

ACT 155

H.B. NO. 2617-74

A Bill for an Act Relating to Employment Security.

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

SECTION 1. Section 383-66, Hawaii Revised Statutes, is amended to read:

“Sec. 383-66 Contribution rates, how determined. The department of labor and industrial relations shall for the nine-month period April 1, 1941, to December 31, 1941 and for each calendar year thereafter, except as otherwise provided in this part, 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. The department shall determine the contribution rate of each employer in accordance with the following requirements:

- (1) The standard rate of contributions payable by each employer shall be three per cent.
- (2) No employer's rate for the calendar year 1942 and for any calendar year thereafter, shall be reduced below the standard rate unless and until his account has been chargeable with benefits throughout the thirty-six consecutive calendar month period ending on December 31 of the preceding calendar year, except that, for the calendar year 1956 and for each calendar year thereafter, an employer who has not been subject to the law for a sufficient period to meet this requirement may qualify for a rate less than the standard rate if his account has been chargeable throughout a lesser period but in no event less than the twelve consecutive calendar month period ending on December 31 of the preceding calendar year.
- (3) No employer's rate for the calendar year 1965 and for any calendar year thereafter, or remaining calendar quarter thereof, as the case may be, shall be less than the standard rate unless the total assets of the fund as of the end of the previous calendar year, or calendar quarter, were at least \$15,000,000; provided that each employer's rate for any calendar year or any portion thereof, as determined by other applicable provisions of this part shall be increased by one-half per cent, if the total assets of the fund as of the end of the previous calendar year or calendar quarter were at least \$15,000,000 but less

than \$20,000,000, but in no event shall an employer's rate exceed the standard rate. 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 paragraph. 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 section 3302(b) of the federal Internal Revenue Code or pursuant to any other federal statute, successor to section 3302(b), which provides for the additional credit now provided for in section 3302(b).

- (4) If, when any such classification of employers is to be made (which may be after the commencement of the period for which the classifications is to be made), the department finds that any employer has failed to file any report required in connection therewith or has filed a report which the department finds incorrect or insufficient, the department shall notify the employer thereof by registered mail addressed to his last known address. Unless the employer files the report or a corrected or sufficient report, as the case may be, within fifteen days after the mailing of the notice, the standard rate of contributions shall be payable by it for the period for which the contribution rate is to be fixed.
- (5) For the purpose of sections 383-63 to 383-69, if on or after January 1, 1940, any employing unit in any manner succeeds to or acquires the organization, trade, or business, or substantially all the assets thereof (whether or not the successor acquiring unit was an 'employing unit,' as that term is defined in section 383-1(8) prior to the acquisition), of another which at the time of such acquisition was an employer subject to this chapter, and such predecessor employer has executed and filed with the department on a form approved by the department a waiver relinquishing all rights to his prior experience record with respect to his separate account, actual contribution payment, and benefit chargeability experience, annual payrolls and other data for the purpose of obtaining a reduced rate, and requesting the department to permit such experience record to inure to the benefit of the successor employing unit upon request of the successor employing unit, the experience record for rate computation purposes of the predecessor shall thereupon be deemed the experience record of the successor and the experience record shall be transferred by the department to the successor employing unit and shall become the separate account of the employing unit as of the date of the acquisition and benefits thereafter chargeable to the employer on account of employment prior to the date of the acquisition shall be charged to such separate account. The successor employing unit, unless already an employer subject to this chapter, shall be subject from the date of acquisition to the rate of contribution of the predecessor or of two or more predecessors if they have

