

ACT 55

A Bill for an Act Amending Part III of Chapter 93, Revised Laws of Hawaii 1955, as Amended, Relating to Contributions and Coverage Under the Hawaii Employment Security Law.

Be it Enacted by the Legislature of the State of Hawaii:

SECTION 1. This Act is hereby declared to be an urgency measure deemed necessary in the public interest within the meaning of Section 11 of Article III of the Constitution of the State of Hawaii.

The following is a statement of the facts constituting such urgency: Although benefits under the Hawaii Employment Security Law have been raised on several occasions since 1955, the rates at which contributions to the unemployment compensation fund are to be made have not been amended during this period. This has resulted in a depletion of the unemployment compensation fund to a level where there could be a precipitous increase in contribution rates under the law. In order to prevent this precipitous increase in contribution rates and to

stabilize the fund, amendments to Part III of the Employment Security Law relating to contributions and coverage are necessary.

This Legislature deems it urgent that amendments to Part III of the Hawaii Employment Security Law be approved to insure a sound employment security program.

SECTION 2. Section 93-60(b) of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read:

“(b) For the purpose of this part the term ‘wages’ does not include remuneration paid with respect to employment to an individual by an employer during any calendar year which exceeds ninety per cent (90%) of the ‘state average annual wages,’ rounded out to the nearest hundred dollars. ‘State average annual wages’ means the amount determined by dividing the total remuneration paid with respect to all employment during the first four of the six calendar quarters immediately preceding the calendar year for which rates of contribution are determined by the average monthly number of individuals performing services in employment during the same four calendar quarters as reported to the director in quarterly contribution reports and other reports as prescribed by the director. If an employer during any calendar year acquires substantially all the property used in a trade or business, or in a separate unit of a trade or business, of another employer, and after the acquisition employs an individual who prior to the acquisition was employed by such predecessor, then for the purpose of determining whether such remuneration in excess of ninety per cent (90%) of the ‘state average annual wages,’ rounded out to the nearest hundred dollars, has been paid to such individual, remuneration paid to such individual by such predecessor during such calendar year shall be considered as having been paid by such successor employer. For the purpose of this paragraph, the term ‘employment’ includes service constituting employment under any employment security law of another state or of the federal government.”

SECTION 3. Section 93-61(a) of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by deleting therefrom the figure “2.7” and substituting therefor, the figure “3.0”.

SECTION 4. Section 93-62(d) of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read:

“(d) ‘Contributions’ includes the money payments required by this chapter to be made into the fund by any employing unit on account of having individuals in its employ. ‘Contributions’ does not include penalties or interest for delinquency in payments.”

SECTION 5. Section 93-63 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read:

“Credits for Contributions. The director shall maintain a separate account for each employer and shall credit his account with all the contributions paid by him as of the date of payment. Nothing in this chapter shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by the employer into the fund.”

SECTION 6. Section 93-65(a) of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by deleting therefrom the figure “2.7” and substituting therefor the figure “3.0”.

SECTION 7. Section 93-65(c) of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read:

“(c) No employer’s rate for the calendar year 1965 and for any calendar year thereafter, shall be less than the standard rate unless the total assets of the fund as of the end of the previous calendar year were at least \$13,000,000; provided that each employer’s rate for the calendar year 1965 and for any calendar year thereafter, as determined by other applicable provisions of this part shall be increased by .5 percent, if the total assets of the fund as of the end of the previous calendar year were at least \$13,000,000 but less than \$15,000,000, but in no event shall an employer’s rate exceed the standard rate; provided further that in the event the Bureau of Employment Security of the United States Department of Labor shall determine that the foregoing is not in conformity with the federal Unemployment Tax Act relating to credits, then the figure ‘\$13,000,000’ where it first appears shall be deleted and the figure ‘\$15,000,000’ shall be substituted therefor and the preceding proviso shall be deleted in its entirety and a period shall be substituted for the semicolon after the revised figure of ‘\$15,000,000’. Any amount credited to this state under Section 903 of the Social Security Act, as amended, which has been appropriated for expenses of administration whether or not withdrawn from the trust fund shall be excluded from the fund for the purposes of this subsection. No employer’s rate shall be reduced in any amount which is not allowable as an additional credit, against the tax levied by the federal Unemployment Tax Act pursuant to the provisions of Section 3302(b) of the federal Internal Revenue Code or pursuant to the provisions of any other federal statute, successor to Section 3302(b), which provides for the additional credit now provided for in Section 3302(b).”

SECTION 8. Section 93-65(e) of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by deleting therefrom the figure “2.7” and substituting therefor the figure “3.0”.

