

ACT 214

H.B. NO. 477

A Bill for an Act Relating to the Hawaii Employment Security Law.

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

SECTION 1. Section 383-1, Hawaii Revised Statutes, is amended by amending the definition of “registered for work” or “registration for work” to read as follows:

““Registered for work” or “registration for work” means that an individual shall provide information to the ~~[employment office to be posted on the department’s internet job matching system, including the individual’s name, job skills, education, training, prior employment history and work duties, preferred working conditions, occupational licenses, and other relevant occupational information]~~ department to facilitate work search efforts by the individual and increase job referrals by the employment office.”

SECTION 2. Section 383-29, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

- (1) The individual has made a claim for benefits with respect to that week in accordance with rules the department may prescribe and with section 383-29.7 for partially unemployed individuals;
- (2) The individual has registered for work, as defined in section 383-1, and thereafter continued to report, at an employment office in accordance with rules the department may prescribe, or such other place as the department may approve, except that the department~~[- by rule,]~~ may waive or alter either or both of the requirements of this paragraph for ~~partially~~:
 - (A) Partially unemployed individuals pursuant to section 383-29.8 ~~[- individuals]~~;
 - (B) Individuals attached to regular jobs~~[- and other]~~;
 - (C) Union members in good standing being referred to jobs through the labor union job placement service; provided that the labor union agrees to report to the department all individuals who refuse job referrals or offers of work and all individuals not ready, willing, and able to work, and the labor union is approved by the department for the purpose of waiving work registration;
 - (D) Individuals involved in a labor dispute and for whom an employer-employee relationship continues to exist;
 - (E) Individuals who are suspended from work and for whom an employer-employee relationship continues to exist; provided that the waiver shall apply only to the period of suspension but shall not exceed four consecutive weeks of unemployment immediately following the week in which the individual was suspended; or
 - (F) Other types of cases or situations [with respect to which it] in which the department finds that compliance with those requirements would be oppressive, or would be inconsistent with the purpose of this chapter; [provided that no rule shall conflict with section 383-21;]
- (3) The individual is able to work and is available for work; provided that no claimant shall be considered ineligible with respect to any week of unemployment for failure to comply with this paragraph if the failure is due to an illness or disability, as evidenced by a physician's certificate, which occurs during an uninterrupted period of unemployment with respect to which benefits are claimed and no work ~~[which] that~~ would have been suitable ~~[prior to] before~~ the beginning of the illness ~~[and] or~~ disability has been offered the claimant;
- (4) The individual has been unemployed for a waiting period of one week within the individual's benefit year~~[- No]~~; provided that no week shall be counted as a waiting period:
 - (A) ~~If~~ if benefits have been paid with respect thereto;
 - (B) ~~Unless~~ unless the individual was eligible for benefits with respect thereto as provided in this section and section 383-30, except for the requirements of this paragraph;
- (5) In the case of an individual whose benefit year begins:
 - (A) On or after January 2, 1966, but prior to October 1, 1989, the individual has had during the individual's base period a total of fourteen or more weeks of employment, as defined in section 383-1, and has been paid wages for insured work during the individual's base period in an amount equal to at least

thirty times the individual's weekly benefit amount as determined under section 383-22(b). For the purposes of this subparagraph, wages for insured work shall include wages paid for services:

- (i) Which were not employment, as defined in section 383-2, or pursuant to an election under section 383-77 prior to January 1, 1978, at any time during the one-year period ending December 31, 1975; and
 - (ii) Which are agricultural labor, as defined in section 383-9 except service excluded under section [383-7(a)(1)], or are domestic service except service excluded under section [383-7(a)(2)]; except to the extent that assistance under title II of the Emergency Jobs and Unemployment Assistance Act of 1974 was paid on the basis of those services;
- (B) On and after October 1, 1989, to January 4, 1992, the individual has been employed, as defined in section 383-2, and has been paid wages for insured work during the individual's base period in an amount equal to not less than thirty times the individual's weekly benefit amount, as determined under section 383-22(b), and the individual has been paid wages for insured work during at least two quarters of the individual's base period; provided that no otherwise eligible individual who established a prior benefit year under this chapter or the unemployment compensation law of any other state, shall be eligible to receive benefits in a succeeding benefit year until, during the period following the beginning of the prior benefit year, that individual worked in covered employment for which wages were paid in an amount equal to at least five times the weekly benefit amount established for that individual in the succeeding benefit year; and
- (C) ~~After~~ after January 4, 1992, the individual has been employed, as defined in section 383-2, and has been paid wages for insured work during the individual's base period in an amount equal to not less than twenty-six times the individual's weekly benefit amount, as determined under section 383-22(b), and the individual has been paid wages for insured work during at least two quarters of the individual's base period; provided that no otherwise eligible individual who established a prior benefit year under this chapter or the unemployment compensation law of any other state, shall be eligible to receive benefits in a succeeding benefit year until, during the period following the beginning of the prior benefit year, that individual worked in covered employment for which wages were paid in an amount equal to at least five times the weekly benefit amount established for that individual in the succeeding benefit year.

