
A BILL FOR AN ACT

RELATING TO EMPLOYMENT SECURITY.

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

1 SECTION 1. The legislature finds that the current balance
2 in the unemployment compensation fund allows for adjustments to
3 contributions and benefits. The current balance was created
4 over the past few years by an upswing in the economy, the
5 contributions paid by employers, and the limited changes to
6 statutory language for benefits paid to the unemployed.

7 The legislature further finds that since both employees and
8 employers have contributed to the present balance of the fund,
9 adjustments that will benefit both the employer and employee are
10 appropriate and equitable.

11 Accordingly, the purpose of this Act is to:

12 (1) Provide relief to employers without unnecessarily
13 depleting the unemployment compensation fund by
14 adjusting the calculation of contributions paid for by
15 employers for the calendar years of 2008 and 2009;

16 (2) Adjust certain areas of benefits paid to the
17 unemployed who have gone without substantial changes
18 in benefits for many years; and



1 (3) Clarify that ineligibility for benefits arises from
2 wilful or wanton misconduct of an employee.

3 SECTION 2. Section 383-22, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) In the case of an individual whose benefit year
6 begins prior to January 5, 1992, the individual's weekly benefit
7 amount shall be, except as otherwise provided in this section,
8 an amount equal to one twenty-fifth of the individual's total
9 wages for insured work paid during the calendar quarter of the
10 individual's base period in which such total wages were highest.
11 In the case of an individual whose benefit year begins after
12 January 4, 1992, the individual's weekly benefit amount shall
13 be, except as otherwise provided in this section, an amount
14 equal to one twenty-first of the individual's total wages for
15 insured work paid during the calendar quarter of the
16 individual's base period in which such total wages were highest.
17 The weekly benefit amount, if not a multiple of \$1, shall be
18 computed to the next higher multiple of \$1. If an individual's
19 weekly benefit amount is less than \$5, it shall be \$5. The
20 maximum weekly benefit amount shall be determined annually as
21 follows: On or before November 30 of each year the total
22 remuneration paid by employers, as reported on contribution



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



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

10	(Column A)	(Column B)	(Column C)	(Column D)
11	High	Basic	Minimum	Maximum
12	Quarter	Weekly	Qualifying	Total Benefits
13	Wages	Benefit	Wages	in Benefit Year
14	\$ 37.50 - 125.00	\$ 5.00	\$ 150.00	\$ 130.00
15	125.01 - 150.00	6.00	180.00	156.00
16	150.01 - 175.00	7.00	210.00	182.00
17	175.01 - 200.00	8.00	240.00	208.00
18	200.01 - 225.00	9.00	270.00	234.00
19	225.01 - 250.00	10.00	300.00	260.00
20	250.01 - 275.00	11.00	330.00	286.00
21	275.01 - 300.00	12.00	360.00	312.00
22	300.01 - 325.00	13.00	390.00	338.00



1	325.01 - 350.00	14.00	420.00	364.00
2	350.01 - 375.00	15.00	450.00	390.00
3	375.01 - 400.00	16.00	480.00	416.00
4	400.01 - 425.00	17.00	510.00	442.00
5	425.01 - 450.00	18.00	540.00	468.00
6	450.01 - 475.00	19.00	570.00	494.00
7	475.01 - 500.00	20.00	600.00	520.00
8	500.01 - 525.00	21.00	630.00	546.00
9	525.01 - 550.00	22.00	660.00	572.00
10	550.01 - 575.00	23.00	690.00	598.00
11	575.01 - 600.00	24.00	720.00	624.00
12	600.01 - 625.00	25.00	750.00	650.00
13	625.01 - 650.00	26.00	780.00	676.00
14	650.01 - 675.00	27.00	810.00	702.00
15	675.01 - 700.00	28.00	840.00	728.00
16	700.01 - 725.00	29.00	870.00	754.00
17	725.01 - 750.00	30.00	900.00	780.00
18	750.01 - 775.00	31.00	930.00	806.00
19	775.01 - 800.00	32.00	960.00	832.00
20	800.01 - 825.00	33.00	990.00	858.00
21	825.01 - 850.00	34.00	1020.00	884.00
22	850.01 - 875.00	35.00	1050.00	910.00



