
A BILL FOR AN ACT

RELATING TO EMPLOYMENT SECURITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 383-22, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:
3 "(b) In the case of an individual whose benefit year
4 begins prior to January 5, 1992, the individual's weekly benefit
5 amount shall be, except as otherwise provided in this section,
6 an amount equal to one twenty-fifth of the individual's total
7 wages for insured work paid during the calendar quarter of the
8 individual's base period in which such total wages were highest.
9 In the case of an individual whose benefit year begins after
10 January 4, 1992, the individual's weekly benefit amount shall
11 be, except as otherwise provided in this section, an amount
12 equal to one twenty-first of the individual's total wages for
13 insured work paid during the calendar quarter of the
14 individual's base period in which such total wages were highest.
15 The weekly benefit amount, if not a multiple of \$1, shall be
16 computed to the next higher multiple of \$1. If an individual's
17 weekly benefit amount is less than \$5, it shall be \$5. The
18 maximum weekly benefit amount shall be determined annually as



1 follows: On or before November 30 of each year the total
2 remuneration paid by employers, as reported on contribution
3 reports submitted on or before such date, with respect to all
4 employment during the four consecutive calendar quarters ending
5 on June 30 of the year shall be divided by the average monthly
6 number of individuals performing services in the employment
7 during the same four calendar quarters as reported on the
8 contribution reports. The amount thus obtained shall be divided
9 by fifty-two and the average weekly wage (rounded to the nearest
10 cent) thus determined. For benefit years beginning prior to
11 January 1, 1992, two-thirds of the average weekly wage shall
12 constitute the maximum weekly benefit amount and shall apply to
13 all claims for benefits filed by an individual qualifying for
14 payment at the maximum weekly benefit amount in the benefit year
15 commencing on or after the first day of the calendar year
16 immediately following the determination of the maximum weekly
17 benefit amount. For benefit years beginning January 1, 1992,
18 [~~and thereafter,~~] but prior to January 1, 2008, seventy per cent
19 of the average weekly wage shall constitute the maximum weekly
20 benefit amount and shall apply to all claims for benefits filed
21 by an individual qualifying for payment at the maximum weekly
22 benefit amount in the benefit year commencing on or after the



1 first day of the calendar year immediately following the
 2 determination of the maximum weekly benefit amount. For benefit
 3 years beginning January 1, 2008, and thereafter, seventy-five
 4 per cent of the average weekly wage shall constitute the maximum
 5 weekly benefit amount and shall apply to all claims for benefits
 6 filed by an individual qualifying for payment at the maximum
 7 weekly benefit amount in the benefit year commencing on or after
 8 the first day of the calendar year immediately following the
 9 determination of the maximum weekly benefit amount. The maximum
 10 weekly benefit amount, if not a multiple of \$1, shall be
 11 computed to the next higher multiple of \$1.

12	(Column A)	(Column B)	(Column C)	(Column D)
13	High	Basic	Minimum	Maximum
14	Quarter	Weekly	Qualifying	Total Benefits
15	Wages	Benefit	Wages	in Benefit Year
16	\$ 37.50 - 125.00	\$ 5.00	\$ 150.00	\$ 130.00
17	125.01 - 150.00	6.00	180.00	156.00
18	150.01 - 175.00	7.00	210.00	182.00
19	175.01 - 200.00	8.00	240.00	208.00
20	200.01 - 225.00	9.00	270.00	234.00
21	225.01 - 250.00	10.00	300.00	260.00
22	250.01 - 275.00	11.00	330.00	286.00



1	275.01 - 300.00	12.00	360.00	312.00
2	300.01 - 325.00	13.00	390.00	338.00
3	325.01 - 350.00	14.00	420.00	364.00
4	350.01 - 375.00	15.00	450.00	390.00
5	375.01 - 400.00	16.00	480.00	416.00
6	400.01 - 425.00	17.00	510.00	442.00
7	425.01 - 450.00	18.00	540.00	468.00
8	450.01 - 475.00	19.00	570.00	494.00
9	475.01 - 500.00	20.00	600.00	520.00
10	500.01 - 525.00	21.00	630.00	546.00
11	525.01 - 550.00	22.00	660.00	572.00
12	550.01 - 575.00	23.00	690.00	598.00
13	575.01 - 600.00	24.00	720.00	624.00
14	600.01 - 625.00	25.00	750.00	650.00
15	625.01 - 650.00	26.00	780.00	676.00
16	650.01 - 675.00	27.00	810.00	702.00
17	675.01 - 700.00	28.00	840.00	728.00
18	700.01 - 725.00	29.00	870.00	754.00
19	725.01 - 750.00	30.00	900.00	780.00
20	750.01 - 775.00	31.00	930.00	806.00
21	775.01 - 800.00	32.00	960.00	832.00
22	800.01 - 825.00	33.00	990.00	858.00



