damages for such discrimination as: (1) back wages plus interest; (2) compensatory damages (future pecuniary losses, pain and suffering, loss of enjoyment of life); punitive damages of 3 times actual damages max; and equitable damages (reinstatement/promotion). Statute of limitations is 2 years.

**Victims Leave** – Amends the Victims Leave Act to require *all* employers regardless of size to provide 30 days of leave within a 12-month period. Requires employer to continue its share of group health care coverage for the employee for the time of leave. Allows employers to avoid reinstating a salaried employee who is among the highest paid 10% of the employees employed by the employer within 75 miles of the facility. Prohibits discrimination/retaliation for taking leave, opposing any unlawful practice, filing a charge, instituted a proceeding, gives or is about to give any information in connection with any inquiry or proceeding relating to victims leave, or testified or is about to testify concerning victims leave rights. Allows the *employee* (not the employer) to elect to use paid leave for victims leave.

**Emergency Leave** – Creates new section within Chapter 378 to grant employees “emergency leave” so that Leave under the Victims Leave Act can be paid by the Department of Human Services from the spouse and child abuse special account.

**\*NOTE:** Bills are often given a “defective” effective date by a committee, to insure that the bill is not passed into law without further consideration and amendment. A proper effective date is later inserted.

- SB 2383 **Dislocated Workers** – Authorizes the DLIR to issue injunctions when an employer fails to  
HB 2636 comply with the Dislocated Workers Act.
- SB 2539 **Occupational Safety; Abusive Work Environments** – Creates a new part within HRS  
HB 2473 § 396 that makes “abusive conduct” against an employee in the workplace a violation of occupational safety and health law. Permits victims to obtain workers compensation benefits in lieu of a separate action for emotional distress due to the abusive conduct. Makes employers vicariously liable up to \$25,000 for a co-worker’s abusive conduct and directly liable if the workplace is an abusive work environment or if the employer directly commits abusive conduct. Creates an affirmative defense for employers for legitimate business reasons and those who exercised reasonable care to prevent and promptly correct the abusive conduct and victim unreasonably failed to take advantage of that opportunity, provided that the defense isn’t available if the abusive conduct culminates in a negative decision. “Abusive conduct” is defined as “1) conduct of an employer or employee in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer’s legitimate business interest; 2) subjection of an employee by the employees employer to an abusive work environment; and 3) retaliation. . . [for opposing any unlawful safety violation or participating n an investigation or proceeding.]” Defines “abusive work environment” as a “workplace where an employee is subjected to abusive conduct that is so severe that it causes physical or psychological harm to the employee.”
- SB 2564 **Hawaii Civil Rights Commission; Confidential Witness** – Defines "confidential  
HB 2379 witness" as “a person who is not a complainant or respondent to a complaint filed with the commission and who requests that the person’s identity or statement be kept confidential. . . .” Expressly allows the Hawaii Civil Rights Commission (“HCRC”) to use witness statements in the investigation, conciliation and litigation of complaints filed by the commission or as ordered by a court or hearings examiner.
- SB 2565 **Hawaii Civil Rights Commission; Disability Discrimination** – Extends the deadline for  
HB 2380 HCRC to adopt new rules regarding disability discrimination by one year to allow for conformity with new federal rules.
- SB 2883 **Sick Leave** –Amends HRS § 378-32 to prohibit discrimination against an employee who  
HB 2935 uses accrued and available sick leave.
- HB 1875 **Employment** – Short Form Bill
- HB 2255 **Human Services Providers; Criminal History Check** – Requires the Department of  
Human Services or its designee to conduct fingerprint-based criminal history check for the first year (currently required for first two years) the individual is required to undergo the criminal history record check.
- HB 2649 **Liquor Licensees; Security Employees; Criminal History Record Checks** – Requires  
certain liquor licensees who serve alcohol on their premises to conduct national and state criminal history record checks on security employees. The cost of the criminal history record check could be passed to the employee/prospective employee. Employers holding the following licenses would be affected: class 2 (restaurant license); class 5 (dispenser license); class 11 (cabaret license); class 12 (hotel license); and class 15 (condominium hotel license).