SECTION 9. Section 93-66 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read:

“**Relation of credits to charges.** Variations from the standard rate of contributions shall be determined in accordance with the following requirements:

“For the calendar year 1965, and for each calendar year thereafter, if the total of all an employer’s contributions paid for all periods prior to January 1 of the calendar year, including those paid on or before January 31 of the calendar year with respect to wages paid by him prior to January 1 of the calendar year, and also including any voluntary contributions formerly allowed under Section 93-62, exceeds the total benefits chargeable to his account for all periods prior to January 1 of the calendar year, his contribution rate for the calendar year shall be that provided in Section 93-67.”

SECTION 10. Section 93-67 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read:

“**Rates based on experience.** Subject to the requirements of Sections 93-62 to 93-66 and 93-68, an employer’s rate shall be:

“(a) 3.0 per cent if such excess is less than 5.0 per cent of his average annual payroll.

“(b) 2.8 per cent if such excess equals or exceeds 5.0 per cent but is less than 5.5 per cent of his average annual payroll.

“(c) 2.6 per cent if such excess equals or exceeds 5.5 per cent but is less than 6.0 per cent of his average annual payroll.

“(d) 2.4 per cent if such excess equals or exceeds 6.0 per cent but is less than 6.5 per cent of his average annual payroll.

“(e) 2.2 per cent if such excess equals or exceeds 6.5 per cent but is less than 7.0 per cent of his average annual payroll.

“(f) 2.0 per cent if such excess equals or exceeds 7.0 per cent but is less than 7.5 per cent of his average annual payroll.

“(g) 1.8 per cent if such excess equals or exceeds 7.5 per cent but is less than 8.0 per cent of his average annual payroll.

“(h) 1.6 per cent if such excess equals or exceeds 8.0 per cent but is less than 8.5 per cent of his average annual payroll.

“(i) 1.4 per cent if such excess equals or exceeds 8.5 per cent but is less than 9.0 per cent of his average annual payroll.

“(j) 1.2 per cent if such excess equals or exceeds 9.0 per cent but is less than 9.5 per cent of his average annual payroll.

“(k) 1.0 per cent if such excess equals or exceeds 9.5 per cent but is less than 10.0 per cent of his average annual payroll.

“(l) .8 per cent if such excess equals or exceeds 10 per cent but is less than 10.25 per cent of his average annual payroll.

“(m) .7 per cent if such excess equals or exceeds 10.25 per cent of his average annual payroll.

SECTION 11. Act 168, Session Laws of Hawaii 1963, is hereby amended as follows:

(a) By deleting therefrom the phrase “twelve-month period July 1, 1963 to June 30, 1964” wherever it appears and substituting therefor the phrase “period July 1, 1963 to December 31, 1964.”

(b) By amending the first sentence of the second paragraph of Section 1 thereof to read:

“(a) Contributions with respect to wages for employment shall accrue and become payable by each employer subject to this chapter for the period July 1, 1963 to December 31, 1963, for the period January 1, 1964 to June 30, 1964 and for the period July 1, 1964 to December 31, 1964.”

(c) By amending the first sentence of the second paragraph of Section 5 thereof to read:

“**Contribution rates, how determined.** The Director shall for each of the six-month periods beginning July 1, 1963, January 1, 1964 and July 1, 1964 classify employers in accordance with their actual experience in the payment of contributions and with respect to benefits charged against their accounts with a view to fixing such contribution rates as will reflect such experience.”

(d) By amending the fourth paragraph of Section 6 to read:

“For the period January 1, 1964 to June 30, 1964 and for the period July 1, 1964 to December 31, 1964 if the total of an employer’s contributions credited to his account as provided by section 93-63 and this Act for all periods prior to January 1, 1964, including those paid on or before January 31, 1964 with respect to wages paid by him prior to January 1, 1964, and also including any money payments in excess of the require-

ments of this chapter made voluntarily by him prior to April 30, 1963, exceeds the total benefits chargeable to this account for all periods prior to January 1, 1964, his contribution rate shall be as provided by section 7 of this Act."

(e) By deleting the words and figures "and for the six-month period January 1, 1964 to June 30, 1964" appearing in the second paragraph of Section 7 thereof and substituting therefor the words and figures "for the six-month period January 1, 1964 to June 30, 1964 and for the six-month period July 1, 1964 to December 31, 1964."

(f) By amending the clause designated (a) in Section 7 thereof to read:

"(a) 3.0 per cent if such excess is less than 5.5 per cent of his average annual payroll or if he has no such excess."

(g) By deleting the word and figure "June 30," appearing in Section 8 thereof and substituting therefor the word and figure "December 31,".

SECTION 12. The provisions of Sections 2 through 10 of this Act shall take effect on January 1, 1965. All other parts of this Act shall take effect upon its approval.

(Approved May 2, 1964.) **S.B. 250.**
