
A BILL FOR AN ACT

RELATING TO EMPLOYMENT SECURITY.

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

1 SECTION 1. The legislature finds that the current balance
2 in the unemployment compensation fund allows for adjustments to
3 contributions and benefits. The current balance was created
4 over the past few years by an upswing in the economy, the
5 contributions paid by employers, and the limited changes to
6 statutory language for benefits paid to the unemployed.

7 The legislature further finds that since both employees and
8 employers have contributed to the present balance of the fund,
9 adjustments that will benefit both the employer and employee are
10 appropriate and equitable.

11 One purpose of this Act is to provide an adjustment in 2007
12 to the calculation of contributions paid for by employers. The
13 adjustment should provide some relief to employers without
14 unnecessarily depleting the fund.

15 The other purpose of this Act is to adjust certain areas of
16 benefits paid to the unemployed who have gone without
17 substantial changes to the statutory language on benefits for
18 many years. This Act also clarifies that the ineligibility for



1 benefits arises from willful or wanton misconduct of an
2 employee.

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

5 "(b) In the case of an individual whose benefit year
6 begins prior to January 5, 1992, the individual's weekly benefit
7 amount shall be, except as otherwise provided in this section,
8 an amount equal to one twenty-fifth of the individual's total
9 wages for insured work paid during the calendar quarter of the
10 individual's base period in which such total wages were highest.
11 In the case of an individual whose benefit year begins after
12 January 4, 1992, the individual's weekly benefit amount shall
13 be, except as otherwise provided in this section, an amount
14 equal to one twenty-first of the individual's total wages for
15 insured work paid during the calendar quarter of the
16 individual's base period in which such total wages were highest.
17 The weekly benefit amount, if not a multiple of \$1, shall be
18 computed to the next higher multiple of \$1. If an individual's
19 weekly benefit amount is less than \$5, it shall be \$5. The
20 maximum weekly benefit amount shall be determined annually as
21 follows: On or before November 30 of each year the total
22 remuneration paid by employers, as reported on contribution



1 reports submitted on or before such date, with respect to all
2 employment during the four consecutive calendar quarters ending
3 on June 30 of the year shall be divided by the average monthly
4 number of individuals performing services in the employment
5 during the same four calendar quarters as reported on the
6 contribution reports. The amount thus obtained shall be divided
7 by fifty-two and the average weekly wage (rounded to the nearest
8 cent) thus determined. For benefit years beginning prior to
9 January 1, 1992, two-thirds of the average weekly wage shall
10 constitute the maximum weekly benefit amount and shall apply to
11 all claims for benefits filed by an individual qualifying for
12 payment at the maximum weekly benefit amount in the benefit year
13 commencing on or after the first day of the calendar year
14 immediately following the determination of the maximum weekly
15 benefit amount. For benefit years beginning January 1, 1992,
16 and thereafter, seventy per cent of the average weekly wage
17 shall constitute the maximum weekly benefit amount and shall
18 apply to all claims for benefits filed by an individual
19 qualifying for payment at the maximum weekly benefit amount in
20 the benefit year commencing on or after the first day of the
21 calendar year immediately following the determination of the
22 maximum weekly benefit amount. For benefit years beginning



1 January 1, 2007, and thereafter, eighty per cent of the average
 2 weekly wage shall constitute the maximum weekly benefit amount
 3 and shall apply to all claims for benefits filed by an
 4 individual qualifying for payment at the maximum weekly benefit
 5 amount in the benefit year commencing on or after the first day
 6 of the calendar year immediately following the determination of
 7 the maximum weekly benefit amount. The maximum weekly benefit
 8 amount, if not a multiple of \$1, shall be computed to the next
 9 higher multiple of \$1.