- HB 2732 **Substance Abuse Testing; Medical Marijuana** – Creates a new section within Section  
HB 2847 329B to require Medical Review Officers (“MRO”) to report a positive marijuana test  
result to the employer if the employee is not registered with the Department of Health to  
receive medical marijuana. If the employee is registered, the MRO must consult with the  
employee to determine the employee’s pattern of marijuana use and the potential for  
impairment while the employee is working. If, after consultation, the MRO determines  
that the employee’s use is a safety risk, the MRO would be required to report a positive  
marijuana test. The MRO would be prohibited from reporting the marijuana use if the  
MRO determines no safety risk exists.
- HB 2938 **Substance Abuse Testing; Medical Marijuana** – Clarifies that employers are not  
required to accommodate medical marijuana in the workplace regardless of where the use  
occurs.
- HB 2940 **Workplace Violence; Temporary Restraining Order** – Permits employers to obtain  
temporary restraining orders to protect against harassment, including violence or  
threatened violence, at the worksite.
- HB 2742 **Smoking** – Amends the definition of “bar” to include standalone bars and bars that share  
premises with another business such as a restaurant. Allows “bars” to allow smoking on  
entire premises or in separately enclosed or partially enclosed designated areas by posting  
signs and obtaining a smoking permit. Requires employees of bars where smoking is  
allowed to sign a standardized Department of Health developed acknowledgment form  
affirming the employee's knowledge and acceptance of risks and potential adverse  
consequences of inhaling secondhand smoke.

#### **Wage and Hour**

- SB 2244 **Minimum Wage** – Increases minimum wage. From July 1, 2010-December 31, 2011,  
minimum wage would be \$8.50/hour. Beginning January 1, 2012, minimum wage would  
HB 2099 be adjusted based on the inflation rate. The adjusted minimum wage rate shall be  
calculated to the nearest cent using the consumer price index for urban wage earners and  
clerical workers, CPI-W, or a successor index.
- SB 2476 **Minimum Wage** – Increases minimum wage to \$7.75 beginning January 1, 2011.
- SB 2647 **Tip Credit** – Increases the tip credit to a (blank) percentage of minimum wage.
- SB 2744 **Tip Credit** – Increases tip credit from 25 cents to \$1.25 upon approval in 2010, and to  
HB 2591 25% of the tips claimed by an employee as income beginning January 1, 2011.

#### **Workers’ Compensation (“WC”)**

- SB 2050 **Vocational Rehabilitation** – Requires a provider in its rehabilitation plan to determine if  
HB 1857 modified or other work with the *same* employer (current law states “different” employer)  
represents suitable gainful employment.

