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# A BILL FOR AN ACT

RELATING TO LABOR.

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

1           SECTION 1. The legislature finds that gig workers are  
2 independent contractors or freelancers who typically do short-  
3 term work for multiple clients. The gig work may be project-  
4 based, hourly or part-time, and can either be an ongoing  
5 contract or a temporary position.

6           Due to new labor market dynamics and technological  
7 innovations, the enlistment of gig workers is increasingly more  
8 popular. By some estimates, over one-third of United States  
9 workers now participate in the gig economy. In Hawaii, reports  
10 have estimated that there are more than one hundred ten thousand  
11 gig workers in the State. Of these gig workers, the highest  
12 proportion are between the ages of eighteen and twenty-nine.

13           The legislature further finds that due to their  
14 classification as independent contractors, gig workers are  
15 generally excluded from a litany of employee benefits and  
16 protections, ranging from paid leave and retirement plans to  
17 workers' compensation and health insurance. These benefits are



1 critical to individual and household financial security and, in  
2 their absence, workers and their families are at greater risk of  
3 income and expense volatility.

4 The legislature finds that it is in the best interests of  
5 the people of the State to ensure that these benefits are  
6 extended to gig workers to ensure economic stability. In  
7 devising the new provision of benefits, the benefits should be  
8 independent of the employers and connected to the individual  
9 worker. Furthermore, the benefits would be portable, taken from  
10 job to job without interruption in coverage or loss of funding.

11 Accordingly, the purpose of this Act is to establish a  
12 program of portable benefits for gig workers.

13 SECTION 2. The Hawaii Revised Statutes is amended by  
14 adding a new chapter to be appropriately designated and to read  
15 as follows:

16 "CHAPTER

17 PORTABLE BENEFITS PROGRAM

18 § -1 **Definitions.** As used in this chapter, unless the  
19 context otherwise requires:

20 "Board" means the board of trustees of the portable  
21 benefits program established under section -2.



1 "Contracting agent" means a business, organization,  
2 corporation, limited liability company, partnership, sole  
3 proprietor, or any other entity that facilitates the provision  
4 of services by workers to consumers seeking the services and  
5 makes payments to workers, where the provision of services is  
6 taxed as an independent contractor, using federal Internal  
7 Revenue Service form 1099.

8 "Department" means the department of labor and industrial  
9 relations.

10 "Principal" means a person or company engaged in the  
11 business of manufacturing, who:

- 12 (1) Manufactures, produces, imports, or distributes a  
13 product for wholesale;
- 14 (2) Contracts with a sales representative to solicit  
15 orders for the product; and
- 16 (3) Compensates the sales representative in whole or in  
17 part by commission.

18 "Qualified benefit provider" means a benefit provider that  
19 is eligible to provide benefits to workers of contracting agents  
20 pursuant to this act.



1 "Worker" means a person who provides services to consumers  
2 through a contracting agent. "Worker" does not include:

- 3 (1) Any person who contracts to solicit orders in the  
4 State as the sales representative of a principal; or  
5 (2) Any person subject to a collective bargaining  
6 agreement that specifies wages, terms, and conditions  
7 of employment.

8 § -2 **Portable benefits program board of trustees;**  
9 **establishment.** (a) There is established within the department  
10 for administrative purposes only, a portable benefits program  
11 board of trustees to implement and administer a portable  
12 benefits program for workers.

13 (b) The board shall consist of nine trustees appointed by  
14 the governor in accordance with section 26-34. The trustees  
15 shall elect from among the members a chair, vice-chair, and  
16 secretary-treasurer.

17 (c) A simple majority of trustees shall constitute quorum  
18 to do business. Any action taken by the board shall be approved  
19 by a simple majority of the trustees present. Any vacancy on  
20 the board shall not impair the authority of the remaining  
21 trustees to exercise all the powers of the board. All decisions



1 of the board shall be reduced into writing and shall state  
2 separately the board's findings of fact and conclusions.

