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H.B. NO. 2169

A Bill for an Act Relating to Employment Security.

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

SECTION 1. Chapter 383, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§383- Special assessments on employers to pay interest on loans from Secretary of Labor. Whenever the State requests a loan from the Secretary of Labor in accordance with Title XII of the Social Security Act to pay expected benefit claims during a specified period of time, the director may assess all employers the amounts that are sufficient to pay the principal and interest costs on the loan; provided that the director develops a mechanism of distributing these payments among employers in a fair and equitable manner.”

SECTION 2. Section 383-22, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) In the case of an individual whose benefit year begins prior to January 5, 1992, the individual’s weekly benefit amount shall be, except as otherwise provided in this section, an amount equal to one twenty-fifth of the individual’s total wages for insured work paid during the calendar quarter of the individual’s

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base period in which such total wages were highest. In the case of an individual whose benefit year begins after January 4, 1992, the individual's weekly benefit amount shall be, except as otherwise provided in this section, an amount equal to one twenty-first of the individual's total wages for insured work paid during the calendar quarter of the individual's base period in which such total wages were highest. The weekly benefit amount, if not a multiple of \$1, shall be computed to the next higher multiple of \$1. If an individual's weekly benefit amount is less than \$5, it shall be \$5. The maximum weekly benefit amount shall be determined annually as follows: On or before November 30 of each year the total remuneration paid by employers, as reported on contribution reports submitted on or before such date, with respect to all employment during the four consecutive calendar quarters ending on June 30 of the year shall be divided by the average monthly number of individuals performing services in the employment during the same four calendar quarters as reported on the contribution reports. The amount thus obtained shall be divided by fifty-two and the average weekly wage (rounded to the nearest cent) thus determined. For benefit years beginning prior to January 1, 1992, two-thirds of the average weekly wage shall constitute the maximum weekly benefit amount and shall apply to all claims for benefits filed by an individual qualifying for payment at the maximum weekly benefit amount in the benefit year commencing on or after the first day of the calendar year immediately following the determination of the maximum weekly benefit amount. For benefit years beginning January 1, 1992, but prior to January 1, 2008, and beginning again on January 1, ~~2011,~~ 2012, seventy per cent of the average weekly wage shall constitute the maximum weekly benefit amount and shall apply to all claims for benefits filed by an individual qualifying for payment at the maximum weekly benefit amount in the benefit year commencing on or after the first day of the calendar year immediately following the determination of the maximum weekly benefit amount. For benefit years beginning January 1, 2008, and ending December 31, ~~2010,~~ 2011, seventy-five per cent of the average weekly wage shall constitute the maximum weekly benefit amount and shall apply to all claims for benefits filed by an individual qualifying for payment at the maximum weekly benefit amount in the benefit year commencing on or after the first day of the calendar year immediately following the determination of the maximum weekly benefit amount. The maximum weekly benefit amount, if not a multiple of \$1, shall be computed to the next higher multiple of \$1.

(Column A) High Quarter Wages	(Column B) Basic Weekly Benefit	(Column C) Minimum Qualifying Wages	(Column D) Maximum Total Benefits in Benefit Year
\$ 37.50 - 125.00	\$ 5.00	\$ 150.00	\$ 130.00
125.01 - 150.00	6.00	180.00	156.00
150.01 - 175.00	7.00	210.00	182.00
175.01 - 200.00	8.00	240.00	208.00
200.01 - 225.00	9.00	270.00	234.00
225.01 - 250.00	10.00	300.00	260.00
250.01 - 275.00	11.00	330.00	286.00
275.01 - 300.00	12.00	360.00	312.00
300.01 - 325.00	13.00	390.00	338.00
325.01 - 350.00	14.00	420.00	364.00
350.01 - 375.00	15.00	450.00	390.00
375.01 - 400.00	16.00	480.00	416.00
400.01 - 425.00	17.00	510.00	442.00
425.01 - 450.00	18.00	540.00	468.00

