

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

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

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



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

- 19 (3) Failure to apply for work, etc. For any week prior to
20 October 1, 1989, in which the individual failed,
21 without good cause, either to apply for available,
22 suitable work when so directed by the employment



1 office or any duly authorized representative of the
2 department of labor and industrial relations, or to
3 accept suitable work when offered and continuing until
4 the individual has, subsequent to the week in which
5 the failure occurred, been employed for at least five
6 consecutive weeks of employment. For the purposes of
7 this paragraph, "weeks of employment" means all those
8 weeks within each of which the individual has
9 performed services in employment for not less than two
10 days or four hours per week, for one or more
11 employers, whether or not such employers are subject
12 to this chapter. For any week beginning on and after
13 October 1, 1989, in which the individual failed,
14 without good cause, either to apply for available,
15 suitable work when so directed by the employment
16 office or any duly authorized representative of the
17 department of labor and industrial relations, or to
18 accept suitable work when offered until the individual
19 has, subsequent to the week in which the failure
20 occurred, been paid wages in covered employment equal
21 to not less than five times the individual's weekly



1 benefit amount as determined under section 383-
2 22 (b) [~~-~~];

3 (A) In determining whether or not any work is
4 suitable for an individual there shall be
5 considered among other factors and in addition to
6 those enumerated in paragraph (3) (B), the degree
7 of risk involved to the individual's health,
8 safety, and morals, the individual's physical
9 fitness and prior training, the individual's
10 experience and prior earnings, the length of
11 unemployment, the individual's prospects for
12 obtaining work in the individual's customary
13 occupation, the distance of available work from
14 the individual's residence, and prospects for
15 obtaining local work. The same factors so far as
16 applicable shall be considered in determining the
17 existence of good cause for an individual's
18 voluntarily leaving work under paragraph (1) [~~-~~];

19 (B) Notwithstanding any other provisions of this
20 chapter, no work shall be deemed suitable and
21 benefits shall not be denied under this chapter
22 to any otherwise eligible individual for refusing



1 to accept new work under any of the following
2 conditions:

3 (i) If the position offered is vacant due
4 directly to a strike, lockout, or other
5 labor dispute;

6 (ii) If the wages, hours, or other conditions of
7 the work offered are substantially less
8 favorable to the individual than those
9 prevailing for similar work in the locality;
10 and

11 (iii) If as a condition of being employed the
12 individual would be required to join a
13 company union or to resign from or refrain
14 from joining any bona fide labor
15 organization[-];

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



- 1 (A) The individual is not participating in or
2 directly interested in the labor dispute which
3 caused the stoppage of work; and
- 4 (B) The individual does not belong to a grade or
5 class of workers of which, immediately before the
6 commencement of the stoppage, there were members
7 employed at the premises at which the stoppage
8 occurs, any of whom are participating in or
9 directly interested in the dispute; provided that
10 if in any case separate branches of work, which
11 are commonly conducted as separate businesses in
12 separate premises, are conducted in separate
13 departments of the same premises, each such
14 department shall, for the purpose of this
15 paragraph, be deemed to be a separate factory,
16 establishment, or other premises [-];
- 17 (5) If the department finds that the individual has within
18 the twenty-four calendar months immediately preceding
19 any week of unemployment made a false statement or
20 representation of a material fact knowing it to be
21 false or knowingly failed to disclose a material fact
22 to obtain any benefits not due under this chapter, the



1 individual shall be disqualified for benefits
2 beginning with the week in which the department makes
3 the determination and for each consecutive week during
4 the current and subsequent twenty-four calendar months
5 immediately following such determination, and such
6 individual shall not be entitled to any benefit under
7 this chapter for the duration of such period; provided
8 that no disqualification shall be imposed if
9 proceedings have been undertaken against the
10 individual under section 383-141[-];

11 (6) Other unemployment benefits. For any week or part of
12 a week with respect to which the individual has
13 received or is seeking unemployment benefits under any
14 other employment security law, but this paragraph
15 shall not apply:

16 (A) [~~if~~] If the appropriate agency finally determines
17 that the individual is not entitled to benefits
18 under such other law[-]; or

19 (B) [~~if~~] If benefits are payable to the individual
20 under an act of Congress which has as its purpose
21 the supplementation of unemployment benefits
22 under a state law.