1	825.01 - 850.00	34.00	1020.00	884.00
2	850.01 - 875.00	35.00	1050.00	910.00
3	875.01 - 900.00	36.00	1080.00	936.00
4	900.01 - 925.00	37.00	1110.00	962.00
5	925.01 - 950.00	38.00	1140.00	988.00
6	950.01 - 975.00	39.00	1170.00	1014.00
7	975.01 -1000.00	40.00	1200.00	1040.00
8	1000.01 -1025.00	41.00	1230.00	1066.00
9	1025.01 -1050.00	42.00	1260.00	1092.00
10	1050.01 -1075.00	43.00	1290.00	1118.00
11	1075.01 -1100.00	44.00	1320.00	1144.00
12	1100.01 -1125.00	45.00	1350.00	1170.00
13	1125.01 -1150.00	46.00	1380.00	1196.00
14	1150.01 -1175.00	47.00	1410.00	1222.00
15	1175.01 -1200.00	48.00	1440.00	1248.00
16	1200.01 -1225.00	49.00	1470.00	1274.00
17	1225.01 -1250.00	50.00	1500.00	1300.00
18	1250.01 -1275.00	51.00	1530.00	1326.00
19	1275.01 -1300.00	52.00	1560.00	1352.00
20	1300.01 -1325.00	53.00	1590.00	1378.00
21	1325.01 -1350.00	54.00	1620.00	1404.00
22	1350.01 and over	55.00	1650.00	1430.00"



1 SECTION 2. Section 383-66, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§383-66 Contribution rates, how determined.** (a) The
4 department, for the nine-month period April 1, 1941, to
5 December 31, 1941, and for each calendar year thereafter, except
6 as otherwise provided in this part, shall classify employers in
7 accordance with their actual experience in the payment of
8 contributions and with respect to benefits charged against their
9 accounts with a view to fixing the contribution rates to reflect
10 this experience. The department shall determine the
11 contribution rate of each employer in accordance with the
12 following requirements:

13 (1) The standard rate of contributions payable by each
14 employer for any calendar year through 1984 shall be
15 three per cent. For the calendar year 1985 and
16 thereafter, the standard rate of contributions payable
17 by each employer shall be five and four-tenths per
18 cent;

19 (2) No employer's rate for the calendar year 1942 and for
20 any calendar year thereafter shall be other than the
21 maximum rate unless and until the employer's account
22 has been chargeable with benefits throughout the



1 thirty-six consecutive calendar month period ending on
2 December 31 of the preceding calendar year, except
3 that, for the calendar year 1956 and for each calendar
4 year thereafter, an employer who has not been subject
5 to the law for a sufficient period to meet this
6 requirement may qualify for a rate other than the
7 maximum rate if the employer's account has been
8 chargeable throughout a lesser period but in no event
9 less than the twelve consecutive calendar month period
10 ending on December 31 of the preceding calendar year.
11 For the calendar years 1985 through 1991, the
12 contribution rate for a new or newly covered employer
13 shall be the sum of the employer's basic contribution
14 rate of three and six-tenths per cent and the fund
15 solvency contribution rate determined for that year
16 pursuant to section 383-68(a), until the employer's
17 account has been chargeable with benefits throughout
18 the twelve consecutive calendar month period ending on
19 December 31 of the preceding calendar year; except
20 that no employer's contribution rate shall be greater
21 than five and four-tenths per cent and no employer
22 with a negative reserve ratio shall have a



1 contribution rate less than the employer's basic
2 contribution rate. For calendar years 1992 and
3 thereafter, the contribution rate for a new or newly
4 covered employer shall be the contribution rate
5 assigned to any employer with .0000 reserve ratio,
6 until the employer's account has been chargeable with
7 benefits throughout the twelve consecutive calendar
8 month period ending on December 31 of the preceding
9 calendar year;

10 (3) Any amount credited to this State under section 903 of
11 the Social Security Act, as amended, which has been
12 appropriated for expenses of administration, whether
13 or not withdrawn from the trust fund, shall be
14 excluded from the fund for the purposes of this
15 paragraph. Any advance that may be made to this State
16 under section 1201 of the Social Security Act, whether
17 or not withdrawn from this trust fund, shall be
18 excluded from the fund for the purposes of this
19 paragraph. No employer's rate shall be reduced in any
20 amount that is not allowable as an additional credit,
21 against the tax levied by the federal Unemployment Tax
22 Act pursuant to section 3302(b) of the federal