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

21 SECTION 3. Section 383-23, Hawaii Revised Statutes, is
 22 amended to read as follows:



1 **"§383-23 Weekly benefit for unemployment.** For weeks
2 beginning prior to January 5, 1992, each eligible individual who
3 is unemployed, as defined in section 383-1, in any week shall be
4 paid with respect to that week a benefit in an amount equal to
5 the individual's weekly benefit amount less that part of the
6 wages (if any) payable to the individual with respect to that
7 week which is in excess of \$2. Effective for weeks beginning
8 January 5, 1992, and thereafter, each eligible individual who is
9 unemployed, as defined in section 383-1, in any week shall be
10 paid with respect to that week a benefit in an amount equal to
11 the individual's weekly benefit amount less that part of the
12 wages (if any) payable to the individual with respect to that
13 week which is in excess of \$50. Effective for weeks beginning
14 July 2, 2007, and thereafter, each eligible individual who is
15 unemployed, as defined in section 383-1, in any week shall be
16 paid with respect to that week a benefit in an amount equal to
17 the individual's weekly benefit amount less that part of the
18 wages, if any, payable to the individual with respect to that
19 week which is in excess of \$150. The benefit, if not a multiple
20 of \$1, shall be computed to the next higher multiple of \$1."

21 SECTION 4. Section 383-24, Hawaii Revised Statutes, is
22 amended to read as follows:



1 **"§383-24 Maximum potential benefits.** The maximum
2 potential benefits of an eligible individual in a benefit year
3 shall be twenty-six times the eligible individual's weekly
4 benefit amount. For claims filed on or after January 1, 2007,
5 and thereafter, the maximum potential benefits of an eligible
6 individual's weekly benefit amount shall be thirty times the
7 eligible individual's weekly benefit amount."

8 SECTION 5. Section 383-30, Hawaii Revised Statutes, is
9 amended to read as follows:

10 **"§383-30 Disqualification for benefits.** An individual
11 shall be disqualified for benefits:

12 (1) Voluntary separation. For any week prior to
13 October 1, 1989, in which the individual has left work
14 voluntarily without good cause, and continuing until
15 the individual has, subsequent to the week in which
16 the voluntary separation occurred, been employed for
17 at least five consecutive weeks of employment. For
18 the purposes of this paragraph, "weeks of employment"
19 means all those weeks within each of which the
20 individual has performed services in employment for
21 not less than two days or four hours per week, for one
22 or more employers, whether or not such employers are



1 subject to this chapter. For any week beginning on
2 and after October 1, 1989, in which the individual has
3 left the individual's work voluntarily without good
4 cause, and continuing until the individual has,
5 subsequent to the week in which the voluntary
6 separation occurred, been paid wages in covered
7 employment equal to not less than five times the
8 individual's weekly benefit amount as determined under
9 section 383-22(b).

10 An owner-employee of a corporation who brings
11 about the owner-employee's unemployment by divesting
12 ownership, leasing the business interest, terminating
13 the business, or by other similar actions where the
14 owner-employee is the party initiating termination of
15 the employment relationship, has voluntarily left
16 employment.

17 (2) Discharge or suspension for misconduct. For any week
18 prior to October 1, 1989, in which the individual has
19 been discharged for wilful or wanton misconduct
20 connected with work, and continuing until the
21 individual has, subsequent to the week in which the
22 discharge occurred, been employed for at least five



1 consecutive weeks of employment. For the week in
2 which the individual has been suspended for wilful or
3 wanton misconduct connected with work and for not less
4 than one or more than four consecutive weeks of
5 unemployment which immediately follow such week, as
6 determined in each case in accordance with [~~the~~
7 ~~seriousness of~~] the wilful or wanton misconduct. For
8 the purposes of this paragraph, "weeks of employment"
9 means all those weeks within each of which the
10 individual has performed services in employment for
11 not less than two days or four hours per week, for one
12 or more employers, whether or not such employers are
13 subject to this chapter. For any week beginning on
14 and after October 1, 1989, in which the individual has
15 been discharged for wilful or wanton misconduct
16 connected with work, and until the individual has,
17 subsequent to the week in which the discharge
18 occurred, been paid wages in covered employment equal
19 to not less than five times the individual's weekly
20 benefit amount as determined under section 383-22(b).
21 For the purposes of this paragraph, "Wilful and wanton
22 misconduct" consists of actions which show a wilful or



1 wanton disregard of the employer's interest. It
2 includes deliberate or intentional violations of, or
3 deliberate disregard for, established standards of
4 behavior which indicate a wrongful intent or evil
5 design. Mere inefficiency, unsatisfactory conduct,
6 poor performance, isolated instances, or good faith
7 errors in judgment or discretion shall not constitute
8 wilful or wanton misconduct.

