

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

<http://hawaii.gov/labor/>

The Department of Labor and Industrial Relations (DLIR), established under section 26-20, HRS, and specifically provided for under chapter 371, HRS, is headed by the Director of Labor and Industrial Relations. DLIR administers programs designed to increase the economic security, physical and economic well-being, and productivity of workers and to achieve good labor-management relations, including the administration of workers' compensation, employment security, apprenticeship training, wage and hour, and industrial relations laws. The Department also has the function of developing, preparing, and disseminating information on employment, unemployment, and general labor market conditions.

Disability Compensation Division

The Disability Compensation Division administers employee benefit programs to help workers who suffer from on-the-job or off-the-job injuries and illnesses.

Workers' Compensation: On-the-Job Injury/Illness. The Workers' Compensation law, established under chapter 386, HRS, is an employer-paid insurance program that protects workers from hardships caused by on-the-job injuries and illnesses. Workers' compensation replaces lost wages (up to two-thirds of an employee's average weekly wage, not to exceed the State's average wage), and pays for medical care and rehabilitation costs. It may also compensate employees for permanent disability and/or disfigurement and provide death benefits to dependents.

Temporary Disability Insurance: Off-the-Job Injury/Illness. Employees who are unable to work due to an off-the-job injury or illness may receive wage replacement benefits through employer-provided Temporary Disability Insurance (TDI), provided under chapter 392, HRS, or through an approved sick leave plan. TDI replaces fifty-eight per cent of the worker's average weekly wage after a seven-consecutive-day waiting period. Employers may require employees to contribute up to one-half of the TDI premium cost, not to exceed 0.5 per cent of their weekly wages.

Prepaid Health Care. Hawaii was the first state to adopt an innovative Prepaid Health Care law, chapter 393, HRS. This law sets minimum standards of health care coverage and requires employers to provide eligible employees with a health care plan to pay for medical costs related to off-the-job injuries and illnesses. Coverage includes hospitalization, surgery, office visits, diagnostic tests, and maternity benefits. Employees may be required to contribute up to one-half the premium cost, or 1.5 per cent of their monthly wages, whichever is less.¹

¹ Employees covered by a collective bargaining agreement may bargain collectively for different prepaid health care coverage, provided it is at least as favorable to the benefited employees, or for a different allocation of the costs. See section 393-19, HRS.

Hawaii Occupational Safety and Health Division

The Hawaii Occupational Safety and Health (HIOSH) Division administers and enforces the State's Occupational Safety and Health law and rules² through a variety of enforcement and cooperative programs. The State, under an agreement with the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA), operates an Occupational Safety and Health Plan (State Plan) in accordance with section 18 of the Occupational Safety and Health Act of 1970.³ Although the State Plan gives HIOSH jurisdiction over workers in the State, including those employed by state and county governments, staffing cuts have resulted in a change in jurisdiction for federal fiscal years (FFY) 2013 through 2015. Excluded from state coverage are federal employees, workers in the maritime industry, domestic workers, family farms, and general industry, with the exception of transportation and warehousing, through the end of FFY 2012. These workplaces are covered by federal OSHA. At the end of FFY 2013, manufacturing will once again be under state jurisdiction. At the end of FFY 2014, accommodations will revert to HIOSH jurisdiction. At the end of FFY 2015, all of general industry, with the exception of refineries, will fall under HIOSH jurisdiction.

The Enforcement branches of HIOSH conduct unannounced compliance inspections of safety and health conditions in places of employment. The Consultation and Training Branch provides free consultation services and training and information on safety and health to businesses and companies. Training and information resources are posted on its website. HIOSH also inspects boilers, elevators, and related equipment and controls the issuance of Certificates of Fitness to use explosives.