the same contribution rate, provided the waiver or waivers required herein are filed with the department before sixty days after the date of acquisition. In case there are two or more predecessors having different contribution rates, the successor shall be subject to a contribution rate of three per cent until the next determination of rates under sections 383-63 to 383-69, at which time the experience records of the predecessors and successor shall be combined and shall be deemed to be the experience record of a single employing unit and the successor's rate shall thereupon be determined upon the basis of such combined experience. If the successor at the time of the transfer is an employer subject to this chapter, the rate of contribution to which he is then subject shall remain the same until the next determination of rates under sections 383-63 to 383-69, at which time the experience records of the predecessor and successor shall be combined and shall be deemed to be the experience record of a single employing unit and the successor's rate shall thereupon be determined upon the basis of such combined experience. For the purpose of determination of rates under section 383-63 to 383-69 of all successor employing units, waivers as required herein, if not previously filed as hereinabove provided, shall be filed with the department not later than March 1 of the year for which the rate is determined; provided, that no such waiver shall be accepted by the department for filing unless the employing unit executing the waiver has filed all reports and paid all contributions required of it by this chapter.

- (6) The department may prescribe regulations for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two or more employers to establish such an account, or to merge their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account. The regulations shall be consistent with the federal requirements for additional credit allowance in section 3303 of the federal Internal Revenue Code and consistent with this chapter.
- (7) Whenever there is an amendment to this chapter which, if immediately effective, would change an employer's rate of contributions, the rate of the employer shall be changed in accordance with the amendment and the new rate shall apply for the remainder of the calendar year beginning with the calendar quarter immediately following the effective date of the amendment providing for such change unless otherwise provided by the amendment."

SECTION 2. Section 383-68, Hawaii Revised Statutes, is amended to read:

"Sec. 383-68 Contribution rate schedules; rates based on experience.

- (a) Before December 31 of each year the contribution rate schedule applicable for the following calendar year shall be determined on the basis of the relationship between the most recent current reserve fund and the most recent

adequate reserve fund. If the current reserve fund is less than the adequate reserve fund, contribution rate schedule I in this section shall apply; if the current reserve fund equals or exceeds the adequate reserve fund but is less than 1.5 times the adequate reserve fund, contribution rate schedule II in this section shall apply; and if the current reserve fund equals or exceeds 1.5 times the adequate reserve fund, contribution rate schedule III in this section shall apply. If, however, the total assets of the fund available for the payment of benefits at the end of a calendar year, or calendar quarter, are \$15,000,000 or more but less than \$20,000,000, the applicable contribution rate schedule for the following calendar year, or remaining calendar quarters in the calendar year, as the case may be, shall be contribution rate schedule I, and if the assets are less than \$15,000,000 at the end of a calendar year, or calendar quarter, this section shall not apply during the following calendar year, or remaining calendar quarters in the calendar year, as the case may be.

(b) Subject to the requirements of sections 383-63 to 383-67 and 383-69, an employer's contribution rate for a calendar year shall be that rate which appears on the same line as his reserve ratio for the year in the contribution rate schedule applicable for the year.

CONTRIBUTION RATE SCHEDULE

Employer Reserve Ratio	Contribution Rate		
	Schedule I	Schedule II	Schedule III
1000 or more	.8 per cent	.4 per cent	.2 per cent
0950-.0999	1.0 per cent	.6 per cent	.4 per cent
0900-.0949	1.2 per cent	.8 per cent	.6 per cent
0850-.0899	1.4 per cent	1.0 per cent	.8 per cent
0800-.0849	1.6 per cent	1.2 per cent	1.0 per cent
0750-.0799	1.8 per cent	1.4 per cent	1.2 per cent
0700-.0749	2.0 per cent	1.6 per cent	1.4 per cent
0650-.0699	2.2 per cent	1.8 per cent	1.6 per cent
0600-.0649	2.4 per cent	2.0 per cent	1.8 per cent
0550-.0599	2.6 per cent	2.2 per cent	2.0 per cent
0500-.0549	2.8 per cent	2.4 per cent	2.2 per cent
0450-.0499	2.8 per cent	2.6 per cent	2.4 per cent
0400-.0449	2.8 per cent	2.8 per cent	2.6 per cent
0350-.0399	2.8 per cent	2.8 per cent	2.8 per cent
Less than .0350	3.0 per cent	3.0 per cent	3.0 per cent

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 4, 1974.)

*Edited accordingly.