(Column A) High Quarter Wages	(Column B) Basic Weekly Benefit	(Column C) Minimum Qualifying Wages	(Column D) Maximum Total Benefits in Benefit Year
450.01 - 475.00	19.00	570.00	494.00
475.01 - 500.00	20.00	600.00	520.00
500.01 - 525.00	21.00	630.00	546.00
525.01 - 550.00	22.00	660.00	572.00
550.01 - 575.00	23.00	690.00	598.00
575.01 - 600.00	24.00	720.00	624.00
600.01 - 625.00	25.00	750.00	650.00
625.01 - 650.00	26.00	780.00	676.00
650.01 - 675.00	27.00	810.00	702.00
675.01 - 700.00	28.00	840.00	728.00
700.01 - 725.00	29.00	870.00	754.00
725.01 - 750.00	30.00	900.00	780.00
750.01 - 775.00	31.00	930.00	806.00
775.01 - 800.00	32.00	960.00	832.00
800.01 - 825.00	33.00	990.00	858.00
825.01 - 850.00	34.00	1020.00	884.00
850.01 - 875.00	35.00	1050.00	910.00
875.01 - 900.00	36.00	1080.00	936.00
900.01 - 925.00	37.00	1110.00	962.00
925.01 - 950.00	38.00	1140.00	988.00
950.01 - 975.00	39.00	1170.00	1014.00
975.01 - 1000.00	40.00	1200.00	1040.00
1000.01 - 1025.00	41.00	1230.00	1066.00
1025.01 - 1050.00	42.00	1260.00	1092.00
1050.01 - 1075.00	43.00	1290.00	1118.00
1075.01 - 1100.00	44.00	1320.00	1144.00
1100.01 - 1125.00	45.00	1350.00	1170.00
1125.01 - 1150.00	46.00	1380.00	1196.00
1150.01 - 1175.00	47.00	1410.00	1222.00
1175.01 - 1200.00	48.00	1440.00	1248.00
1200.01 - 1225.00	49.00	1470.00	1274.00
1225.01 - 1250.00	50.00	1500.00	1300.00
1250.01 - 1275.00	51.00	1530.00	1326.00
1275.01 - 1300.00	52.00	1560.00	1352.00
1300.01 - 1325.00	53.00	1590.00	1378.00
1325.01 - 1350.00	54.00	1620.00	1404.00
1350.01 and over	55.00	1650.00	1430.00."

SECTION 3. Section 383-61, Hawaii Revised Statutes, is amended as follows by amending subsection (c) to read as follows:

"(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. For calendar years 2008[;] and 2009, [~~and 2010 only,~~] the term "wages" as used in this part does not include remuneration in excess of \$13,000 paid with respect to employment to an individual by an employer so long as the balance of the unemployment trust fund does not fall below the adequate reserve fund as specified by section 383-63. For calendar years 2010 and 2011 only, the term "wages" as used in this part does not include remuneration in excess of the wages paid with respect to employment to an individual by

an employer during the calendar year that exceeds ninety per cent of the average annual wage."

SECTION 4. Section 383-63, Hawaii Revised Statutes, is amended to read as follows:

"§383-63 Definitions for experience rating provisions. As used in sections 383-63 to 383-69:

"Adequate reserve fund" means an amount that is equal to the amount derived by multiplying the benefit cost rate that is the highest during the ten-year period ending on November 30 of each year by the total remuneration paid by all employers, with respect to all employment for which contributions are payable during the last four calendar quarters ending on June 30 of the same year, as reported on contribution reports filed on or before October 31 of the same year. "Remuneration", as used in this definition, means wages as defined in section 383-10. For the purpose of determining the highest benefit cost rate, the benefit cost rate for the first twelve-consecutive-calendar-month period beginning with the first day of the first month of the ten-year period and for each succeeding twelve-consecutive-calendar-month period beginning with the first day of each subsequent month shall be computed.

Effective for the calendar years 1992 through 2007, and [from] for calendar year 2011 [and thereafter], "adequate reserve fund" means an amount that is equal to [~~one and one-half times~~] the amount derived by multiplying the benefit cost rate that is the highest during the ten-year period ending on November 30 of each year by the total remuneration paid by all employers, with respect to all employment for which contributions are payable during the last four calendar quarters ending on June 30 of the same year, as reported on contribution reports filed on or before October 31 of the same year. "Remuneration", as used in this definition, means wages as defined in section 383-10. For the purpose of determining the highest benefit cost rate, the benefit cost rate for the first twelve-consecutive-calendar-month period beginning with the first day of the first month of the ten-year period and for each succeeding twelve-consecutive-calendar-month period beginning with the first day of each subsequent month shall be computed.