Research and Statistics Office

The Research and Statistics Office (R&S) provides research and statistical services to departmental programs in their formulation of economic policies and program delivery. The Office also conducts occupational and labor market research in the areas of employment and unemployment, occupational outlook, wages, and mass layoffs. R&S administers the Career Kokua program, a statewide career information delivery system that provides career, job, occupational, educational, and training information to youths, their parents and families, teachers, counselors, adults, and jobseekers. These R&S programs support legislative mandates of the federal Workforce Investment Act of 1998⁴ and employment of state residents on construction procurement contracts⁵ to determine work shortages in the construction industry.

² See chapter 396, HRS, and Title 12, subtitle 8, HAR.

³ See P.L. 91-596; 29 U.S.C. 667.

⁴ See P.L. 105-220; 29 U.S.C. 2801 et seq.

⁵ See chapter 103B, HRS.

Unemployment Insurance Division

The Unemployment Insurance Division (UI) administers Hawaii's unemployment insurance program under the Hawaii Employment Security law and rules.⁶ The UI program enables eligible unemployed workers to partially replace lost income for up to twenty-six weeks of regular benefits, while seeking work. UI benefits are paid from a trust fund financed by employers. Each employer's tax rate is based on prior experience with unemployment risk ("experience rating").

Wage Standards Division

The Wage Standards Division (WSD) coordinates and implements a statewide program to administer, enforce, and provide education and consultation on labor laws related to wages and include:

- (1) Minimum wage and overtime under chapter 387, HRS: The minimum wage is \$7.25 per hour effective January 1, 2007. Overtime is 1.5 times the regular rate, after 40 hours in a week with some exceptions.
- (2) Payment of wages under chapter 388, HRS: Wages must be paid in full at least twice a month, within seven days after the end of the pay period. Discharged employees must be paid immediately or by the next working day. Employees who resign must be paid by the next regular payday. The withholding or deduction of certain wages is prohibited by law.
- (3) Wages and hours of employees on public works projects under chapter 104, HRS: Laborers and mechanics on state and county governmental construction projects in excess of \$2,000 must be paid prevailing wages and overtime at time and a half for hours worked on a Saturday, Sunday, or state holiday, or after eight hours on any other day.
- (4) Child labor work permits under chapter 390, HRS: Prior to employment, minors under eighteen years of age must register with WSD for a certificate. Depending upon the minor's age, there are some restrictions on the type of occupation and work hours allowed.
- (5) Lie detector tests under chapter 378, part II, HRS: It is unlawful for any employer to: require a prospective employee or employee to submit to a lie detector test as a condition of employment or continued employment; or terminate or otherwise discriminate against any employee or prospective employee for refusing to submit to a lie detector test.

⁶ See chapter 383, HRS, and Title 12, chapter 5, HAR.

- (6) Unlawful suspension or discharge under chapter 378, part III, HRS: It is unlawful for any employer to suspend, discharge, or discriminate against an employee because the employee has suffered a work injury, tested positive in a substance abuse on-site screening test, or uses accrued and available sick leave.
- (7) Family leave under chapter 398, HRS: An employee may take up to four weeks of unpaid family leave for the birth or adoption of the employee's child or to care for a child, parent, spouse, or reciprocal beneficiary with a serious health condition. Substitution of paid leave is permitted under certain conditions.

Workforce Development Division

The Workforce Development Division (WDD) plans, directs, coordinates, and implements a customer-driven statewide workforce development system that delivers employment and training services to job applicants, workers, and industries throughout the State. WDD provides free referral and placement services that match workers with jobs, and jobs with workers. WDD screens and refers qualified job seekers, helps employers meet affirmative action plan goals, provides facilities for recruitment, and processes job orders through the computerized HireNet Hawaii system.

The Division also administers employment and training programs, including the federally funded Workforce Investment Act of 1998 (WIA).⁷ WIA offers remedial education, job training, and employment assistance to target groups (low income adults and youth, and dislocated workers). WDD oversees implementation of WIA programs in Hawaii in partnership with local governments and workforce investment boards.