- 9 (3) Failure to apply for work, etc. For any week prior to
10 October 1, 1989, in which the individual failed,
11 without good cause, either to apply for available,
12 suitable work when so directed by the employment
13 office or any duly authorized representative of the
14 department of labor and industrial relations, or to
15 accept suitable work when offered and continuing until
16 the individual has, subsequent to the week in which
17 the failure occurred, been employed for at least five
18 consecutive weeks of employment. For the purposes of
19 this paragraph, "weeks of employment" means all those
20 weeks within each of which the individual has
21 performed services in employment for not less than two
22 days or four hours per week, for one or more



1 employers, whether or not such employers are subject
2 to this chapter. For any week beginning on and after
3 October 1, 1989, in which the individual failed,
4 without good cause, either to apply for available,
5 suitable work when so directed by the employment
6 office or any duly authorized representative of the
7 department of labor and industrial relations, or to
8 accept suitable work when offered until the individual
9 has, subsequent to the week in which the failure
10 occurred, been paid wages in covered employment equal
11 to not less than five times the individual's weekly
12 benefit amount as determined under section 383-22(b).

13 (A) In determining whether or not any work is
14 suitable for an individual there shall be
15 considered among other factors and in addition to
16 those enumerated in paragraph (3)(B), the degree
17 of risk involved to the individual's health,
18 safety, and morals, the individual's physical
19 fitness and prior training, the individual's
20 experience and prior earnings, the length of
21 unemployment, the individual's prospects for
22 obtaining work in the individual's customary



1 occupation, the distance of available work from
2 the individual's residence, and prospects for
3 obtaining local work. The same factors so far as
4 applicable shall be considered in determining the
5 existence of good cause for an individual's
6 voluntarily leaving work under paragraph (1).

7 (B) Notwithstanding any other provisions of this
8 chapter, no work shall be deemed suitable and
9 benefits shall not be denied under this chapter
10 to any otherwise eligible individual for refusing
11 to accept new work under any of the following
12 conditions:

13 (i) If the position offered is vacant due
14 directly to a strike, lockout, or other
15 labor dispute;

16 (ii) If the wages, hours, or other conditions of
17 the work offered are substantially less
18 favorable to the individual than those
19 prevailing for similar work in the locality;
20 and

21 (iii) If as a condition of being employed the
22 individual would be required to join a



1 company union or to resign from or refrain
2 from joining any bona fide labor
3 organization.

4 (4) Labor dispute. For any week with respect to which it
5 is found that unemployment is due to a stoppage of
6 work which exists because of a labor dispute at the
7 factory, establishment, or other premises at which the
8 individual is or was last employed; provided that this
9 paragraph shall not apply if it is shown that:

10 (A) The individual is not participating in or
11 directly interested in the labor dispute which
12 caused the stoppage of work; and

13 (B) The individual does not belong to a grade or
14 class of workers of which, immediately before the
15 commencement of the stoppage, there were members
16 employed at the premises at which the stoppage
17 occurs, any of whom are participating in or
18 directly interested in the dispute; provided that
19 if in any case separate branches of work, which
20 are commonly conducted as separate businesses in
21 separate premises, are conducted in separate
22 departments of the same premises, each such



1 department shall, for the purpose of this
2 paragraph, be deemed to be a separate factory,
3 establishment, or other premises.

4 (5) If the department finds that the individual has within
5 the twenty-four calendar months immediately preceding
6 any week of unemployment made a false statement or
7 representation of a material fact knowing it to be
8 false or knowingly failed to disclose a material fact
9 to obtain any benefits not due under this chapter, the
10 individual shall be disqualified for benefits
11 beginning with the week in which the department makes
12 the determination and for each consecutive week during
13 the current and subsequent twenty-four calendar months
14 immediately following such determination, and such
15 individual shall not be entitled to any benefit under
16 this chapter for the duration of such period; provided
17 that no disqualification shall be imposed if
18 proceedings have been undertaken against the
19 individual under section 383-141.