- SB 2167    **WC; Attorneys' Fees** – Authorizes the assessment of reasonable attorney's fees to be levied on a party who brings, prosecutes, or defends a workers' compensation claim without reasonable grounds.
- SB 2339    **Claims Proceedings** – Requires Director to make WC decision within 60 days, without the  
HB 2079    possibility of extending the due date for good cause.
- SB 2392    **Family Leave Insurance** – Adds a new section to the WC law to create a “family leave  
HB 2258    insurance fund” that would be used to pay employee benefits for Hawaii Family Leave. With a one-week waiting period, employees may take a maximum of \$250 per week. Every employer and employee must contribute 1¢/hour into the fund with a maximum of \$2000/year for each employee. Amends the definition of injuries covered under the WC statute to include family leave.
- SB 2566    **Medical and Rehabilitation Benefits** - Clarifies that a physician or surgeon may conduct  
HB 2637    diagnostic testing or engage in a one-time consultation for a subspecialty diagnostic evaluation and treatment recommendations from a board certified or licensed specialist. Prohibits the employer/insurer from contesting the claimant’s request for a test or consultation.
- SB 2597    **Hawaii Employers Mutual Insurance Company** – Clarifies that the Hawaii Employers  
Mutual Insurance Company shall not have any additional third-party duty nor incur any additional liability toward members or beneficiaries beyond that explicitly created by statute.
- SB 2608    **Vocational Rehabilitation**  
HB 2493
- If after vocational rehabilitation, the injured employee is determined to have no permanent disability, but suffers from permanent work restrictions, the injured employee would be allowed only direct placement services.
  - Expands duties of the rehabilitation unit to order the injured employee, providers of rehabilitation services, or the employer to comply with the vocational rehabilitation section. Also allows the unit to adopt a fee schedule for the providers.
  - After initiating rehabilitation services, the injured employee must select the certified provider within 14 days. If the injured employee fails to select the provider within 30 days of notice of the right to referral to vocational rehabilitation, the rehabilitation unit shall assign a counselor on the injured employee’s behalf.
  - Requires the provider’s initial evaluation report to contain an assessment of the employee’s work capabilities. The initial evaluation report must be provided within 30 days of the injured worker’s selection of a provider.
  - After the initial evaluation, the provider has 30 days to allow any adjustments to the disability; 30 additional days to conduct other research or testing; and 90 additional days to submit a vocational rehabilitation plan, with a possible 45-day extension.
  - Allows employer to terminate temporary total disability benefits when the employee is able to return to work and is enrolled in a non-approved plan.

SB 2730 **Small Business Exclusion** – Excludes the following from WC coverage:  
HB 2577

- Partner of a partnership;
- Partner of a limited liability partnership (LLP) if the partner has a 50% interest;
- Member of a limited liability company if the member has a 50% interest; and
- Sole proprietor

HB 2183 **Levy on Insurers** – Reduces the levies and charges paid into the WC special fund by insurers and employers by 50% for calendar years 2010 and 2011.

### **Tax Credit**

SB 2248 **Tax Credit; Continuing Education; Unemployment Insurance (“UI”) Employer**  
HB 2842 **Contributions** – Creates a tax credit for employers who fund continuing education for employees who have been employed for 12 consecutive months. The education must be directly associated with the employee’s job. Limits the amount of UI employer contributions for the 2010 and 2011 calendar years to the contributions levied in the 2009 year, except if the employer hires a (blank) percentage more employees in 2010/2011 as compared to 2009.

SB 2711 **Jobs Creation Tax Credit** – Provides for a job creation income tax credit for each new  
HB 2558 full time employee (working at least 35 hours per week or 1680 hours per year) hired during calendar years 2010, 2011, and 2012. The position cannot have existed within 90 days prior to being filled by the employer. The tax credit would be equal to the amount of the new permanent full-time employee’s wages actually withheld by the employer. The employer must maintain substantial operations in Hawaii for 2 years after receiving the tax credit; failure to do would result in recapture of 50% the credit.

HB 1954 **Tax Credit; Employment Increase** – Provides a tax credit to employers if they have a 10% increase employees in 2010 as compared to 2009 and increased total wages in 2010 as compared to 2009. Tax credit unavailable for employers starting up in 2010. Tax credit is equal to 10% of the increase of total wages in 2010 as compared with 2009.

### **Unemployment Insurance**

SB 2323 **Online Registration; Partial Unemployment** – Prohibits DLIR from requiring online  
HB 2202 registration of availability to work. Allows a claimant who is partially unemployed to avoid looking for work or may be subject to modified work search requirements.

SB 2324 **Disqualification; Part-Time Work** – Allows claimants who have separated  
HB 2257 involuntarily or voluntarily without good cause from an employer offering part time work to receive UI benefits if the individual is:

- receiving benefits due to separation from a regular employer that is not offering work
- receiving partial unemployment benefits; and
- exempt from work search and registration for work requirements.