In addition, WDD is responsible for registering private sector and state and county sponsored apprenticeship programs in Hawaii and ensuring that these programs operate in compliance with the standards for safeguarding the welfare of apprentices. The apprenticeship programs are operated by labor unions and/or employer organizations representing various occupations. Apprentices in these programs learn a trade through on-the-job experience and related classroom instruction.

⁷ See P.L. 105-220; 29 U.S.C. 2801 et seq.

ATTACHED FOR ADMINISTRATIVE PURPOSES

Civil Rights Commission

The Civil Rights Commission, established under section 368-2, HRS, consists of five members who are appointed to four-year terms by the Governor with the advice and consent of the Senate. Members are selected on the basis of their knowledge and experience in civil rights matters and on the basis of a demonstrated commitment to the preservation of the civil rights of all individuals. The Governor designates one of the commissioners as Chairperson. Under section 368-3, HRS, among the Commission's powers are to: (1) receive, investigate, and conciliate complaints alleging any unlawful discriminatory practice under part I of chapter 489 (discrimination in public accommodations), chapter 515 (discrimination in real property transactions), part I of chapter 378 (discrimination in employment practices), and complaints filed under chapter 368, HRS; (2) hold hearings and make inquiries to carry out properly its functions and powers; (3) commence civil action in circuit court to seek appropriate relief; (4) issue the right to sue to a complainant; and (5) order appropriate legal and equitable relief or affirmative action when a violation is found.

Hawaii Labor Relations Board

The Hawaii Labor Relations Board, established under section 89-5, HRS, is composed of three members: one member represents management, one member represents labor, and the third member, the Chair, represents the public. All members are appointed by the Governor to six-year terms. Because cumulative experience and continuity in office are essential to the proper administration of chapter 89, HRS, it is declared to be in the public interest to continue board members in office as long as efficiency is demonstrated, notwithstanding the provision of section 26-34, HRS, which limits the appointment of a member of a board or commission to two terms. Public employers and employee organizations representing public employees may submit to the Governor for consideration names of persons to serve as members and the Governor first considers these persons in selecting the members. Members devote full time to their duties. Among its duties, the Board resolves collective bargaining disputes in the public sector and those parts of the private sector not covered by the National Labor Relations Act, including the designation of appropriate bargaining units under section 89-6, HRS. It supervises elections for the determination of employee representation; conducts proceedings on prohibited practice or unfair labor practice complaints filed by employers, employees, and employee organizations; and establishes lists of qualified persons to serve as mediators or arbitrators. The Board also resolves contests of citations issued by the Director of Labor and Industrial Relations through the Hawaii Occupational Safety and Health Division pursuant to section 396-11, HRS.

Labor and Industrial Relations Appeals Board

The Labor and Industrial Relations Appeals Board, established under section 371-4, HRS, consists of three members who are appointed to ten-year terms by the Governor with the advice and consent of the Senate. Because cumulative experience and continuity in office are essential to the proper handling of appeals under workers' compensation law and other labor laws, it is declared to be in the public interest to continue board members in office as long as efficiency is demonstrated. Members devote full time to their duties. The Governor designates the Chairperson who is an attorney. The Board rules on appeals from decisions and orders of the Director of Labor and Industrial Relations issued under the workers' compensation law and any other law for which an appeal to the Board is provided.

Employment Security Appeals Referees' Office

Authority for the Employment Security Appeals Referees' Office (ESARO) to hear appeals from benefit determinations and contribution assessments issued by the Unemployment Insurance Division is provided under sections 383-37, 383-38, 383-39, and 383-74, HRS. A referee, also referred to as a hearing officer, is assigned to conduct the appeal hearing and render a written decision, which is subject to review and adjudication upon an application for reopening of the referee's decision, and by the circuit court upon judicial appeal pursuant to section 383-41, HRS.