3 (d) Each trustee shall serve without compensation, but the  
4 trustees may be reimbursed for any reasonable expenses incurred  
5 in carrying out the purposes of the chapter.

6 (e) The board, or its co-chairs with the approval of the  
7 board, may employ an executive director exempt from chapters 76  
8 and 89, and other staff necessary to perform its duties.

9 § -3 **Portable benefits program.** There is established  
10 within the department for administrative purposes only, a  
11 portable benefits program. The program shall be administered by  
12 the board, in consultation with the department. The board may  
13 determine the time frame for the development and implementation  
14 of the program.

15 § -4 **Selection of qualified benefit providers.** The  
16 board shall adopt rules for organizations to become qualified  
17 benefit providers. At a minimum, the rules governing qualified  
18 benefit providers shall require that the following criteria are  
19 met:

20 (1) The organization shall be a credit union chartered  
21 under article 10 of chapter 412;



1           (2) The organization shall be independent from all  
2           business entities, organizations, corporations, or  
3           individuals that would pursue any financial interest  
4           in conflict with that of the workers;

5           (3) All action of the organization regarding provision of  
6           benefits shall be for the sole purpose of maximizing  
7           benefits to the covered workers; and

8           (4) The board of directors of the organization shall hold  
9           a fiduciary duty to the workers with respect to  
10          provision of benefits.

11          §   -5 **Rules.** The board shall establish rules pursuant to  
12 chapter 91 to implement and administer this chapter, including:

13          (1) If appropriate, modifying any provision of this  
14          chapter, including any modification to the minimum  
15          contribution amount;

16          (2) Monitoring compliance of contracting agents;

17          (3) Monitoring qualified benefit providers, including the  
18          ability to remove providers that are out of compliance  
19          with the criteria established under this chapter;

20          (4) Establishing a fee on contracting agents to fund the  
21          board's compliance efforts;



1 (5) Administering workers' compensation coverage for  
2 workers under this chapter; and

3 (6) Providing procedures for workers to select qualified  
4 benefit providers, to change their selections  
5 annually, and to receive notices of the right to  
6 select different qualified benefit providers.

7 § -6 Contributions. (a) Contracting agents that have  
8 facilitated the provision of services by at

9 least individual workers in a consecutive twelve-  
10 month period shall contribute funds to qualified benefit  
11 providers to provide benefits to the workers of the contracting  
12 agents. The requirement to contribute funds under this chapter  
13 shall only apply when the services are provided to consumers  
14 located in the State.

15 (b) The contribution amount shall be the lesser  
16 of per cent of the total fee collected from the consumer  
17 for each transaction of services provided or \$ for  
18 every hour that the worker provided services to the consumer.  
19 If determined per hour, then the determination shall be prorated  
20 per minute.



1 (c) The contribution amount required under this section  
2 may be added to the invoice or bill submitted to the consumer  
3 for the services.

4 (d) Contributions shall be made to the qualified benefit  
5 provider on no less than a monthly basis and no later than  
6 fifteen days after the end of the month in which the services  
7 were provided.

8 (e) Contributions shall indicate the assigned amount per  
9 worker per transaction, according to the following:

10 (1) If a single worker provided services for a  
11 transaction, the entire contribution is assigned to  
12 that worker; or

13 (2) If multiple workers provided services for a  
14 transaction, the contribution is assigned  
15 proportionately to those workers.

16 § -7 **Qualified benefit providers.** (a) Based on the  
17 contributions received under section -6, qualified benefit  
18 providers shall ensure that benefits are provided to workers as  
19 set forth in this section.

20 (b) Qualified benefit providers shall provide workers'  
21 compensation insurance pursuant to chapter 386 to those workers



1 entitled to benefits based on contributions made under  
2 section -6.