- SB 2370 **Contribution Rate** – Lowers employers’ contribution rate to UI fund by:  
HB 2201
- Effectively lowering the amount necessary for reserves by:
    - amending the adequate reserve level to 1 times the benefit cost rate times total remuneration (currently it is 1.5 times)
    - permanently adjusting the taxable wage base to 90% of the average annual wage.
  - Adjusting the contribution rate:
    - 2010: Schedule D (instead of F)
    - 2011: Schedule F (instead of H)

Also provides for State to repay federal UI loan by Nov. 10 of the 2<sup>nd</sup> year. Requires assessments upon employers to avoid federal penalties on outstanding federal loan balances whenever state will have an outstanding loan for 2 consecutive years. Requires state to repay federal UI loan by Nov. 10 of the 2<sup>nd</sup> year.

- SB 2549 **Reed Act Funds; Workforce Investment Board** – Amends the appropriations allocated  
HB 2711 to the workforce investment boards on the islands of Oahu, Maui, Kauai, and Hawaii; amends the appropriation to be used by the workforce development council; repeals the appropriation allocated to the DLIR for administrative expenses.

- SB 2732 **Contribution Rate** – Lowers employers’ contribution rate to the UI fund by:  
HB 2579
- Adjusting the tax schedule to:
    - 2010: E (instead of F)
    - 2011: E (instead of H)
    - 2012: F (instead of G)
  - Setting the taxable wage base at:
    - 2010: 70% of the average annual wage
    - 2011 and beyond: 80% of the average annual wage
  - Reducing adequate reserve to 1 times the benefit cost rate times total remuneration (currently it is 1.5 times)

- SB 2795 **Family Owned Corporation** – Provides family-owned corporations with only one stockholder with the option to participate in the State’s unemployment insurance program, provided that the shareholder is the only one excluded from UI coverage.

- SB 2848 **Taxable Wage Base** – Beginning 2011, makes permanent the \$13,000 ceiling on the taxable wage base for UI contributions.

- HB 1873 **Unemployment** – Short Form Bill

- HB 1913 **Domestic or Sexual Violence** – Allows UI claimants to continue collecting benefits if they refuse otherwise suitable, available work due to fear of domestic or sexual violence.

HB 2169 **Contribution Rate** – Lowers employers’ contribution rate to the UI fund by:

- Adjusting the tax schedule to:
  - 2010: D (instead of F)
  - 2011: G (instead of H)
- Amending the taxable wage base to 90% of the average annual wage for 2010.
- Setting the maximum weekly benefit at 70% the average weekly wage.

Also authorizes special assessments upon employers to pay the interest costs on federal loans.

HB 2181 **Taxable Wage Base** – Reduces taxable wage base by multiplying .39 for 2010 and .50 for 2011 (e.g., 2010: \$38,800 x .39 = \$15,132; 2011: \$39,100 x .50 = \$19,550).

HB 2207 (DEFERRED) **Contribution Rate** – Lowers employers’ contribution rate to the UI fund by:

- Adjusting the tax schedule to:
  - 2010: E (instead of F)
  - 2011: F (instead of H)
- Lowering the adequate reserve rate to 1 times the product of the benefit cost rate multiplied by the total remuneration paid.
- Adjusting the maximum weekly benefit as follows:
  - 1-8 weeks of benefits: 75%
  - 9-16 weeks of benefits: 70%
  - 17+ weeks of benefits: 66 2/3%

Also requires assessment upon employers for federal UI loans.

HB 2211 **Voluntary Work Sharing Program** – Creates a new part within Section 383 that establishes a voluntary work sharing program within DLIR. For claimants whose hours/wages are reduced 10%-50% because they are work sharing, they may receive a proportionate amount of UI benefits (e.g., if their hours were reduced by 10%, then multiply 10% by the individual’s weekly benefit amount). Employer must voluntarily participate in the program, have 2 employees work sharing, and have a minimum of 10% of the employer’s regular permanent workforce job sharing in the affected unit.

HB 2269 **Exclusions From UI** – Excepts from unemployment benefits, massage therapists, chiropractors, and yoga practitioners at health, beauty, or wellness salons or spas, provided that remuneration is based solely upon commissions.