1 Internal Revenue Code or pursuant to any other federal
2 statute, successor to section 3302(b), which provides
3 for the additional credit now provided for in section
4 3302(b);

- 5 (4) If, when any classification of employers is to be made
6 (which may be after the commencement of the period for
7 which the classification is to be made), the
8 department finds that any employer has failed to file
9 any report required in connection therewith or has
10 filed a report that the department finds incorrect or
11 insufficient, the department shall notify the employer
12 thereof by mail addressed to the employer's last known
13 address. Unless the employer files the report or a
14 corrected or sufficient report, as the case may be,
15 within fifteen days after the mailing of the notice,
16 the maximum rate of contributions shall be payable by
17 the employer for the period for which the contribution
18 rate is to be fixed. Effective January 1, 1987, the
19 director, for excusable failure, may redetermine the
20 assignment of the maximum contribution rate in
21 accordance with this section, provided the employer
22 files all reports as required by the department and



1 submits a written request for redetermination before
2 December 31 of the year for which the contribution
3 rate is to be fixed;

- 4 (5) For the purpose of sections 383-63 to 383-69, if after
5 December 31, 1939, any employing unit in any manner
6 succeeds to or acquires the organization, trade, or
7 business, or substantially all the assets thereof
8 (whether or not the successor or acquiring unit was an
9 "employing unit", as that term is defined in section
10 383-1 prior to the acquisition), or after
11 December 31, 1988 and prior to December 31, 1992,
12 acquires a clearly identifiable and segregable portion
13 of the organization, trade, or business of another
14 that at the time of the acquisition was an employer
15 subject to this chapter, and the successor continues
16 or resumes the organization, trade, or business and
17 continues to employ all or nearly all of the
18 predecessor's employees, or the successor continues or
19 resumes the clearly identifiable and segregable
20 portion of the organization, trade, or business and
21 continues to employ all or nearly all of the employees
22 of the clearly identifiable and segregable portion, an



1 application may be made for transfer of the
2 predecessor's experience record. If the predecessor
3 employer has submitted all information and reports
4 required by the department including amended quarterly
5 wage reports identifying the employees transferred or
6 retained and executed and filed with the department
7 before December 31 of the calendar year following the
8 calendar year in which the acquisition occurred on a
9 form approved by the department a waiver relinquishing
10 the rights to all or the clearly identifiable and
11 segregable portion of the predecessor's prior
12 experience record with respect to its separate
13 account, actual contribution payment, and benefit
14 chargeability experience, annual payrolls and other
15 data for the purpose of obtaining a reduced rate, and
16 requesting the department to permit the experience
17 record to inure to the benefit of the successor
18 employing unit upon request of the successor employing
19 unit, the experience record for rate computation
20 purposes of the predecessor shall thereupon be deemed
21 the experience record of the successor and the
22 experience record shall be transferred by the



1 department to the successor employing unit and shall
2 become the separate account of the employing unit as
3 of the date of the acquisition. Benefits chargeable
4 to the predecessor employer or successor employer in
5 case of an acquisition of a clearly identifiable and
6 segregable portion of the organization, trade, or
7 business, after the date of acquisition on account of
8 employment prior to the date of the acquisition shall
9 be charged to the separate account of the successor
10 employing unit. In case of an acquisition of a
11 clearly identifiable and segregable portion of the
12 organization, trade, or business, the experience
13 record that inures to the benefit of the successor
14 employer shall be determined as follows:

- 15 (A) Wages, as used in section 383-61, attributable to
16 the clearly identifiable and segregable portion
17 shall be for the period beginning with the most
18 recent three consecutive calendar years
19 immediately preceding the determination of rates
20 under sections 383-63 to 383-69 and through the
21 date of acquisition; and



1 (B) Reserve balance attributable to the clearly
2 identifiable and segregable portion shall be the
3 amount determined by dividing the wages, as used
4 in section 383-61, of the clearly identifiable
5 and segregable portion in the three calendar
6 years (or that lesser period as the clearly
7 identifiable and segregable portion may have been
8 in operation) immediately preceding the
9 computation date of the rating period prior to
10 which the acquisition occurred by the total
11 taxable payrolls of the predecessor for the
12 three-year period (or that lesser period as the
13 clearly identifiable and segregable portion may
14 have been in operation) and multiplying the
15 quotient by the reserve balance of the
16 predecessor employer calculated as of the
17 acquisition date;

