
A BILL FOR AN ACT

RELATING TO EMPLOYMENT SECURITY LAW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

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

4 "§383- Treatment of Indian tribes. (a) As used in
5 this section:

6 "Employer" includes any Indian tribe for which service in
7 employment, as defined in this section, is performed.

8 "Employment" means service performed in the employ of an
9 Indian tribe, provided such service is excluded from employment
10 as defined in the Federal Unemployment Tax Act solely by reason
11 of section 3305(c)(7), and is not otherwise excluded from
12 employment under this chapter. For purposes of this section,
13 the exclusions from employment under section 383-7, apply to
14 services performed in the employ of an Indian tribe in the same
15 manner as the exclusions apply to government and nonprofit
16 entities.

17 "Indian tribe" has the same meaning as in section 4(e) of
18 the Indian Self-Determination and Education Assistance Act (25



1 U.S.C. 450(b)(e)) and includes any subdivision, subsidiary, or
2 business enterprises wholly owned by the Indian tribe.

3 (b) Benefits based upon service in employment as defined
4 in this section shall be payable in the same amount, on the same
5 terms, and subject to the same conditions as benefits payable on
6 the basis of other service subject to this chapter. The
7 financing of benefits shall apply in the same manner and under
8 the same terms and conditions as section 383-62, for nonprofit
9 organizations subject to this chapter, except that this section
10 shall apply where there is a conflict.

11 (1) Any Indian tribe or tribal unit (subdivisions,
12 subsidiaries, or business enterprises wholly owned by
13 the Indian tribe) subject to this chapter after
14 December 31, 2005, shall pay contributions under this
15 part (with the exception of section 383-62(b))
16 applicable to other employers unless it elects to pay
17 to the director of labor and industrial relations for
18 the fund an amount equal to the amount of benefits
19 that is attributable to service in the employ of an
20 Indian tribe.

21 (2) Any Indian tribe or tribal unit electing to make
22 payments in lieu of contributions shall make this



1 election in the same manner and under the same
2 conditions as provided in section 383-62(d) (1).
3 Indian tribes or tribal units must determine if
4 reimbursement for benefits paid will be elected by the
5 tribe as a whole, by individual tribal units, or by
6 combinations of individual tribal units.

7 (3) An Indian tribe or tribal unit shall be billed and
8 payments made in accordance with section 383-62(d) (2),
9 for the full amount of benefits attributable to
10 service in the employ of the Indian tribe or tribal
11 unit on the same schedule as nonprofit organizations
12 that have elected to make reimbursement payments in
13 lieu of contributions.

14 (4) Any Indian tribe or tribal unit that elects to become
15 liable for payments in lieu of contributions shall be
16 required, within thirty days after the effective date
17 of its election, to deposit with the department an
18 amount of money as security as determined by section
19 383-62(d) (3).

20 (c) (1) Failure of the Indian tribe or tribal unit to make any
21 required payment under this chapter within ninety days
22 after a bill was mailed to its last known address or



1 was otherwise delivered to it, will cause the Indian
2 tribe to lose the option to make payments in lieu of
3 contributions, and the termination shall continue for
4 the four-consecutive-calendar-quarter period beginning
5 with the quarter in which the termination becomes
6 effective.

7 (2) Any Indian tribe that loses the option to make
8 payments in lieu of contributions due to late payment
9 or nonpayment shall have the option reinstated after a
10 period of one year if all contributions have been made
11 timely; provided that no contributions, payments in
12 lieu of contributions for benefits paid, security
13 deposit, and penalties or interest remain outstanding.

14 (3) If any Indian tribe or tribal unit fails to make
15 payments required under this section (including
16 assessment of interest and penalty) within ninety days
17 of a final notice of delinquency, the department shall
18 immediately notify the United States Internal Revenue
19 Service and the United States Department of Labor.

20 (d) Notices of payment and reporting delinquency to Indian
21 tribes and tribal units shall include information that failure

1 to make full payments within the prescribed time will cause the
2 Indian tribe to:

3 (1) Be liable for taxes under the Federal Unemployment Tax
4 Act; and

5 (2) Lose the option to make payments in lieu of
6 contributions.

7 (e) The amount payable to the fund by each Indian tribe or
8 tribal unit that is liable for payments in lieu of contributions
9 shall be determined in the same manner as provided in section
10 383-62(e).

11 (f) An Indian tribe or tribal unit shall reimburse the
12 fund for all extended benefits paid that are attributable to
13 service in the employ of the Indian tribe or tribal unit, unless
14 the benefits are reimbursed by the federal government.

15 (g) Any two or more Indian tribes or tribal units that
16 have become liable for payments in lieu of contributions may
17 file a joint application to the department of labor and
18 industrial relations for the establishment of a group account
19 for the purpose of sharing the cost of benefits paid that are
20 attributable to service in the employ of those employers in the
21 same manner as provided in section 383-62(f)."

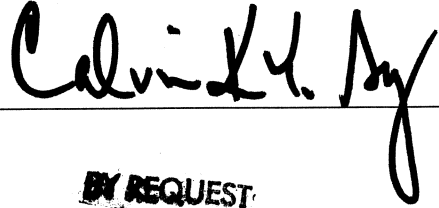
22 SECTION 2. New statutory material is underscored.

H.B. NO. 2158

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

2

INTRODUCED BY:



BY REQUEST

JAN 20 2006



Report Title:

Employment Security; Indian Tribes

Description:

Requires an Indian tribe employer to comply with same employment security requirements as nonprofit organizations.