3 (c) In addition to workers' compensation insurance,  
4 qualified benefit providers shall provide some or all of the  
5 benefits set forth in this subsection. Qualified benefit  
6 providers shall solicit input from workers on their benefits,  
7 and shall allow workers to choose from available benefits or  
8 allocate the contributions among the following benefits:

9 (1) Health insurance, including but not limited to  
10 subsidies to purchase health insurance;

11 (2) Paid time off;

12 (3) Retirement benefits; and

13 (4) Other benefits determined by the qualified benefit  
14 providers, on behalf of the workers.

15 (d) Qualified benefit providers shall negotiate with labor  
16 organizations that have workers as associate members. Any  
17 public or private labor organization may establish an associate  
18 member program allowing for the enrollment of workers for the  
19 purposes of negotiating portable benefits under this chapter.



1 (e) Qualified benefit providers may use up to per  
2 cent of the contribution funds received for administration of  
3 benefits.

4 § -8 **Enrollment.** A worker entitled to benefits under  
5 this chapter shall select a qualified benefit provider and shall  
6 be given the option to change that selected qualified benefit  
7 provider once per year. Workers shall be provided information  
8 regarding available qualified benefit providers in a format that  
9 allows them to easily select their chosen qualified benefit  
10 provider.

11 § -9 **Private cause of action.** In addition to remedies  
12 provided by the board to a worker for a contracting agent's  
13 noncompliance, a worker may bring a private cause of action  
14 against a contracting agent for the contracting agent's failure  
15 to comply with the contribution requirements under  
16 section -6.

17 § -10 **Relation to chapter 383.** The requirements on  
18 contracting agents and the benefits provided to workers under  
19 this chapter shall not be considered in determinations of a  
20 worker's employment status or a contracting agent's employment  
21 relationship to the worker under chapter 383."



1 SECTION 3. Chapter 389, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§389- Contracted workers. (a) Contracted workers  
5 shall be permitted to participate in the program pursuant to  
6 rules adopted by the board determining the contribution rates  
7 for contracted workers and the procedures for contracted workers  
8 to participate in the program.

9 (b) As used in this section:

10 "Contracting agent" means a business, organization,  
11 corporation, limited liability company, partnership, sole  
12 proprietor, or any other entity that facilitates the provision  
13 of services by contracted workers to consumers seeking the  
14 services and makes payments to contracted workers, where the  
15 provision of services is taxed as an independent contractor,  
16 using federal Internal Revenue Service form 1099.

17 "Contracted worker" means a person who provides services to  
18 consumers through a contracting agent. "Contracted worker" does  
19 not include:

20 (1) Any person who contracts to solicit orders in the  
21 State as the sales representative of a principal; or



1           (2) Any person subject to a collective bargaining  
2                   agreement that specifies wages, terms, and conditions  
3                   of employment.

4           "Principal" means a person or company engaged in the  
5 business of manufacturing, who:

6           (1) Manufactures, produces, imports, or distributes a  
7                   product for wholesale;

8           (2) Contracts with a sales representative to solicit  
9                   orders for the product; and

10          (3) Compensates the sales representative in whole or in  
11               part by commission."

12           SECTION 4. There is appropriated out of the general  
13 revenues of the State of Hawaii the sum of \$                    or so  
14 much thereof as may be necessary for fiscal year 2025-2026 and  
15 the same sum or so much thereof as may be necessary for fiscal  
16 year 2026-2027 for the purpose of this Act.

17           The sums appropriated shall be expended by the department  
18 of labor and industrial relations for the purposes of this Act.

19           SECTION 5. This Act shall take effect on January 1, 2026;  
20 provided that section 4 shall take effect on July 1, 2025.

21



H.B. NO. 1290

INTRODUCED BY:

*A. J. Engle*

JAN 22 2025



# H.B. NO. 1290

**Report Title:**

Labor; Portable Benefits; Gig Workers; Independent Contractors;  
DLIR; Appropriation

**Description:**

Establishes a Portable Benefits Program under the administration of a board of trustees to provide portable benefits to gig workers. Expands the Hawaii Retirement Savings Program to gig workers. Appropriates funds.

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