For purposes of this paragraph, wages and weeks of employment shall be counted for benefit purposes with respect to any benefit year only if the benefit year begins subsequent to the dates on which the employing unit by which the wages or other remuneration, as provided in the definition of weeks of employment in section 383-1, were paid has satisfied the conditions of section 383-1 with respect to becoming an employer.

Effective for benefit years beginning January 1, 2004, and thereafter, if an individual fails to establish a valid claim for unemployment insurance benefits under this paragraph, the department

shall make a redetermination of entitlement based upon the alternative base period, as defined in section 383-1; provided further that the individual shall satisfy the conditions of ~~[section 383-29(a)(5)]~~ this paragraph that apply to claims filed using the base period, as defined in section 383-1, and the establishment of claims using the alternative base period shall be subject to the terms and conditions of sections 383-33 and 383-94; and

- (6) Effective November 24, 1994, an individual who has been referred to reemployment services pursuant to the profiling system under section 383-92.5 shall participate in those services or in similar services. The individual may not be required to participate in reemployment services if the department determines the individual has completed those services, or there is justifiable cause for the claimant's failure to participate in those services.

For the purposes of this subsection, employment and wages used to establish a benefit year shall not thereafter be reused to establish another benefit year."

2. By amending subsection (e) to read:

"(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 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);]~~ the Workforce Innovation and Opportunity Act, Public Law 113-128; 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;
 - (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;
 - (C) The training course is offered by a competent and reliable agency; and
 - (D) The claimant has the required qualifications and aptitudes to complete the course successfully."

SECTION 3. Section 383-29.8, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) An individual shall be exempted from the work search requirements as determined by rules of the department, or be subject to modified work search requirements as authorized by the department if the individual is waived from the registration for work requirements ~~[as defined in section 383-1.]~~ under section 383-29(a)."

SECTION 4. Section 383-36, Hawaii Revised Statutes, is amended to read as follows:

"§383-36 Notice of determinations. Notice of a determination or redetermination upon a claim shall be promptly given to the claimant ~~[by delivery thereof or]~~ by electronic notification unless an election was made to receive notices by mail, and in such case, by mailing the notice to the claimant's last

known address. In addition, notice of a determination or redetermination with respect to the first week of a benefit year shall be given to each employer by whom the claimant was employed during the claimant's base period, and to the last employing unit by whom the claimant was employed, and notice of any determination or redetermination which involves the application of section 383-30 shall be given to the last employing unit by whom the claimant was employed, in every case by ~~[delivery thereof to such party or]~~ electronic notification unless an election was made to receive notices by mail, and in such case, by mailing the notice to the party's last known address. The date of electronic notification shall be equivalent to the mailing date."

SECTION 5. Section 383-38, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a) and (b) to read:

"(a) The claimant or any other party entitled to notice of a determination or redetermination as ~~herein~~ provided in this subsection may file an appeal from the determination or redetermination at the office of the department in the county in which the claimant resides or in the county in which the claimant was last employed, or with a copy of the contested determination at the employment security appeals referee's office, within ten days after the date of mailing of the notice to the claimant's or party's last known address, or if the notice is not mailed, within ten days after the date of ~~[delivery]~~ the electronic notification of the notice to the claimant or party. The department may for good cause extend the period within which an appeal may be filed to thirty days. The notice of a determination or redetermination shall be final and shall be binding upon each party unless an appeal is filed by a party pursuant to this subsection. Written notice of a hearing of an appeal shall be sent by first class, nonregistered, non-certified mail to the claimant's or party's last known address at least twelve days ~~[prior to]~~ before the initial hearing date[-] or by electronic notification.