20 (6) Other unemployment benefits. For any week or part of
21 a week with respect to which the individual has
22 received or is seeking unemployment benefits under any



1 other employment security law, but this paragraph
 2 shall not apply (A) if the appropriate agency finally
 3 determines that the individual is not entitled to
 4 benefits under such other law, or (B) if benefits are
 5 payable to the individual under an act of Congress
 6 which has as its purpose the supplementation of
 7 unemployment benefits under a state law."

8 SECTION 6. Section 383-61, Hawaii Revised Statutes, is
 9 amended to read as follows:

10 **"§383-61 Payment of contributions; wages not included.**

11 (a) Contributions with respect to wages for employment shall
 12 accrue and become payable by each employer for each calendar
 13 year in which the employer is subject to this chapter. The
 14 contributions shall become due and be paid by each employer to
 15 the director of labor and industrial relations for the fund in
 16 accordance with such rules as the department of labor and
 17 industrial relations may prescribe, and shall not be deducted,
 18 in whole or in part, from the wages of individuals in the
 19 employer's employ.

20 (b) Except as provided in [~~subsections~~] subsection (c)
 21 [~~and (d)~~], the term "wages" does not include remuneration paid
 22 with respect to employment to an individual by an employer



1 calendar year which exceeds the average annual wage, rounded to
2 the nearest hundred dollars, for the four calendar quarter
3 period ending on June 30 of the preceding year.

4 The average annual wage shall be computed as follows: on
5 or before November 30 of each year the total remuneration paid
6 by employers, as reported on contribution reports on or before
7 such date, with respect to all employment during the four
8 consecutive calendar quarters ending on June 30 of such year
9 shall be divided by the average monthly number of individuals
10 performing services in such employment during the same four
11 calendar quarters as reported on such contribution reports and
12 rounded to the nearest hundred dollars.

13 ~~[(c) For the calendar year 1991 only, the term "wages"~~
14 ~~does not include remuneration in excess of \$7,000 paid with~~
15 ~~respect to employment to an individual by an employer.~~

16 ~~(d) For calendar year 1988 only, the term "wages" as used~~
17 ~~in this part does not include remuneration paid with respect to~~
18 ~~employment to an individual by an employer during the calendar~~
19 ~~year which exceeds:~~

20 ~~(1) One hundred per cent of the average annual wage if the~~
21 ~~most recently computed ratio of the current reserve~~



1 ~~fund to the adequate reserve fund prior to that~~
2 ~~calendar year is equal to or less than .80; or~~
3 ~~(2) Seventy-five per cent of the average annual wage if~~
4 ~~the most recently computed ratio of the current~~
5 ~~reserve fund to the adequate reserve fund prior to~~
6 ~~that calendar year is greater than .80 but less than~~
7 ~~1.2; or~~
8 ~~(3) Fifty per cent of the average annual wage if the most~~
9 ~~recently computed ratio of the current reserve fund to~~
10 ~~the adequate reserve fund prior to that calendar year~~
11 ~~is equal to or more than 1.2;~~

12 ~~provided that "wages" with respect to which contributions are~~
13 ~~paid are not less than that part of remuneration which is~~
14 ~~subject to tax in accordance with section 3306(b) of the~~
15 ~~Internal Revenue Code of 1986, as amended.]~~

16 (c) For calendar years 2008 and 2009 only, the term
17 "wages" as used in this part does not include remuneration in
18 excess of \$7,000 paid with respect to employment to an
19 individual by an employer; provided that this subsection shall
20 apply only to the contribution rate paid into the unemployment
21 insurance trust fund.



1 [~~e~~] (d) If an employer during any calendar year acquires
2 substantially all the property used in a trade or business, or
3 in a separate unit of a trade or business, of another employer,
4 and after the acquisition employs an individual who prior to the
5 acquisition was employed by the predecessor, then for the
6 purpose of determining whether remuneration in excess of the
7 average annual wages has been paid to the individual for
8 employment, remuneration paid to the individual by the
9 predecessor during the calendar year shall be considered as
10 having been paid by the successor employer. For the purposes of
11 this subsection, the term "employment" includes services
12 constituting employment under any employment security law of
13 another state or of the federal government.

