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STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
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February 3, 2022

To: The Honorable Richard H.K. Onishi, Chair,
The Honorable Jackson D. Sayama, Vice Chair, and
Members of the House Committee on Labor & Tourism

Date: Thursday, February 3, 2022
Time: 9:30 a.m.
Place: Conference Room 312, State Capitol

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

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

I. OVERVIEW OF PROPOSED LEGISLATION

HB2471 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).

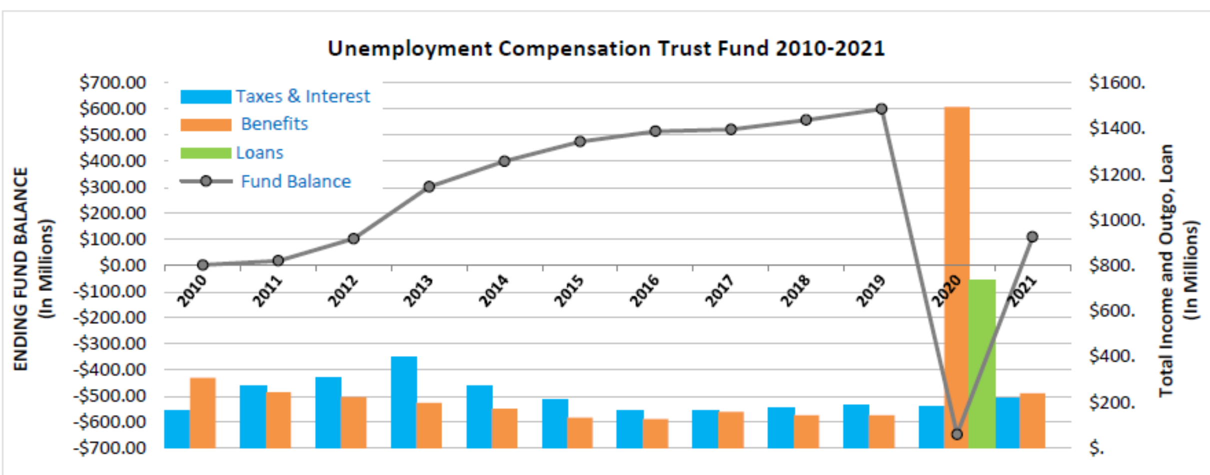
Ratio = Current reserve/adequate reserve

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.*

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305 Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: UNEMPLOYMENT, Temporary Redefinition of "Adequate Reserve Fund"

BILL NUMBER: HB 2471 (SB 3128; HB 2160)

INTRODUCED BY: HB by YAMASHITA, AQUINO, BELATTI, BRANCO, CLARK, CULLEN, ELI, GATES, HASHEM, HASHIMOTO, HOLT, ICHIYAMA, ILAGAN, JOHANSON, KITAGAWA, LOPRESTI, LOWEN, LUKE, MARTEN, MCKELVEY, MORIKAWA, NAKAMURA, NAKASHIMA, NISHIMOTO, OHNO, ONISHI, QUINLAN, SAIKI, SAYAMA, TAKAYAMA, TAKUMI, TAM, TARNAS, TODD, WILDBERGER, YAMANE (SB by KOUCHI by request; HB by SAIKI by request)

EXECUTIVE SUMMARY: Amends the definition of "adequate reserve fund" to exclude the benefit cost rate from June 2020 through August 2021 effective from 2023 to 2030. We see this an attempt to stabilize unemployment rates for the years 2023 through 2030 without resorting to artificially setting the rate schedule by statute.