18 provided the waiver or waivers required herein are
19 filed with the department within sixty days after the
20 date of acquisition, the successor employing unit,
21 unless already an employer subject to this chapter,
22 shall be subject from the date of acquisition to the



1 rate of contribution of the predecessor or of two or
2 more predecessors if they have the same contribution
3 rate. If there are two or more predecessors having
4 different contribution rates, the successor shall be
5 subject to the rate prescribed for new or newly
6 covered employers under paragraph (2) until the next
7 determination of rates under sections 383-63 to
8 383-69, at which time the experience records of the
9 predecessors and successor shall be combined and shall
10 be deemed to be the experience record of a single
11 employing unit and the successor's rate shall
12 thereupon be determined upon the basis of the combined
13 experience. If the successor at the time of the
14 transfer is an employer subject to this chapter, the
15 rate of contribution to which the successor is then
16 subject shall remain the same until the next
17 determination of rates under sections 383-63 to
18 383-69, at which time the experience records of the
19 predecessor and successor shall be combined and shall
20 be deemed to be the experience record of a single
21 employing unit and the successor's rate shall
22 thereupon be determined upon the basis of the combined



1 experience. For the purpose of determination of rates
2 under sections 383-63 to 383-69 of all successor
3 employing units, waivers as required herein, if not
4 previously filed as hereinabove provided, shall be
5 filed with the department not later than March 1 of
6 the year for which the rate is determined; provided
7 that no waiver shall be accepted by the department for
8 filing unless the employing unit executing the waiver
9 has filed all reports and paid all contributions
10 required by this chapter;

- 11 (6) The department may prescribe rules for the
12 establishment, maintenance, and dissolution of joint
13 accounts by two or more employers, and, in accordance
14 with the rules and upon application by two or more
15 employers to establish such an account, or to merge
16 their several individual accounts in a joint account,
17 shall maintain the joint account as if it constituted
18 a single employer's account. The rules shall be
19 consistent with the federal requirements for
20 additional credit allowance in section 3303 of the
21 federal Internal Revenue Code and consistent with this
22 chapter;



- 1 (7) Whenever there is an amendment to this chapter which,
2 if immediately effective, would change an employer's
3 rate of contributions, the rate of the employer shall
4 be changed in accordance with the amendment and the
5 new rate shall apply for the remainder of the calendar
6 year beginning with the calendar quarter immediately
7 following the effective date of the amendment
8 providing for the change, unless otherwise provided by
9 the amendment;
- 10 (8) For the purposes of this section "contribution rate"
11 shall mean the basic contribution rate as defined in
12 section 383-68 when applied to calendar year 1978 or
13 any calendar year thereafter; and
- 14 (9) For the purposes of this section, the terms "employing
15 unit", "employer", "predecessor", and "successor"
16 shall include both the singular and the plural of each
17 term. Nothing in this section shall prevent two or
18 more successor employing units, which each succeed to
19 or acquire a clearly identifiable and segregable
20 portion of a predecessor employing unit, from gaining
21 the benefit of the clearly identifiable and segregable
22 portion of the predecessor's experience record;



1 provided that the terms of this section are complied with,
2 nothing herein shall bar a predecessor employer from waiving the
3 rights to all or the clearly identifiable and segregable portion
4 of the predecessor's prior experience record in favor of a
5 successor employer where the successor acquired a clearly
6 identifiable and segregable portion of the predecessor's
7 organization, trade, or business after December 31, 1988 and
8 prior to December 31, 1992.

9 (b) Notwithstanding any other provision of this chapter,
10 the following shall apply regarding assignment of rates and
11 transfers of experience:

12 (1) If an employing unit transfers its organization,
13 trade, or business, or a portion thereof, to another
14 employing unit and, at the time of the transfer, there
15 is substantially common ownership, management, or
16 control of the two employing units, both employing
17 units shall file a notification of the transfer with
18 the department on a form approved by the department
19 within thirty days after the date of the transfer.
20 The department shall transfer the experience records
21 attributable to the transferred organization, trade,
22 or business to the employing unit to whom the



1 organization, trade, or business is transferred. The
2 rates of both employing units shall be recalculated
3 and made effective beginning with the calendar quarter
4 immediately following the date of the transfer of the
5 organization, trade, or business;

6 (2) If a person is not an employing unit as defined in
7 section 383-1 at the time it acquires the
8 organization, trade, or business of another employing
9 unit, both the person and the employing unit shall
10 file a notification of the acquisition with the
11 department on a form approved by the department within
12 thirty days after the date of the acquisition. If the
13 department determines at the time of the acquisition
14 or thereafter, based on objective factors that may
15 include:

