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DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
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February 16, 2022

To: The Honorable Aaron Ling Johanson, Chair,
The Honorable Lisa Kitagawa, Vice Chair, and
Members of the House Committee on Consumer Protection & Commerce

Date: Wednesday, February 16, 2022
Time: 2:00 p.m.
Place: Conference Room 329, State Capitol and via Videoconference

From: Anne Perreira-Eustaquio, Director
Department of Labor and Industrial Relations (DLIR)

Re: H.B. 2471 HD1 RELATING TO THE ADEQUATE RESERVE FUND

I. OVERVIEW OF PROPOSED LEGISLATION

HB2471 HD1 proposes to amend Chapter 383, Hawaii Revised Statutes (HRS), to amend the definition of "adequate reserve fund" to exclude the Benefit Cost Rate (BCR) from June 2020 to August 2021, effective from calendar years 2023 through 2030. This relief will allow contributory employers to replenish the Unemployment Compensation Trust Fund (UCTF) and help re-establish the fund's integrity without facing the highest contribution schedules for years as Hawaii's economy continues to recover from the COVID-19 Pandemic.

The DLIR strongly supports this measure as it is in line with a measure in the Governor’s Package.

II. CURRENT LAW

The Benefit Cost Rate (BCR) is the total benefits paid during a consecutive twelve-month period divided by wages for a twelve-month period[1].

The Adequate Reserve Fund is a benchmark that equals the highest BCR during the most recent ten years times total wages for last completed fiscal year ending June 30. The calculation of the Adequate Reserve Fund is designed to ensure there are enough reserves in the UCTF to pay Unemployment Insurance (UI) benefits.

The Adequate Reserve Fund is used as a measure of the solvency of the UCTF and to determine the UI tax schedule: the ratio of the Current Reserve (UCTF balance on 11/30) divided by the Adequate Reserve determines which UI tax schedule is in effect for a calendar year (Current Reserve/Adequate Reserve).

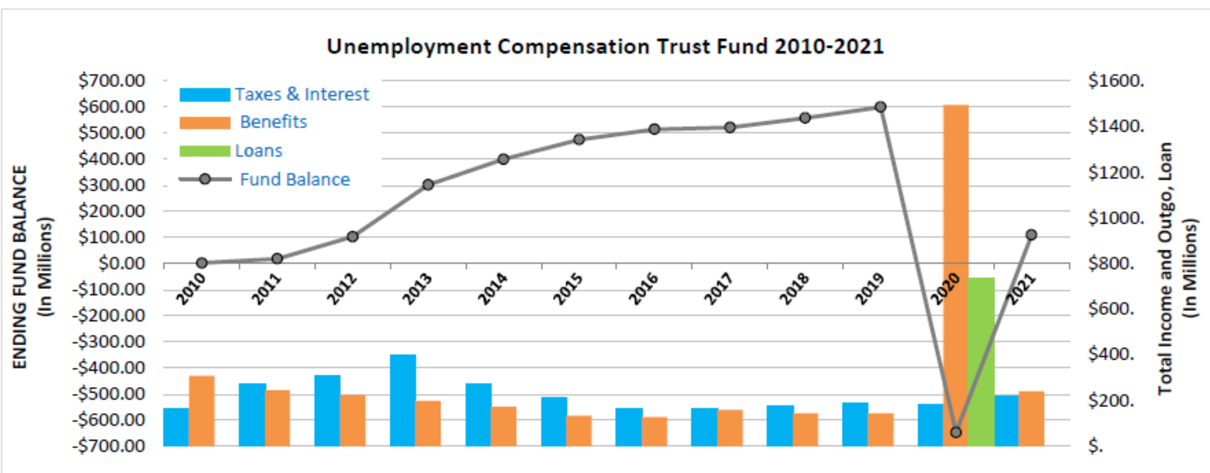
Ratio = Current reserve/adequate reserve

Ratio CR/AR	Tax Schedule
1.69 +	A
1.3-1.69	B
1.0 to 1.29	C
0.80 to 0.99	D
0.60 to 0.79	E
0.40 to 0.59	F
0.20 to 0.39	G
< .20	H

An employer's Hawaiʻi unemployment insurance tax rate is computed once a year based on the employer's reserve ratio and the tax schedule (one of eight possible schedules, A through H) in effect for the year.

