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S.B. NO. 1373

A Bill for an Act Relating to Employment Security.

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

SECTION 1. Section 383-61, Hawaii Revised Statutes, is amended to read as follows:

“§383-61 Payment of contributions; wages not included. (a) Contributions with respect to wages for employment shall accrue and become payable by each employer for each calendar year in which the employer is subject to this chapter. The contributions shall become due and be paid by each employer to the director of labor and industrial relations for the fund in accordance with such [regulations] rules as the department of labor and industrial relations may prescribe, and shall not be deducted, in whole or in part, from the wages of individuals in [such] the employer’s employ.

(b) [For the purposes of this part,] Except as provided in subsections (c) and (d), the term “wages” does not include remuneration paid with respect to employment to an individual by an employer during any calendar year which exceeds the average annual wage, rounded to the nearest hundred dollars, for the

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four calendar quarter period ending on June 30 of the preceding year.

The average annual wage shall be computed as follows: on or before November 30 of each year the total remuneration paid by employers, as reported on contribution reports on or before such date, with respect to all employment during the four consecutive calendar quarters ending on June 30 of such year shall be divided by the average monthly number of individuals performing services in such employment during the same four calendar quarters as reported on such contribution reports and rounded to the nearest hundred dollars.

(c) For the calendar year 1991 only, the term "wages" does not include remuneration in excess of \$7,000 paid with respect to employment to an individual by an employer.

[(c)] (d) For calendar year 1988 only, the term "wages" as used in this part does not include remuneration paid with respect to employment to an individual by an employer during the calendar year which exceeds:

- (1) One hundred per cent of the average annual wage if the most recently computed ratio of the current reserve fund to the adequate reserve fund prior to that calendar year is equal to or less than .80; or
- (2) Seventy-five per cent of the average annual wage if the most recently computed ratio of the current reserve fund to the adequate reserve fund prior to that calendar year is greater than .80 but less than 1.2; or
- (3) Fifty per cent of the average annual wage if the most recently computed ratio of the current reserve fund to the adequate reserve fund prior to that calendar year is equal to or more than 1.2;

provided that "wages" with respect to which contributions are paid are not less than that part of remuneration which is subject to tax in accordance with section 3306(b) of the Internal Revenue Code[,] of 1986, as amended.

[(d)] (e) 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] the predecessor, then for the purpose of determining whether [such] remuneration in excess of the average annual wages has been paid [for such employment] to the individual[,] for employment, remuneration paid to the individual by [such] the predecessor during the calendar year shall be considered as having been paid by the successor employer. For the purposes of this subsection, the term "employment" includes services constituting employment under any employment security law of another state or of the federal government.

[(e)] (f) Subsections [(b), (c), and (d)] (b) through (e) [of this section] notwithstanding, for the purposes of this part[,] the term "wages" shall include at least that amount of remuneration paid in a calendar year to an individual by an employer or the employer's predecessor with respect to employment during any calendar year which is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund.

(g) In accordance with section 303(a)(5) of the Social Security Act, as amended, and section 3304(a)(4) of the Internal Revenue Code of 1986, as amended, any contributions overpaid due to a retroactive reduction in the taxable wage base may be credited against the employer's future contributions upon request by the employer; provided that no employer shall be given a cash refund."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 5, 1991.)