(b) The appeal under subsection (a) shall be heard in the county in which the appeal is filed, except that the department may by its rules provide for the holding of a hearing in another county with the consent of all parties or where necessary in order that a fair and impartial hearing may be had, and may provide for the taking of depositions. Unless the appeal is withdrawn with the permission of the referee, the referee after affording the parties reasonable opportunity for a fair hearing shall make findings and conclusions and on the basis thereof affirm, modify, or reverse such determination or redetermination. The parties to any appeal shall be promptly notified of the decision of the referee and shall be furnished with a copy of the decision and the findings and conclusions in support thereof and the decisions shall be final and shall be binding upon each party unless a proceeding for judicial review is ~~[initiated]~~ filed by the party pursuant to section 383-41; provided that within the time provided for taking an appeal and ~~[prior to]~~ before the filing of a notice of appeal, the referee may reopen the matter, upon the application of the director or any other party, or upon the referee's own motion, and thereupon may take further evidence or may modify or reverse the referee's decision, findings, or conclusions. If the matter is reopened, the referee shall render a further decision in the matter either reaffirming or modifying or reversing the referee's original decision, and notice shall be given thereof in the manner hereinbefore provided. Upon reopening, the referee who heard the original appeal shall reconsider the matter, except where the referee is no longer employed as a referee or the referee disqualifies oneself from reconsidering the referee's decision."

2. By amending subsections (d) and (e) to read:

“(d) If a claimant or party does not receive the written notice under subsection (a), a second written notice shall be sent by certified mail~~[-]~~ or by electronic notification, and the hearing on the appeal shall be rescheduled accordingly.

(e) ~~[Upon application to, and approval by, the employment security appeals referee’s office, a claimant or party to an appeal may elect to receive hearing notices, decisions, and other appeal documents from the referee’s office in electronic format in lieu of notice by mail. The date of electronic transmission is equivalent to the mailing date for purposes of this section.] A claimant or party shall receive hearing notices, decisions, and other appeal documents from the referee’s office by electronic notification, unless an election was made to receive notices, decisions, and other appeal documents from the referee’s office by mail, and in such case, the notices, decisions, and other appeal documents shall be mailed to the claimant’s or party’s last known address. The date of electronic notification shall be equivalent to the mailing date. Electronic notification status may be rescinded at any time by the referee’s office, claimant, or any party upon written notification.]~~

SECTION 6. Section 383-66, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The department, 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, shall 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 the contribution rates to reflect this 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 for any calendar year through 1984 shall be three per cent. For calendar years 1985 and thereafter, the standard rate of contributions payable by each employer shall be five and four-tenths per cent;
- (2) No employer’s rate for the calendar year 1942 and for any calendar year thereafter shall be other than the maximum rate unless and until the employer’s 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 other than the maximum rate if the employer’s 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. For the calendar years 1985 through 1991, the contribution rate for a new or newly covered employer shall be the sum of the employer’s basic contribution rate of three and six-tenths per cent and the fund solvency contribution rate determined for that year pursuant to section 383-68(a), until the employer’s account has been chargeable with benefits throughout the twelve consecutive calendar month period ending on December 31 of the preceding calendar year; except that no employer’s contribution rate shall be greater than five and four-tenths per cent and no employer with a negative reserve ratio shall have a contribution rate less than the employer’s basic contribution rate. For calendar years 1992 and thereafter, the contribution rate for a new or newly covered employer shall be the

- contribution rate assigned to any employer with .0000 reserve ratio, until the employer's account has been chargeable with benefits throughout the twelve consecutive calendar month period ending on December 31 of the preceding calendar year;
- (3) Any amount credited to this State under section 903 of the Social Security Act[~~;~~] of 1935, 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. Any advance that may be made to this State under section 1201 of the Social Security Act[~~;~~] of 1935, whether or not withdrawn from this trust fund, shall be excluded from the fund for the purposes of this paragraph. No employer's rate shall be reduced in any amount that 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 of 1986, as amended, 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 classification of employers is to be made (which may be after the commencement of the period for which the classification 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 that the department finds incorrect or insufficient, the department shall notify the employer thereof by mail addressed to the employer's 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 maximum rate of contributions shall be payable by the employer for the period for which the contribution rate is to be fixed. Effective January 1, 1987, the director, for excusable failure, may redetermine the assignment of the maximum contribution rate in accordance with this section, provided the employer files all reports as required by the department and submits a written request for redetermination before December 31 of the year for which the contribution rate is to be fixed;
 - (5) For the purpose of sections 383-63 to 383-69, if after December 31, 1939, 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 or acquiring unit was an "employing unit", as that term is defined in section 383-1 [~~prior to~~] before the acquisition), or after December 31, 1988 and [~~prior to~~] before December 31, 1992, acquires a clearly identifiable and segregable portion of the organization, trade, or business of another that at the time of the acquisition was an employer subject to this chapter, and the successor continues or resumes the organization, trade, or business and continues to employ all or nearly all of the predecessor's employees, or the successor continues or resumes the clearly identifiable and segregable portion of the organization, trade, or business and continues to employ all or nearly all of the employees of the clearly identifiable and segregable portion, an application may be made for transfer of the predecessor's experience record. If the predecessor employer has submitted all information and reports required by the department including amended quarterly wage reports identifying the employees transferred or retained and executed

