

ACT 275

S.B. NO. 1669

A Bill for an Act Relating to Employment Security.

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

SECTION 1. Section 383-29, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Notwithstanding any provisions of this chapter to the contrary, a claimant shall not be denied benefits because of the claimant’s regular attendance at a vocational training or retraining course which the director [of labor and industrial relations] has approved and continues from time to time to approve for the claimant. The director may approve such course for a claimant only if:

- (1) The training activity is authorized under Titles I, II, III, and IV (except on-the-job training) of the Job Partnership Training Act (P.L. 97-300);
- or
- (2) All of the following conditions apply:
  - (A) Reasonable employment opportunities for which the claimant is fitted by training and experience do not exist in the locality or are severely curtailed;
  - [(2)] (B) The training course relates to an occupation or skill for which there are, or are expected to be in the immediate future, reasonable employment opportunities in the locality;
  - [(3)] (C) The training course is offered by a competent and reliable agency; and
  - [(4)] (D) The claimant has the required qualifications and aptitudes to complete the course successfully.”

SECTION 2. Section 383-170, Hawaii Revised Statutes, is amended to read as follows:

“**§383-170 Eligibility requirements for extended benefits.** (a) An individual shall be eligible to receive extended benefits with respect to any week of unemployment in the individual’s eligibility period only if the department finds that with respect to such week:

- (1) The individual is an “exhaustee” as defined in section 383-168[.];

- (2) The individual has satisfied the requirements of this chapter for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits[.];
- (3) (A) Notwithstanding paragraph (2), an individual shall be ineligible for payment of extended benefits for any week of unemployment in the individual's eligibility period if the department finds that during such period:
  - (i) The individual failed to accept any offer of suitable work or failed to apply for any suitable work (as defined under subparagraph (C)) which was referred by the department; or
  - (ii) The individual failed to actively engage in seeking work as prescribed under subparagraph (E)[.];
- (B) Any individual who has been found ineligible for extended benefits by reason of subparagraph (A) shall also be denied benefits beginning with the first day of the week following the week in which such failure occurred and until the individual has been employed in each of four subsequent weeks (whether or not consecutive) and has earned remuneration equal to not less than four times the extended weekly benefit amount[.];
- (C) For purposes of this paragraph, the term "suitable work" means, with respect to any individual, any work which is within such individual's capabilities; provided that:
  - (i) The gross average weekly remuneration payable for the work shall exceed the sum of the individual's extended weekly benefit amount plus the amount, if any, of supplemental unemployment benefits (as defined in section 501(c)(17)(D) of the federal Internal Revenue Code of [1954] 1986, as amended) payable to such individual for such week; [and]
  - (ii) The work pays wages equal to the higher of the minimum wages provided by section 6(a)(1) of the Fair Labor Standards Act of 1938, without regard to any exemption[.]; or the state or local minimum wage; and
  - (iii) No individual shall be denied extended benefits for failure to accept an offer of or referral to any job which meets the definition of suitability described above if the position was not offered to such individual in writing and was not listed with the employment service; [or] such failure could not result in a denial of benefits under the definition of suitable work for regular benefit claimants in section 383-30(3) to the extent that the criteria of suitability in that section are not inconsistent with this subparagraph; or the individual furnishes satisfactory evidence to the department that the individual's prospects of obtaining work in the individual's customary occupation within a reasonably short period are good. If such evidence is deemed satisfactory for this purpose, the determination of whether any work is suitable with respect to such individual shall be made in accordance with the definition of suitable work in section 383-30(3) without regard to the definition specified in this subparagraph[.];

- (D) Notwithstanding this paragraph to the contrary, no work shall be deemed to be suitable work for an individual which does not conform with the labor standard provisions required by section 3304(a)(5) of the federal Internal Revenue Code of [1954] 1986, as amended, and set forth under section 383-30(3)[.];
  - (E) For the purposes of subparagraph (A)(ii), an individual shall be treated as actively engaged in seeking work during any week if:
    - (i) The individual has engaged in a systematic and sustained effort to obtain work during such week; [and]
    - (ii) The individual furnishes tangible evidence that the individual has engaged in such effort during such week[.]; and
  - (F) The employment service shall refer any claimant entitled to extended benefits under this chapter to any suitable work which meets the criteria prescribed in subparagraph (C)[.];
- (4) Notwithstanding paragraph (2), the individual has with respect to a disqualification under section 383-30(2) for suspension for misconduct connected with the individual's work, imposed during the individual's benefit year or an extended benefit period, been employed in each of four weeks (whether or not consecutive) subsequent to such disqualification and has earned remuneration equal to not less than four times the individual extended weekly benefit amount[.];
- (5) Notwithstanding paragraph (2), an individual shall not be eligible for extended benefits for any week [beginning after September 25, 1982], unless, in the base period with respect to which the individual exhausted all rights to regular benefits under this chapter, the individual had [a]:
- (A) A total of at least twenty weeks of employment as defined in section 383-1[.];
  - (B) Wages for insured work in an amount equal to not less than one and one-half times the high quarter wages; or
  - (C) Wages for insured work in an amount equal to not less than forty times the individual's most recent weekly benefit amount as determined under section 383-22(b); and
- (6) In accordance with the provisions of section 202(b)(1) of the Unemployment Compensation Amendments of 1992 (P.L. 102-318), which amends the Federal-State Extended Unemployment Compensation Act of 1970 (P.L. 91-373), paragraphs (3) and (4) shall not apply for weeks of unemployment beginning after March 6, 1993, and before January 1, 1995.
- (b) No provision in this section shall apply if its application is prohibited by federal law."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved June 18, 1993.)