1 (b) Effective July 1, 2010, notwithstanding any law or
2 rule to the contrary, a partially unemployed individual shall
3 not be disqualified for benefits for any week in which the
4 individual separates involuntarily or voluntarily, with or
5 without good cause, from an employer offering part-time
6 employment, if the individual is:

7 (1) Receiving benefits while attached to a regular
8 employer that is not offering work;

9 (2) Receiving partial unemployment benefits; and

10 (3) Exempt from work search and registration for work
11 requirements.

12 For the purposes of this subsection:

13 "Attached to a regular employer" means:

14 (1) The employee is being offered work each week by the
15 employee's regular employer; or

16 (2) If no work is being offered:

17 (A) The employer is maintaining the individual on the
18 payroll by paying for a medical insurance plan or
19 by maintaining the employee's sick leave or
20 vacation credits; or

21 (B) There is a definite return to work date with the
22 same employer within eight weeks.



1 providing employers with some relief from unemployment insurance
2 (UI) contributions appeared to be prudent. However, Act 110
3 also contained provisions that would trigger the old
4 contribution rates if the reserves in the fund became
5 inadequate.

6 Since that time, Hawaii, as well as the rest of the nation,
7 has experienced what is being called "The Great Recession" which
8 has resulted in numerous business closures and massive layoffs,
9 causing unemployment rates to skyrocket. Prior to the current
10 recession, Hawaii experienced unemployment rates in the
11 neighborhood of two per cent. Presently, Hawaii is experiencing
12 unemployment rates of around seven per cent, a five percentage
13 point increase. This increased unemployment has strained the
14 fund to the point where, according to the department of labor
15 and industrial relations (DLIR), the fund will have a zero
16 balance by October or November of this year.

17 The rapidly decreasing amount of the fund initiated the
18 trigger established in Act 110, and will cause the UI
19 contribution rates to increase, to rates which for many
20 businesses will be substantial. On average, the UI contribution
21 rate will increase from \$90 per employee per year to almost
22 \$1,070 per employee per year, which will be difficult for



1 businesses to bear and may have an enormous impact on the
2 overall economic recovery of the state. Striking a balance that
3 provides necessary relief for employers from dramatic increases
4 in UI contribution rates while maintaining an adequate level of
5 fund reserves is one way to work toward improving Hawaii's
6 economy.

7 The future adequacy of the fund and the potential need for
8 financial support for workers who may be affected by continually
9 lagging economic conditions have been major considerations in
10 attempts to determine how to resolve the difficulties that are
11 attributed to trying to maintain an adequate reserve fund while
12 using contribution rates that are calculated based on the
13 previous calendar year. One way to address this conflict and to
14 help mitigate drastic rate increases in the future is to perform
15 UI contribution rate calculations semi-annually rather than
16 annually.

17 However, DLIR has stated that converting their current
18 system that is based upon annual calculations, to one based on
19 semi-annual calculations will require time, manpower, and
20 financing. Accordingly, the purpose of this part is to require
21 DLIR, with assistance from the Department of Business, Economic
22 Development, and Tourism, to conduct a study to determine the



1 cost of converting their current unemployment contribution rate
2 calculations system from one that calculates rates annually to
3 one that does so semi-annually.

4 SECTION 3. (a) The department of labor and industrial
5 relations, with the assistance of the department of business,
6 economic development, and tourism, shall conduct a study of the
7 unemployment compensation fund to determine the cost and
8 feasibility of converting the present system for calculating
9 unemployment contribution rates from one that makes these
10 calculations annually to one that makes these calculations on a
11 semi-annual basis. The study shall include equipment costs,
12 computer software costs, labor costs, maintenance costs, and any
13 other costs that may be incurred with the establishment of the
14 semi-annual system. The report shall also include the timeframe
15 necessary for the establishment of a semi-annual system,
16 including the time the department finds will be necessary to
17 inform employers of the new semi-annual system, and shall
18 include the department's plan for the implementation of a new
19 semi-annual system.

20 (b) The director of labor and industrial relations, with
21 assistance from the director of business, economic development,
22 and tourism, shall submit a report of the department's findings



1 and recommendations, including any proposed legislation, to the
2 legislature no later than twenty days prior to the convening of
3 the regular session of 2011.