and filed with the department before December 31 of the calendar year following the calendar year in which the acquisition occurred on a form approved by the department a waiver relinquishing the rights to all or the clearly identifiable and segregable portion of the predecessor's prior experience record with respect to its 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 the 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. Benefits chargeable to the predecessor employer or successor employer in case of an acquisition of a clearly identifiable and segregable portion of the organization, trade, or business, after the date of acquisition on account of employment ~~[prior to]~~ before the date of the acquisition shall be charged to the separate account of the successor employing unit. In case of an acquisition of a clearly identifiable and segregable portion of the organization, trade, or business, the experience record that inures to the benefit of the successor employer shall be determined as follows:

- (A) Wages, as used in section 383-61, attributable to the clearly identifiable and segregable portion shall be for the period beginning with the most recent three consecutive calendar years immediately preceding the determination of rates under sections 383-63 to 383-69 and through the date of acquisition; and
- (B) Reserve balance attributable to the clearly identifiable and segregable portion shall be the amount determined by dividing the wages, as used in section 383-61, of the clearly identifiable and segregable portion in the three calendar years (or that lesser period as the clearly identifiable and segregable portion may have been in operation) immediately preceding the computation date of the rating period ~~[prior to]~~ before which the acquisition occurred by the total taxable payrolls of the predecessor for the three-year period (or that lesser period as the clearly identifiable and segregable portion may have been in operation) and multiplying the quotient by the reserve balance of the predecessor employer calculated as of the acquisition date;

provided that the waiver or waivers required herein are filed with the department within sixty days after the date of acquisition, 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. If there are two or more predecessors having different contribution rates, the successor shall be subject to the rate prescribed for new or newly covered employers under paragraph (2) 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 the combined experience. If the successor at the time of the transfer is an employer subject to this chapter, the rate of contribution to which the successor 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 the combined experience. For the purpose of determination of rates under sections 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 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 by this chapter;

- [(6)] ~~The department may prescribe rules for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and, in accordance with the rules and upon application by two or more employers to establish such an account, or to merge their several individual accounts in a joint account, shall maintain the joint account as if it constituted a single employer's account. The rules 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) (6) 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 the change, unless otherwise provided by the amendment;
- [(8)] (7) For the purposes of this section, "contribution rate" shall mean the basic contribution rate as defined in section 383-68 when applied to calendar year 1978 or any calendar year thereafter; and
- [(9)] (8) For the purposes of this section, the terms "employing unit", "employer", "predecessor", and "successor" shall include both the singular and the plural of each term. Nothing in this section shall prevent two or more successor employing units, which each succeed to or acquire a clearly identifiable and segregable portion of a predecessor employing unit, from gaining the benefit of the clearly identifiable and segregable portion of the predecessor's experience record;

provided that the terms of this section are complied with, nothing herein shall bar a predecessor employer from waiving the rights to all or the clearly identifiable and segregable portion of the predecessor's prior experience record in favor of a successor employer where the successor acquired a clearly identifiable and segregable portion of the predecessor's organization, trade, or business after December 31, 1988 and ~~[prior to]~~ before December 31, 1992."

SECTION 7. Section 383-163.6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) An individual filing a new claim for unemployment compensation shall, at the time of filing the claim, be advised that:

- (1) Unemployment compensation is subject to federal and state income tax;
- (2) Requirements exist pertaining to estimated tax payments;
- (3) The individual may elect to have federal income tax deducted and withheld from the individual’s payment of unemployment compensation at the amount specified in the ~~[federal]~~ Internal Revenue Code~~[:]~~ of 1986, as amended;
- (4) The individual may elect to have state income tax deducted and withheld from the individual’s payment of unemployment compensation at the amount specified in section 235-69;
- (5) The individual may elect to have state and local income taxes deducted and withheld from the individual’s payment of unemployment compensation for other states and localities outside ~~[this]~~ the State at the percentage established by the state or locality, if the department by agreement with the other state or locality is authorized to deduct and withhold income tax; and
- (6) The individual shall be permitted to change a previously elected withholding status ~~[no more than once]~~ during a benefit year.”

SECTION 8. Section 383-12, Hawaii Revised Statutes, is repealed.

SECTION 9. Statutory material to be repealed is bracketed and stricken.¹ New statutory material is underscored.

SECTION 10. This Act shall take effect on July 1, 2025; provided that sections 4 and 5 shall take effect upon April 1, 2027.

(Approved June 25, 2025.)

Note

1. Edited pursuant to HRS §23G-16.5.