HB 2414 **WorkShare Program** – Establishes a WorkShare Program under the UI statute under which workers are downsized to part-time status and are able to receive partial unemployment benefits. Employers must have 2-25 employees in the employing unit and the plan must affect at least 2 employees who regularly work 30-40 hours per week and whose hours would be reduced by 20%-40%. The workshare plan covers employees for 8-52 weeks. Affected employees would be able to collect UI benefits if they had worked 1 year for the employer. The benefit amount would be calculated by multiplying the regular weekly benefit by the percentage of reduction of work hours. If the individual worked in excess of the reduced hours as stated in the workshare plan, the individual would lose eligibility for that week.

Repeals Act 170, Session Laws of Hawaii 2009, which permitted claimants to receive UI benefits for partial unemployment when the claimant is a full-time employee but earned less than the normal full-time work.

HB 2702 **Contribution Rate** – Lowers employers' contribution rate to the UI fund by:

- Adjusting the tax schedule to:
  - 2010: E (instead of F)
  - 2011: F (instead of H)
- Lowering the adequate reserve rate to 1 times the product of the benefit cost rate multiplied by the total remuneration paid.
- Adjusting the maximum weekly benefit as follows:
  - 1-8 weeks of benefits: 75%
  - 9-16 weeks of benefits: 70%
  - 17+ weeks of benefits: 66 2/3%

Also requires assessment upon employers for federal UI loans. To allow more flexibility to respond to economic changes, the bill also requires DLIR to set the contribution rate schedule on a semi-annual basis, as opposed to the current yearly basis.

HB 2820 **State Comprehensive Employment Training Program (SCET)** – Creates a state-funded State Comprehensive Employment Training Program (SCET) providing subsidized employment to unemployed persons. The State would cover the WC insurance. Employers who agree to participate the program to train and permanently hire unemployed persons would be entitled to a subsidy for on-the-job training and counseling, job orientation, job-related education, instruction in English as a second language, a portion of wages, and other costs related to the employment. Such employers would also be entitled to a state low-interest loan for up to 5 years as long as the loan is directly related to maintaining or expanding the employer's business activity.

HB 2992 **Volunteerism** – Requires a claimant to volunteer at least 20 hours per week in order to receive UI benefits.

**Collective Bargaining**

SB 2708 **Unions** – Allows the Hawaii Labor Relations Board to award costs and attorneys’ fees to  
HB 2555 employers if the employer prevails in an unfair labor practice (“ULP”) hearing. Requires a  
union, in addition to the employer and employee, to be liable for a civil penalty up to  
\$10,000 for willful or repeated ULPs.

**Public Contracts**

SB 2326 **Employees Wages** – For contracts in excess of \$25,000, employees must be paid at wages  
HB 2823 or salaries not less than the wages paid to public officers and employees for similar work in  
the *State of Hawaii*.

SB 2384 **Little Davis Bacon; Service Contracts** – Extends little Davis-Bacon rights regarding  
HB 2100 prevailing wages to employees on service contracts in excess of \$2000.

SB 2475 **Construction; Hawaii Residents Preference** – Amends Chapter 103D to establish a  
construction procurement preference for bidders or offerors who certify that at least 80% of  
workers of the general contractor and all subcontractors under the contract will be Hawaii  
residents.

SB 2480 **Public Works; Construction; Hawaii Residents Preference** – Adds a new chapter to  
HB 2736 require at least 80% of workers on public works and construction contracts be Hawaii  
residents. The 80% is determined by dividing the total number of hours worked on a  
contract by residents by the total number of hours worked by all employees of the  
contractor on the contract. Hours worked for the subcontractor counts toward the  
calculation. This bill would not apply to procurements for professional services under  
section 103D-304, procurements for small purchases under chapter 103D-305, and  
subcontracts of \$50,000 or more in connection with any general contract otherwise covered  
by the bill.

