

S .B. NO. 1159

JAN 27 2021

A BILL FOR AN ACT

RELATING TO EMPLOYMENT SECURITY.

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

1 SECTION 1. Section 383-1, Hawaii Revised Statutes, is
2 amended by amending the definitions of "benefit year" and "week"
3 to read as follows:

4 "~~Benefit year" [with respect to any individual means the~~
5 ~~one-year period beginning with the first day of the first week~~
6 ~~with respect to which the individual first files a valid claim~~
7 ~~for benefits and thereafter the one-year period beginning with~~
8 ~~the first day of the first week with respect to which the~~
9 ~~individual next files a valid claim for benefits after the~~
10 ~~termination of the individual's last preceding benefit year.~~
11 ~~Any claim for benefits made in accordance with section 383-32~~
12 ~~shall be deemed a "valid claim" for the purpose of this~~
13 ~~paragraph if the individual has satisfied the conditions~~
14 ~~required under section 383-29(a)(5). Nothing in sections 383-29~~
15 ~~and 383-30, except section 383-29(a)(5), shall affect the filing~~
16 ~~of a "valid claim" or the establishment of a "benefit year".~~
17 ~~For the purposes of this paragraph a week with respect to which~~
18 ~~an individual files a valid claim shall be deemed to be "in",~~

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1 ~~"within", or "during" that benefit year which includes the~~
2 ~~greater part of such week.]~~ means a period of fifty-two
3 consecutive weeks beginning with the first day of the week in
4 which an individual files a new valid claim for benefits; except
5 that the benefit year shall be fifty-three weeks if the filing
6 of a new valid claim would result in overlapping any quarter of
7 the base year of a previously filed new claim. A subsequent
8 benefit year cannot be established until the expiration of the
9 current benefit year.

10 "Week" means ~~[any period of seven consecutive days as the~~
11 ~~department may by rule prescribe.]~~ a period of seven consecutive
12 calendar days commencing with Sunday and ending at midnight the
13 following Saturday."

14 SECTION 2. Section 383-29.7, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§383-29.7 Partial unemployment; claim filing**
17 **requirements, determinations.** (a) Claims for partial
18 unemployment shall be filed according to section 383-32. [~~For~~
19 ~~partially unemployed individuals, a new claim may be taken~~
20 ~~within twenty-eight days from the week-ending date of the first~~
21 ~~week of partial unemployment for which the claim is filed;~~
22 ~~provided that an individual shall not be required to file a~~

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1 ~~claim earlier than two weeks from the date wages are paid for~~
2 ~~the claim period.]~~

3 (b) ~~[An individual may file a continued claim~~
4 ~~certification for partial unemployment benefits in person, by~~
5 ~~mail, by telephone, or by using other alternative claim filing~~
6 ~~procedures as instructed or authorized by the department and in~~
7 ~~the manner prescribed by the department with respect to each~~
8 ~~week of the individual's partial unemployment. A continued~~
9 ~~claim certification shall be filed in the same manner as~~
10 ~~prescribed in rules of the department for continued claim~~
11 ~~certifications for total or part-total unemployment benefits and~~
12 ~~not later than twenty-eight days from the end of the week for~~
13 ~~which the individual claims benefits; provided that an~~
14 ~~individual shall not be required to file a continued claim~~
15 ~~certification earlier than two weeks from the date wages are~~
16 ~~paid for a claim period.] Continued claim certifications for~~
17 ~~partial unemployment benefits shall be filed in the same manner~~
18 ~~and extent that apply to total or part-total unemployment~~
19 ~~benefits."~~

20 SECTION 3. Section 383-68, Hawaii Revised Statutes, is
21 amended by amending subsection (c) to read as follows:

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1 "(c) Effective with calendar year 1992 and thereafter,
2 before December 31 of the previous year the contribution rate
3 schedule for the following calendar year shall be determined on
4 the basis of the relationship between the most recent current
5 reserve fund and the most recent adequate reserve fund, in
6 accordance with this subsection and subsection (d).

7 (1) Whenever the ratio of the current reserve fund to the
8 adequate reserve fund is greater than 1.69,
9 contribution rate schedule A shall apply.

10 (2) Whenever the ratio of the current reserve fund to the
11 adequate reserve fund is 1.3 to 1.69, contribution
12 rate schedule B shall apply.

13 (3) Whenever the ratio of the current reserve fund to the
14 adequate reserve fund is 1.0 to 1.29, contribution
15 rate schedule C shall apply.

16 (4) Whenever the ratio of the current reserve fund to the
17 adequate reserve fund is .80 to .99, contribution rate
18 schedule D shall apply.

19 (5) Whenever the ratio of the current reserve fund to the
20 adequate reserve fund is .60 to .79, contribution rate
21 schedule E shall apply.

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1 (6) Whenever the ratio of the current reserve fund to the
2 adequate reserve fund is .40 to .59, contribution rate
3 schedule F shall apply.

4 (7) Whenever the ratio of the current reserve fund to the
5 adequate reserve fund is .20 to .39, contribution rate
6 schedule G shall apply.

7 (8) Whenever the ratio of the current reserve fund to the
8 adequate reserve fund is less than .20, contribution
9 rate schedule H shall apply.

10 Notwithstanding the ratio of the current reserve fund to
11 the adequate reserve fund, contribution rate schedule D shall
12 apply for calendar year [~~2010 and contribution rate schedule F~~
13 ~~shall apply for calendar years 2011 and 2012.~~] 2021, F for
14 calendar year 2022, and G for calendar year 2023."