III. **COMMENTS ON THE HOUSE BILL**

Without statutory intervention, the Adequate Reserve Fund definition will include the anomalous outflow from 2020-21 due to the disruptions caused by COVID-19, which created an unprecedented period of unemployment in Hawaii and resulted in the rapid depletion of funds from the UCTF. The UCTF went bankrupt in July 2020 and to date $847M[2] has been infused to pay back Title XII advances (loans) and avoid the loss of the Federal Unemployment Tax Act (FUTA) federal tax credit reductions for employers to cover interest payments to the federal treasury.



This measure excludes the benefit cost rate from June 2020 to August 2021 from the definition of the Adequate Reserve Fund for calendar years 2023 through 2030. The BCR pre-pandemic was 2.20% based on the rate in March 2010. The 2023 estimated statutory BCR is 7.09% based on the rate in March 2021 (and effective through 2030). With the enactment of this measure, the BCR would be

2.28% based on September 2021 levels.

The statutory Adequate Reserve Fund is estimated at $1.77B for 2023, but with the enactment of this measure the Adequate Reserve Fund would be $568M for 2023 (the UCTF reserve balance was between $500M-$600M from 2016-19 as illustrated in the above graph). Tax Schedule G will be in effect during calendar year 2023 instead of F with the enactment of this measure.

This relief will allow contributory employers to replenish the UCTF and help re-establish the fund's integrity without facing the highest contribution schedules for years as Hawaii's economy continues to recover from the COVID-19 Pandemic.

[1] *Last four calendar quarters ending on June 30.*

[2] *$47M CARES Act & $800M ARPA Act of 2021.*

UNITE HERE! LOCAL 5 HAWAII
Eric W. Gill, Financial Secretary-Treasurer Gemma G. Weinstein, President Godfrey Maeshiro, Senior Vice President

February 15, 2022

Committee on Consumer Protection & Commerce
Representative Aaron Ling Johanson, Chair
Representative Lisa Kitagawa, Vice Chair

Testimony in opposition to HB1852, HB2469 and HB2471

Chair Johanson, Vice Chair Kitagawa and members of the Committee,

Thank you for the opportunity to testify **in opposition to HB 1852, HB 2469 and HB 2471**. UNITE HERE Local 5 represents over 11,500 people working in the hotel, food service and health care industries throughout Hawaii. The COVID pandemic has been difficult for our members – many have had to suffer through illness, unemployment, and financial struggle. The unemployment system, overwhelmed, understaffed, and using ancient technology, left many of our members without financial help for months during the time they needed it most. Supplemental unemployment benefits were, however, an important lifeline until they ended last year.

Last year, the Legislature provided $700 million in federal COVID relief funds to the unemployment system, to which was added another $100 million appropriated by the Governor. This use of COVID funds to bail out employers (who would have otherwise faced a tax increase to replenish the fund) was a little incongruous with the Legislature's choice not to pass a bill that would have exempted unemployment benefits from state income tax.

This year, the Legislature is contemplating more bills that would bail out employers from their unemployment fund contribution responsibilities:

- HB1852 – would provide additional bailout money to the unemployment fund via appropriation from the General Fund. The amount is currently blank.

- HB2469 – creates a fund for future bailouts of employers' responsibilities to the unemployment fund. Of course the fund needs money so it doesn't run out; but this again would be paid for through appropriations.

- HB2471 – revises the formula for "adequate reserves" for the unemployment fund. Considering that the fund, under the previous definition, still ended up far short at the time when it was most needed, adopting a lower standard seems like something we should perhaps not do. It will, however, act as yet another sort of bailout for employers by deferring their responsibility while allowing the fund to remain underfunded for longer.

We are opposed to these measures.

Thank you for your consideration.

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