SB 2841 **Construction; Hawaii Residents Preference** – Adds a new section to Chapter 103D to  
HB 2735 require the contractor to certify that Hawaii residents comprise at least 80% of the  
workforce for the contract. The 80% is determined by dividing the total number of hours  
worked on a contract by residents by the total number of hours worked by all employees of  
the contractor on the contract. Hours worked for the subcontractor counts toward the  
calculation. A contractor who makes the above certification may be awarded the contract if  
the bid is not more than 15% higher than a non-certifying contractor.

HB 1872 **Construction; Responsible Construction Contractor** – For public works contracts of  
\$250,000 or more, a 5% preference is given to bidder who meets the following:  
(1) zero incidences of noncompliance with labor, wage, health, safety, and environmental  
protection laws; (2) zero incidences of noncompliance with govt. agencies, unions, and  
other agencies or bodies that perform regular inspections; (3) zero outstanding judgments  
or liens; and (4) audited statement indicating that no projected revenues derived from  
government tax revenues will be exported out-of-state through foreign ownership or  
employees. Also establishes a “responsible construction contractor law” which specifies  
prerequisites for government construction contractors and subcontractors.

- HB 2430 **Public Works Apprenticeable Trade, Subcontractor** – Extends bidding preference to subcontractors, in addition to bidders, who is a party to an apprenticeship agreement with DLIR. The bidder and subcontractor would receive a 5% reduction in their bid amount on contracts for \$250,000 or more.
- HB 2897 **Contractors Licensing; Unauthorized Aliens** – Permits board to revoke, suspend, or refuse to renew a contractor’s license if the contractor knowingly or intentionally employs a person who is not eligible to work in the U.S. (Currently law permits such board action for public works contractors, but not for all contractors).

**Health And Insurance**

- SB 2008 **Rate Filings; Accident and Health or Sickness Insurance** – Establishes “health care treatment advisory panel” under DCCA. Panel would review health insurance rate filings to ensure that patients receive appropriate levels of care. Prohibits insurers (accident and health or sickness insurance providers, mutual benefit societies, dental service corporations, and health maintenance organizations) from reducing the reimbursement rate to the provider purely for the purpose of obtaining a higher rate of return to the insurer. Requires commissioner to review reduction of rate of reimbursement filings to ensure that such reduction is based on “good cause” (demonstrable decrease in the cost of providing a service or the correction of historical overpayment for a service.) Makes appropriation from compliance resolution fund.
- SB 2271 **Health Insurance Premiums** – Requires health insurers to report annually how health care premiums are spent (administrative costs, medical expenses, profits, travel, lobbying, etc). Also requires a minimum amount of premiums to be spent on medical expenses.
- SB 2698 **Dependent Coverage** – Requires health insurers to extend dependent coverage up to 27  
HB 2545 years old.
- SB 2885 **Health Savings Accounts Task Force** – Establishes a task force within DLIR to  
HB 2206 evaluate the current state of health savings accounts options in Hawaii's health insurance market and to explore ways to expand access to these accounts in Hawaii. Task force comprised of:
- Director of DLIR
  - 4 members of the Hawaii Prepaid Health Care Advisory Council;
  - 3 members or employees of the Hawaii Medical Association;
  - 3 representatives from the health insurance industry;
  - 4 representatives from non-government employee unions;
  - 1 representative from First Hawaiian Bank; and
  - 4 representatives from other interested organizations or stakeholders, at the discretion of DLIR.

- HB 2722 **Health Savings Accounts Task Force** – Creates a health savings account assessment task force to assess the viability of health savings accounts in the State. Task force comprised of:
- Director of DLIR
  - 4 members from the Prepaid Health Care Council
  - 3 members from the Employees of Hawaii Medical Association
  - 3 members from non-government employee unions;
  - 1 member from a local bank
  - 3 members from the health insurance industry
  - 4 members from other interested organizations or stakeholders, at the appointment of the chairperson.
- HB 2795 **Policy Benefits Disclosure** – Requires health insurance providers to post information regarding policy coverage on an internet website updated at least annually or to provide policy holders with the information via public notice or a newsletter at least once a year.
- HB 2895 **Insurance Premium Tax; Applicability to Mutual Benefit Societies & Health Maintenance Organizations** – Temporarily makes the insurance premium tax applicable to mutual benefit societies and health maintenance organizations from July 1, 2010 to June 30, 2015. Establishes a medical and health promotion tax credit that may be claimed against the insurance premium tax. Excludes from the insurance premium tax an association or society that operates solely as a nonprofit medical indemnity or hospital service association or society.