15 SECTION 4. Section 383-69, Hawaii Revised Statutes, is
16 amended as follows:

17 "**§383-69 Procedure for rate determination.** The department
18 of labor and industrial relations, as soon as is reasonably
19 possible in each period, shall make its classification of
20 employers for the period and notify each employer of the
21 employer's rate of contributions for the period as determined
22 pursuant to sections 383-63 to 383-69. The determination shall

1 become conclusive and binding upon the employer unless the
2 employer appeals the determination by filing a written notice of
3 appeal within fifteen days after the mailing of notice of the
4 determination to the employer's last known address. The appeal
5 shall be heard by the referee in accordance with applicable
6 provisions of sections 383-38 and 383-39 but no employer shall
7 have standing, in any proceeding involving the employer's rate
8 of contributions or contribution liability, to contest the
9 chargeability to the employer's account of any benefits paid in
10 accordance with a determination, redetermination, or decision
11 pursuant to sections 383-31 to 383-43; provided that the
12 services on the basis of which the benefits were found to be
13 chargeable did not constitute services performed in employment
14 for the employer and only if the employer was not a party to the
15 determination, redetermination, or decision, or to any other
16 proceedings under this chapter in which the character of the
17 services was determined. The referee's determination shall
18 become final unless a proceeding for judicial review in the
19 manner provided in chapter 91 is commenced in the circuit court
20 of the judicial circuit in which the employer resides or has the
21 employer's principal place of business or in the circuit court
22 of the first judicial circuit. An appeal may be taken from the

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1 decision of the circuit court to the intermediate appellate
2 court, subject to chapter 602. Notwithstanding any other
3 provision of this chapter, the director may for calendar years
4 2020 and 2021 modify the annual computation to omit benefits
5 charged for all employers to address the disruptions caused by
6 COVID-19."

7 SECTION 5. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 6. This Act shall take effect upon its approval;
10 provided that sections 3 and 4 of this Act shall take effect on
11 January 1, 2021.

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INTRODUCED BY:



15

BY REQUEST

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Report Title:

Employment Security

Description:

Amends the definitions of benefit year and week. Conforms the manner of filing partial claims to the same as total or part-total. Allows the Director of Labor and Industrial relations to omit benefits charged for experience rating for employers due to the event of COVID-19 in calendar years 2021 and 2022. Sets, for calendar years 2021, 2022, and 2023, the employer contribution rate at schedule D, F, and G respectively.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

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JUSTIFICATION SHEET

DEPARTMENT: Labor and Industrial Relations

TITLE: A BILL FOR AN ACT RELATING TO EMPLOYMENT SECURITY.

PURPOSE: To amend the definitions of "benefit year" and "week".

To conform the manner of filing partial claims to the same manner as total or part-total claims.

To allow the Director of Labor and Industrial Relations to omit benefits charged for experience rating for employers due to the event of COVID-19 in calendar years 2021 and 2022.

To set the contribution rate schedule for calendar years 2021, 2022, and 2023 at schedule D, F, and G respectively.

MEANS: Amend sections 383-1, 383-29.7, 383-68(c), and 383-69, Hawaii Revised Statutes (HRS).

JUSTIFICATION: The purpose of this bill is to provide relief to contributory employers by setting the contribution rate schedule at D in 2021, F in 2022, and G in 2023. The COVID-19 Pandemic created an unprecedented increase in Hawaii's unemployment rate as the seasonally adjusted unemployment rate increased to twenty-three and eight-tenths percent in April from two and four-tenths percent in March.

The UCTF had a reserve of \$607.5 million as of November 2019. The UCTF balance was depleted in June 2020 due to the extraordinary unemployment rate caused by the disruptions of the COVID-19 Pandemic.

An employer's Hawaii 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. The tax rate schedule will be at the highest rate at Schedule H in calendar years 2021, 2022, and 2023 without statutory intervention to reduce the schedule.

Twice before the law was temporarily amended to ameliorate the rise in tax rates due to economic conditions. Under Act 2, Session Laws of Hawaii (SLH) 2010, rather than apply the computed tax schedules, Schedule D was set for rate year 2010 and Schedule F was set for rate year 2011. Without Act 2, the tax schedule would have been F for 2010, and G for 2011. Act 6, SLH 2012, set the 2012 tax schedule at F; under the normal computations, it would have been Schedule H.

Under Schedule D all employers would pay contributions at rates from two-tenths of a percent up to five and eight-tenths percent. Under Schedule F all employers would pay contributions at rates from one and two-tenths of a percent up to six percent and two-tenths percent. Under schedule G all employers would pay contributions at rates from one and eight-tenths percent to six and four-tenths percent. Under schedule H the contributions would range from two and four-tenths per cent to six and six-tenths percent.

The bill also enables the department to omit the benefit charged in the annual experience rating calculation for contributory employers for years 2021 and 2022.

The bill also makes housekeeping amendments to the definitions of benefit year and week as well as conforming the manner of filing partial claims to the same manner as total or part-total claims.

Impact on the public: Temporarily reducing unemployment insurance tax rates is a method to

contain the economic fallout from COVID-19 by helping expedite the State's economic recovery by protecting employers from facing higher tax rates at a time when they can least afford to pay them. This will help ensure employees can return to work safely, and employers can rehire their employees, once the immediate public health crisis abates. It will also help ensure more businesses will be able to survive this crisis and rehire their employees once they can safely resume operations.

In addition, setting the tax rate schedules from D, F, and G will mean that all contributory employers will share in the replenishment of the UCTF and help re-establish the fund's integrity.

Impact on the department and other agencies:
This bill will improve the department's ability to steward the UCTF.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: LBR171.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval and retroactively to January 1, 2021, for sections 3 and 4.