16 (A) The cost of acquiring the organization, trade, or
17 business;

18 (B) Whether the person continued the activity of the
19 acquired organization, trade, or business;

20 (C) How long the organization, trade, or business was
21 continued; or



- 1 (D) Whether a substantial number of new employees
- 2 were hired for performance of duties unrelated to
- 3 the organization, trade, or business activity
- 4 conducted prior to the acquisition, that the
- 5 acquisition was solely or primarily for the
- 6 purpose of obtaining a lower rate of
- 7 contribution, the person shall not be assigned
- 8 the lower rate and shall be assigned the
- 9 contribution rate for a new or newly covered
- 10 employer pursuant to subsection (a)(2) instead;
- 11 (3) An employing unit or person who is not an employing
- 12 unit shall be subject to penalties under paragraph (4)
- 13 or (5) if the employing unit or person who is not an
- 14 employing unit:
 - 15 (A) Knowingly violates or attempts to violate this
 - 16 subsection or any other provision of this chapter
 - 17 related to determining the assignment of a
 - 18 contribution rate;
 - 19 (B) Makes any false statement or representation or
 - 20 fails to disclose a material fact to the
 - 21 department in connection with the transfer or



1 acquisition of an organization, trade, or
2 business; or
3 (C) Knowingly advises another employing unit or
4 person in a way that results in a violation or
5 attempted violation of this subsection;
6 (4) If the person is an employing unit:
7 (A) The employing unit shall be subject to the
8 highest rate assignable under this chapter for
9 the calendar year during which the violation or
10 attempted violation occurred and for the
11 consecutive three calendar years immediately
12 following; or
13 (B) If the employing unit is already at the highest
14 rate or if the amount of increase in the
15 employing unit's rate would be less than two per
16 cent for the calendar year during which the
17 violation or attempted violation occurred, a
18 penalty equal to contributions of two per cent of
19 taxable wages shall be imposed for the calendar
20 year during which the violation or attempted
21 violation occurred and the consecutive three
22 calendar years immediately following. Any



1 penalty amount collected in excess of the maximum
2 contributions payable at the highest rate shall
3 be deposited in the special unemployment
4 insurance administration fund in accordance with
5 section 383-127;

6 (5) If the person is not an employing unit, the person
7 shall be subject to a penalty of not more than \$5,000.
8 The penalty shall be deposited in the special
9 unemployment insurance administration fund in
10 accordance with section 383-127;

11 (6) For purposes of this subsection, the following
12 definitions shall apply:

13 (A) "Knowingly" means having actual knowledge of or
14 acting with deliberate ignorance or reckless
15 disregard for the requirements or prohibition
16 involved;

17 (B) "Violates or attempts to violate" includes, but
18 is not limited to, intent to evade,
19 misrepresentation, or wilful nondisclosure;

20 (C) "Person" shall have the same meaning as defined
21 in section 6601(a)(1) of the Internal Revenue
22 Code of 1986, as amended; and



1 (D) "Organization, trade, or business" shall include
2 the employer's workforce;

3 (7) In addition to the civil penalties imposed by
4 paragraphs (4) and (5), any violation of this section
5 may be prosecuted under sections 383-142 and 383-143.
6 No existing civil or criminal remedy for any wrongful
7 action that is a violation of any statute or any rule
8 of the department or the ordinance of any county shall
9 be excluded or impaired by this section;

10 (8) The department shall establish procedures to identify
11 the transfer or acquisition of an employing unit for
12 the purposes of this section; and

13 (9) This section shall be interpreted and applied in a
14 manner to meet the minimum requirements contained in
15 any guidance or regulations issued by the United
16 States Department of Labor.

17 (c) The contribution rate of each employer as it existed
18 on June 30, 2007 shall be reduced as follows:

19 (1) To sixty-five per cent of that amount from July 1,
20 2007, to June 30, 2008;

21 (2) To seventy-five per cent of that amount from July 1,
22 2008, and thereafter;



1 provided further that the department shall adopt through rules
2 under chapter 91 a contribution rate schedule in accordance with
3 this subsection."

4 SECTION 3. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 4. This Act shall take effect upon its approval.

7

INTRODUCED BY: *B. N. Nkomo*
JAN 23 2007



Report Title:

Employment Security

Description:

Raises the maximum weekly unemployment benefit to 75% of the average weekly wage. Changes employer's contribution rates for the fiscal year 2007-2008 to 65% of amount in effect on 06/30/07, and thereafter to 75% of the amount in effect on 06/30/07.