State Fire Council

The State Fire Council, established under section 132-16, HRS, consists of the fire chiefs of the counties. In addition to adopting a State Model Fire Code pursuant to section 132-3, HRS, the Council serves as the focal point through which all applications to the federal government for grant assistance for fire-related projects are made and, upon receipt, administers those grants. The Council may advise and assist county fire departments where appropriate; prescribe standard procedures and forms relating to inspections, investigations, and reporting of fires; and advise the Governor and Legislature with respect to fire prevention and protection, life safety, and any other functions or activities for which the various county fire departments are generally responsible.

Hawaii Workforce Development Council

The Hawaii Workforce Development Council, established under section 202-1, HRS, is composed of thirty-one members, the majority of whom are from the private sector: (1) the directors of Labor and Industrial Relations, Human Services, and Business, Economic Development, and Tourism; Superintendent of Education; and President of the University of Hawaii or designees, as ex officio, voting members; (2) the private business sector chairpersons of the four county workforce investment boards, or designees from the private business sector membership of their respective boards, as ex officio, voting members; (3) twelve additional

private sector representatives from business; (4) one representative from a community-based native Hawaiian organization that operates workforce development programs; (5) two representatives from labor; (6) four members of the Legislature, two from each house for two-year terms beginning in January of odd-numbered years, appointed by the appropriate presiding officer of each house, as ex officio, voting members; (7) two mayors or designees, as ex officio, voting members; and (8) the Governor or Governor's designee. Except for the ex officio members or designees, members are appointed to four-year terms by the Governor with the advice and consent of the Senate. The Governor appoints the Chairperson and the two mayors to the Council. Members are selected on the basis of their interest in and knowledge of workforce development programs in the State and how they can support economic development.

The Council advises the Governor, Legislature, counties, and state officials on workforce, employment, related education and training, and economic issues affecting the workforce, career development, and technology skills. The Council serves as the state Workforce Investment Board for purposes of the federal Workforce Investment Act of 1998.⁸

Office of Community Services

The Office of Community Services (OCS), established under section 371K-2, HRS, facilitates and enhances the planning, development, coordination, delivery, and evaluation of an effective statewide network of human services programs for disadvantaged persons, immigrants, and refugees with the goal of self-sufficiency. OCS provides advice and assistance to the public agencies of the Executive Branch, private agencies in health and human services, and the Legislature with respect to disadvantaged persons, immigrants, and refugees. The Office focuses on contracting agencies to provide specialized job training that removes barriers to employment and addresses the particular needs of low-income persons, immigrants, and refugees, thus enabling them to obtain and maintain employment.

State Apprenticeship Council

The membership of the State Apprenticeship Council, established under section 372-4, HRS, is determined by the Director of Labor and Industrial Relations, and members are appointed and removed at the pleasure of the Director. The Council consists of persons familiar with apprenticeable occupations, includes an equal number of representatives of employers and employee organizations, and includes public members who do not number in excess of the number named to represent either employers or employee organizations. The Council serves in an advisory capacity to the Director on matters within the jurisdiction of the Department relating to apprenticeship programs.

⁸ See P.L. 105-220; 29 U.S.C. 2801 et seq.

HIOSH Advisory Committee

The Hawaii Occupational Safety and Health (HIOSH) Advisory Committee assists the HIOSH program in carrying out its mission of promoting safe workplaces in Hawaii by providing advice and guidance to the Director of Labor and Industrial Relations. The Committee brings the perspective of employers, unions, professional safety and health association members, and trade organization members for injury and illness prevention, as well as the promotion, education, and resolution of occupational safety and health issues in Hawaii. The Committee assists the Director to ensure that HIOSH's outreach and enforcement efforts are fair and effective.

Hoisting Machine Operators Advisory Board

The Hoisting Machine Operators Advisory Board, established under section 396-19, HRS, consists of five members appointed to four-year terms by the Governor with the advice and consent of the Senate. The Board adopts rules for the certification of hoisting machine operators.

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