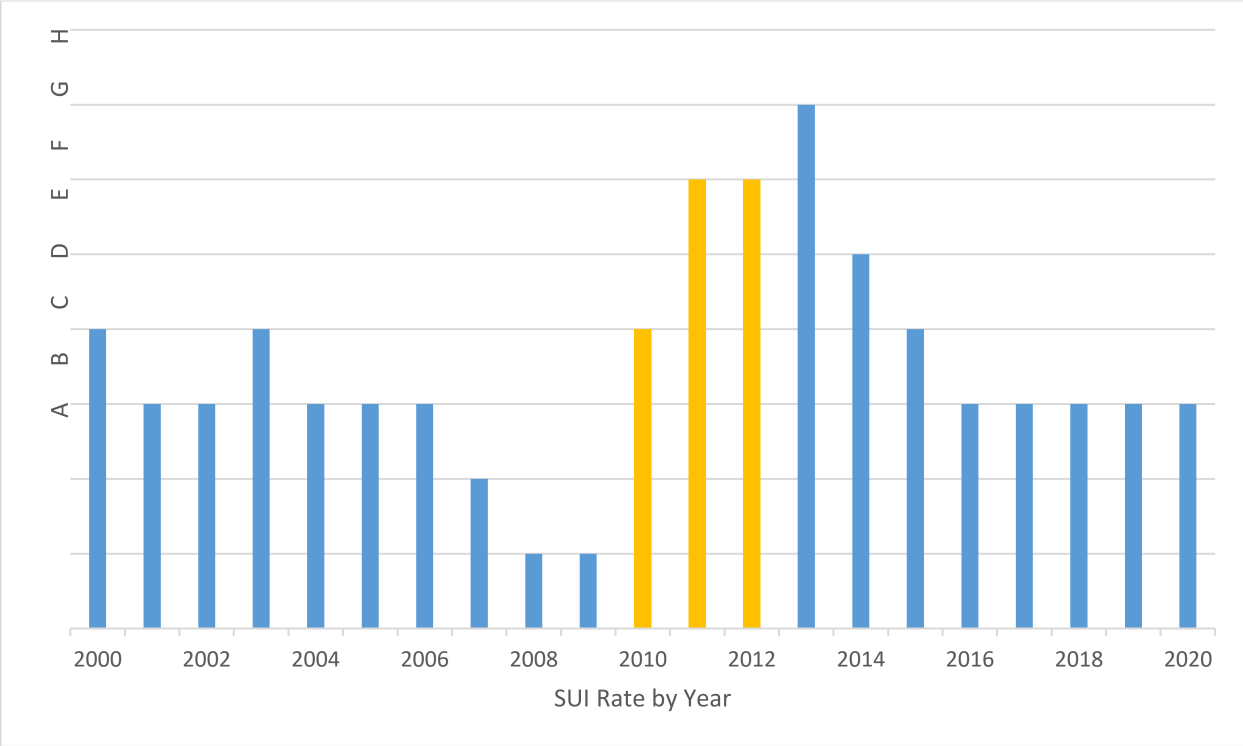
SYNOPSIS: Amends section 383-63, HRS, to provide that effective for the calendar years 2023 through 2030, "adequate reserve fund means an amount that is equal to the amount derived by multiplying the benefit cost rate that is the highest during the ten-year period ending on November 30 of each year by the total remuneration paid by all employers, with respect to all employment for which contributions are payable during the last four calendar quarters ending on June 30 of the same year, as reported on contribution reports filed on or before October 31 of the same year, but shall not include the benefit cost rate from June 2020 through August 2021.

EFFECTIVE DATE: Upon approval.

STAFF COMMENTS: This is an Administration measure submitted by the department of labor and industrial relations and identified as LBR-04 (22).

State unemployment insurance (SUI) is largely funded by employers. Most employers are charged tax that depends on two things: the overall health of the fund into which SUI tax is collected, and the claims history of the employer. So, an employer with a long history of chargeable claims, for example, will pay more than others. Also, if there is lots of money built up in the fund then the tax rate goes down for everyone.

The health of the fund determines the proper tax rate schedule. The schedules are named after a letter of the alphabet, with A the least costly schedule and H the most expensive. The fund health is measured at the end of the year, and that measurement is used to set the rate for the following year. Here is a chart of the SUI rate schedule for the past 20 years:



Source: DLIR Reports compiled by Tax Foundation of Hawaii.

Although the Great Recession of 2008 and related events caused the fund to run out of money and we needed to borrow around $180 million from Uncle Sam, employers were not subjected to the dreaded Schedule H because our lawmakers passed special legislation to control the SUI rates and override the normal formulas for the years 2010 through 2012 (the orange bars in the diagram). That also happened for 2021, where Act 1, SLH 2021, set the rate at Schedule D for 2021 and 2022.

The change requested in this bill is an attempt to stabilize unemployment rates for the years 2023 through 2030 without resorting to artificially setting the rate schedule by statute.

Digested: 1/29/2022