14 [~~f~~] (e) Subsections (b) through [~~e~~] (d)
15 notwithstanding, for the purposes of this part the term "wages"
16 shall include at least that amount of remuneration paid in a
17 calendar year to an individual by an employer or the employer's
18 predecessor with respect to employment during any calendar year
19 which is subject to a tax under a federal law imposing a tax
20 against which credit may be taken for contributions required to
21 be paid into a state unemployment fund.



1 [~~(g)~~] (f) In accordance with section 303(a)(5) of the
2 Social Security Act, as amended, and section 3304(a)(4) of the
3 Internal Revenue Code of 1986, as amended, any contributions
4 overpaid due to a retroactive reduction in the taxable wage base
5 may be credited against the employer's future contributions upon
6 request by the employer; provided that no employer shall be
7 given a cash refund."

8 SECTION 7. Section 385-7, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§385-7 Disqualification for additional unemployment**
11 **benefits.** A claimant shall be disqualified for additional
12 unemployment benefits:

13 (1) Voluntary separation. For any week in which the
14 claimant has left work voluntarily without good cause
15 and for not more than seven consecutive weeks of
16 unemployment which immediately follow such week, as
17 determined according to the circumstances in each
18 case.

19 An owner-employee of a corporation who brings
20 about the owner-employee's unemployment by divesting
21 ownership, leasing the business interest, terminating
22 the business, or by other similar actions where the



1 owner-employee is the party initiating termination of
2 the employment relationship, has voluntarily left
3 employment.

4 (2) Discharge for misconduct. For the week in which the
5 claimant has been discharged for wilful or wanton
6 misconduct connected with work and for not more than
7 seven consecutive weeks of unemployment which
8 immediately follow such week, as determined in each
9 case in accordance with [~~the seriousness of~~] the
10 wilful or wanton misconduct.

11 (3) Failure to apply for work, etc. If the claimant has
12 failed, without good cause, either to apply for
13 available, suitable work when so directed by the
14 director or any duly authorized representative of the
15 director, or to accept suitable work when offered to
16 the claimant. The disqualification shall continue for
17 the week in which such failure occurred and for not
18 more than seven consecutive weeks of unemployment
19 which immediately follow such week, as determined
20 according to the circumstances of each case.

21 (A) In determining whether or not any work is
22 suitable for a claimant there shall be considered



1 among other factors and in addition to those
2 enumerated in subparagraph (B) of this paragraph,
3 the degree of risk involved to the claimant's
4 health, safety, and morals, the claimant's
5 physical fitness and prior training, the
6 claimant's experience and prior earnings, the
7 length of unemployment, the claimant's prospects
8 for obtaining work in the claimant's customary
9 occupation, and the distance of available work
10 from the claimant's residence and prospects for
11 obtaining local work.

12 (B) No work shall be deemed suitable and benefits
13 shall not be denied under this chapter to any
14 otherwise eligible claimant for refusing to
15 accept new work under any of the following
16 conditions:

17 (i) If the position offered is vacant due
18 directly to a strike, lockout, or other
19 labor dispute;

20 (ii) If the wages, hours, or other conditions of
21 the work offered are substantially less



1 favorable to the claimant than those
2 prevailing for similar work in the locality;
3 (iii) If as a condition of being employed the
4 claimant would be required to join a company
5 union or to resign from or refrain from
6 joining any bona fide labor organization.

7 (4) Labor dispute. For any week with respect to which it
8 is found that the claimant's unemployment is due to a
9 stoppage of work which exists because of a labor
10 dispute at the factory, establishments, or other
11 premises at which the claimant is or was last
12 employed; provided that this paragraph shall not apply
13 if it is shown that:

14 (A) The claimant is not participating in or directly
15 interested in the labor dispute which caused the
16 stoppage of work; and

17 (B) The claimant does not belong to a grade or class
18 of workers of which, immediately before the
19 commencement of the stoppage, there were members
20 employed at the premises at which the stoppage
21 occurs, any of whom are participating in or
22 directly interested in the dispute;



H.B. NO. 1502

Butani

JAN 23 2007

Report Title:

Employment Security; Unemployment Insurance

Description:

Provides temporary tax relief to employers by lowering the maximum taxable wage base for calendar years 2008 and 2009. Increases unemployment benefits for eligible individuals. Excludes the payment of benefits to individuals terminated from employment for wilful or wanton misconduct.