"Annual payroll" means the total amount of wages for employment paid by an employer during a calendar year; and "average annual payroll" means the average of the annual payrolls of an employer for a period consisting of the three consecutive calendar years immediately preceding the calendar year for which rates are computed, except that, for an employer whose account has been chargeable with benefits throughout at least one year but less than three years ending on December 31, 1955, and each December 31 thereafter, "average annual payroll" means one-third of the sum of the employer's cumulative payrolls for the period in which the employer has been subject to this chapter, but not more than the three calendar years ending on such December 31. Whenever there was or is a change in the definition of "employment" or in the definition of "wages", effective for the purposes of this chapter generally or of this part at the commencement of or at a date within the three-year period of any average annual payroll, "employment" and "wages" for the purpose of determining each annual payroll within such period and the average annual payroll for such period, shall have the meaning prior to the effective date of such change which they had in accordance with this chapter then in effect and shall have the meaning after the effective date of such change assigned to them by the amendment to this chapter providing for such change.

“Base period employers” means employers by whom an individual was paid the individual’s base period wages.

“Base period wages” means the wages paid to an individual during the individual’s base period for insured work.

“Benefit cost rate” means the rate derived by dividing the total net benefits paid to all individuals during a twelve-consecutive-calendar-month period by the total remuneration paid by all employers with respect to employment for which contributions are payable during the last four completed calendar quarters ending at least five months before the end of the twelve-consecutive-month period. “Remuneration”, as used in this [paragraph,] definition, means wages as defined in section 383-10.

“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.

“Current reserve fund” means the total assets of the fund available for the payment of benefits on November 30 of each year (exclusive of all moneys credited under section 903 of the Social Security Act to the account of this State in the unemployment trust fund [which] that have been appropriated for expenses of administration whether or not withdrawn from the trust fund).

“Reserve balance” means the difference between all contributions paid by an employer and credited to the employer’s account for all periods before January 1 (including those paid before February 1 of the same year with respect to wages paid by the employer before January 1 of the same year) and the total benefits chargeable to the employer’s account for all periods before January 1 of the same year.”

SECTION 5. Section 383-68, Hawaii Revised Statutes, is amended by amending subsection (c) as follows:

“(c) Effective with calendar year 1992 and thereafter, before December 31 of the previous year the contribution rate schedule 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, in accordance with this subsection and subsection (d).

- (1) Whenever the ratio of the current reserve fund to the adequate reserve fund is greater than 1.69, contribution rate schedule A shall apply.
- (2) Whenever the ratio of the current reserve fund to the adequate reserve fund is 1.3 to 1.69, contribution rate schedule B shall apply.
- (3) Whenever the ratio of the current reserve fund to the adequate reserve fund is 1.0 to 1.29, contribution rate schedule C shall apply.
- (4) Whenever the ratio of the current reserve fund to the adequate reserve fund is .80 to .99, contribution rate schedule D shall apply.
- (5) Whenever the ratio of the current reserve fund to the adequate reserve fund is .60 to .79, contribution rate schedule E shall apply.
- (6) Whenever the ratio of the current reserve fund to the adequate reserve fund is .40 to .59, contribution rate schedule F shall apply.
- (7) Whenever the ratio of the current reserve fund to the adequate reserve fund is .20 to .39, contribution rate schedule G shall apply.
- (8) Whenever the ratio of the current reserve fund to the adequate reserve fund is less than .20, contribution rate schedule H shall apply.

Notwithstanding the ratio of the current reserve fund to the adequate reserve fund, contribution rate schedule D shall apply for calendar year 2010 and contribution rate schedule F shall apply for calendar year 2011.”

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SECTION 6. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 8. This Act shall take effect upon its approval and shall apply retroactively to January 1, 2010, for determinations of the employer's contribution rate and wage base.

(Approved March 11, 2010.)

Note

1. Edited pursuant to HRS §23G-16.5.