4 SECTION 4. There is appropriated out of the special
5 unemployment insurance administration fund established under
6 section 383-127, Hawaii Revised Statutes, the sum of \$
7 or so much thereof as may be necessary for fiscal year 2010-2011
8 for a study of the unemployment compensation fund to determine
9 the cost and feasibility of converting the present system for
10 calculating unemployment contribution rates from one that makes
11 these calculations annually to one that makes these calculations
12 on a semi-annual basis.

13 The sum appropriated shall be expended by the department of
14 labor and industrial relations for the purposes of this part.

15 PART III

16 SECTION 5. In 1982, with the ongoing recession, high
17 unemployment, and a growing number of jurisdictions unable to
18 pay unemployment insurance benefits except from loans obtained
19 from the federal government, the legislature passed House
20 Concurrent Resolution No. 103, House Draft 1, which requested
21 the auditor to review the administration and adequacy of the
22 state's unemployment compensation fund and determine whether any



1 statutory changes needed to be made to maintain the solvency of
2 the fund.

3 The findings and recommendations of this review were
4 published and submitted to the legislature by the auditor in a
5 report entitled "Study of the Financing of the Unemployment
6 Compensation Fund of the State of Hawaii" in February of 1983.

7 The legislature finds that current economic conditions are
8 similar to those faced in 1982 and that a review of the
9 financing mechanisms of the unemployment compensation fund is
10 prudent at this time.

11 Accordingly, the purpose of this part is to require the
12 department of labor and industrial relations, with assistance
13 from the department of business, economic development, and
14 tourism, to review the study conducted by the auditor in 1982,
15 reassess the recommendations of that report, and report back to
16 the legislature on its findings and recommendations, including
17 any proposed legislation, to address challenges facing the
18 financing mechanisms of the unemployment compensation fund.

19 SECTION 6. (a) The department of labor and industrial
20 relations, with assistance from the department of business,
21 economic development, and tourism, shall review and reassess the
22 findings and recommendations of the study performed by the



1 auditor in 1982 in accordance with House Concurrent Resolution
2 No. 103, House Draft 1. The review and reassessment shall
3 consider any of the recommendations contained in the report that
4 may be relevant and applicable to the current fiscal situation
5 facing the unemployment compensation fund.

6 (b) The department of labor and industrial relations, with
7 assistance from the department of business, economic
8 development, and tourism, shall also review any recommendations
9 contained in the study, or any other recommendations, regarding
10 the fairness and equitability of the contribution rate schedules
11 and determine whether there is a present need to increase the
12 contribution rates based on fairness and equitability of the
13 contribution rate schedules and how to accomplish this, and
14 shall include its findings and recommendations in the report
15 required under subsection (c).

16 (c) The director of labor and industrial relations, with
17 assistance from the director of business, economic development,
18 and tourism, shall prepare a report on the department's review
19 and reassessment of the 1982 study, including the review and
20 assessment of any relevant recommendations proposed in the
21 study, and submit the director's findings and recommendations,
22 including any proposed legislation, to the legislature no later



1 than twenty days prior to the convening of the regular session
2 of 2011.

3 SECTION 7. There is appropriated out of the special
4 unemployment insurance administration fund established under
5 section 383-127, Hawaii Revised Statutes, the sum of \$
6 or so much thereof as may be necessary for fiscal year 2010-2011
7 for a review and reassessment of the findings and
8 recommendations of the study performed by the auditor in 1982 in
9 accordance with House Concurrent Resolution No. 103, House Draft
10 1.

11 The sum appropriated shall be expended by the department of
12 labor and industrial relations for the purposes of this part.

13 PART IV

14 SECTION 8. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 9. This Act shall take effect on July 1, 2020.



Report Title:

Unemployment Benefits; Disqualification; Part-time Work;
Contribution Rate Schedules; Adequate Reserve Fund; Assessments

Description:

Authorizes an individual who is attached to a regular employer that is not offering work to still receive unemployment insurance benefits even if that individual voluntarily or involuntarily separates from part-time employment, with or without good cause. Requires the Department of Labor and Industrial Relations (DLIR), with assistance from the Department of Business, Economic Development, and Tourism, (DBEDT) to conduct a study on the cost and feasibility of changing from annual to semi-annual the contribution rate schedules for unemployment contributions. Requires DLIR, with assistance from DBEDT, to review the auditor's study conducted in 1982 regarding the financing mechanisms of the unemployment compensation fund. Requires reports. Effective July 1, 2020. (SB2324 HD2)

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