**Miscellaneous**

- SB 2011  
HB 2336 **Professional Employer Organizations** – Creates a new chapter to require professional employer organizations (“PEOs”) to become certified by the DLIR. Requires PEOs to have \$100,000 working capital, bond, irrevocable letter of credit, or securities with a minimum market value in an amount sufficient to cover the difference between the PEOs working capital and the amount required by this section.
- Clarifies that PEOs are not responsible for:
    - Bonuses, commissions, severance pay, deferred compensation, profit sharing, vacation, sick leave, PTO (unless expressly agreed)
    - Quality, adequacy, or safety of goods or services
    - Directing, supervising, training, or controlling work of the employee and are not responsible for the employee’s acts, errors or omissions with regard to those activities
    - Acts, errors, or omissions when the covered employee acts under the express direction and control of the client company
  - Requires PEOs to be responsible for:
    - Obtaining WC insurance. If contract terminated within 60 months, the client company reverts to former experience rating. If contract is terminated 60 months or more, the client company gets a new employer experience rating.
    - Contributing to UI fund.

SB 2220 **Construction Site Inspection Task Force** – Establishes a “construction site inspection  
HB 2889 task force” to be led by DCCA to investigate and inspect construction sites for unlicensed  
contractors, illegal workers, and workplace safety violations.

SB 2755 **Drivers; Mobile Electronic Device** – Creates a new law prohibiting operation of a motor  
HB 2225 vehicle while using a mobile electronic device (e.g., cell phones, text messaging devices,  
HB 2602 pagers, personal digital assistant, laptop computer, video game, and camera). Exceptions  
HB 2785 created for making a 911 call, emergency responders, drivers using two-way radios while  
working, and drivers holding valid amateur radio operator licenses issued by the FCC.

SB 2796 **Constitutional Amendment; Marriage** – Proposes a constitutional amendment to  
SB 2886 specifically reserve marriage to opposite-sex couples.

HB 444 HD1 SD1 **Civil Unions** – Permits civil unions for same sex partners. Entitles partners to a civil  
(CARRYOVER BILL) union all the same rights and responsibilities as spouses in a marriage. Recognizes as a  
HOUSE POSTPONED “civil union” in Hawaii civil unions, domestic partnership, or same sex marriages  
INDEFINITELY performed in other states.

HB 2050 **Withholding Tax; Self-Funded Retirement Plan** – Requires Department of Tax to adopt  
rules to withhold tax from any taxpayer who withdraws funds from a self-funded account.  
“Self-funded account” means a deferred compensation plan, individual retirement account,  
or any other type of retirement plan that complies with federal or state law and is funded  
exclusively by the person who owns the plan.

HB 2256 **Income Tax Surcharge; FICA** – Imposes a 6.2% income tax surcharge on an individual's  
gross income that is more than FICA's maximum withholding amount.

HB 2268 **Reciprocal Beneficiaries** – Extends the same benefits, protections, and responsibilities of  
spouses in a marriage to reciprocal beneficiaries.

HB 2384 **Arbitration; Attorneys' Fees** – Extends attorneys' fees caps in civil litigation to  
comparable arbitration cases.

HB 2988 **DBEDT; Small Business** – Creates a new chapter to establish the Office of  
Entrepreneurship and Job Creation to be headed by a small business czar at the Department  
of Business, Economic Development, and Tourism. Among other things, the office would  
meet with small businesses; provide information regarding permits and the procurement  
process; maintain a file of state/federal/county laws generally applicable to business such  
as taxes, WC, and UI; and maintain a file of current bids and proposals for public contracts.