11	(Column A)	(Column B)	(Column C)	(Column D)
12	High	Basic	Minimum	Maximum
13	Quarter	Weekly	Qualifying	Total Benefits
14	Wages	Benefit	Wages	in Benefit Year
16	\$ 37.50 - 125.00	\$ 5.00	\$ 150.00	\$ 130.00
17	125.01 - 150.00	6.00	180.00	156.00
18	150.01 - 175.00	7.00	210.00	182.00
19	175.01 - 200.00	8.00	240.00	208.00
20	200.01 - 225.00	9.00	270.00	234.00
21	225.01 - 250.00	10.00	300.00	260.00
22	250.01 - 275.00	11.00	330.00	286.00



1	275.01 - 300.00	12.00	360.00	312.00
2	300.01 - 325.00	13.00	390.00	338.00
3	325.01 - 350.00	14.00	420.00	364.00
4	350.01 - 375.00	15.00	450.00	390.00
5	375.01 - 400.00	16.00	480.00	416.00
6	400.01 - 425.00	17.00	510.00	442.00
7	425.01 - 450.00	18.00	540.00	468.00
8	450.01 - 475.00	19.00	570.00	494.00
9	475.01 - 500.00	20.00	600.00	520.00
10	500.01 - 525.00	21.00	630.00	546.00
11	525.01 - 550.00	22.00	660.00	572.00
12	550.01 - 575.00	23.00	690.00	598.00
13	575.01 - 600.00	24.00	720.00	624.00
14	600.01 - 625.00	25.00	750.00	650.00
15	625.01 - 650.00	26.00	780.00	676.00
16	650.01 - 675.00	27.00	810.00	702.00
17	675.01 - 700.00	28.00	840.00	728.00
18	700.01 - 725.00	29.00	870.00	754.00
19	725.01 - 750.00	30.00	900.00	780.00
20	750.01 - 775.00	31.00	930.00	806.00
21	775.01 - 800.00	32.00	960.00	832.00
22	800.01 - 825.00	33.00	990.00	858.00



1	825.01 - 850.00	34.00	1020.00	884.00
2	850.01 - 875.00	35.00	1050.00	910.00
3	875.01 - 900.00	36.00	1080.00	936.00
4	900.01 - 925.00	37.00	1110.00	962.00
5	925.01 - 950.00	38.00	1140.00	988.00
6	950.01 - 975.00	39.00	1170.00	1014.00
7	975.01 -1000.00	40.00	1200.00	1040.00
8	1000.01 -1025.00	41.00	1230.00	1066.00
9	1025.01 -1050.00	42.00	1260.00	1092.00
10	1050.01 -1075.00	43.00	1290.00	1118.00
11	1075.01 -1100.00	44.00	1320.00	1144.00
12	1100.01 -1125.00	45.00	1350.00	1170.00
13	1125.01 -1150.00	46.00	1380.00	1196.00
14	1150.01 -1175.00	47.00	1410.00	1222.00
15	1175.01 -1200.00	48.00	1440.00	1248.00
16	1200.01 -1225.00	49.00	1470.00	1274.00
17	1225.01 -1250.00	50.00	1500.00	1300.00
18	1250.01 -1275.00	51.00	1530.00	1326.00
19	1275.01 -1300.00	52.00	1560.00	1352.00
20	1300.01 -1325.00	53.00	1590.00	1378.00
21	1325.01 -1350.00	54.00	1620.00	1404.00
22	1350.01 and over	55.00	1650.00	1430.00 "



1 SECTION 3. Section 383-23, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§383-23 Weekly benefit for unemployment.** For weeks
4 beginning prior to January 5, 1992, each eligible individual who
5 is unemployed, as defined in section 383-1, in any week shall be
6 paid with respect to that week a benefit in an amount equal to
7 the individual's weekly benefit amount less that part of the
8 wages (if any) payable to the individual with respect to that
9 week which is in excess of \$2. Effective for weeks beginning
10 January 5, 1992, and thereafter, each eligible individual who is
11 unemployed, as defined in section 383-1, in any week shall be
12 paid with respect to that week a benefit in an amount equal to
13 the individual's weekly benefit amount less that part of the
14 wages (if any) payable to the individual with respect to that
15 week which is in excess of [~~\$50.~~] \$150. The benefit, if not a
16 multiple of \$1, shall be computed to the next higher multiple of
17 \$1."

18 SECTION 4. Section 383-24, Hawaii Revised Statutes, is
19 amended to read as follows:

20 **"§383-24 Maximum potential benefits.** The maximum
21 potential benefits of an eligible individual in a benefit year



1 shall be [~~twenty-six~~] thirty times the eligible individual's
2 weekly benefit amount."

3 SECTION 5. Section 383-30, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§383-30 Disqualification for benefits.** An individual
6 shall be disqualified for benefits:

7 (1) Voluntary separation. For any week prior to
8 October 1, 1989, in which the individual has left work
9 voluntarily without good cause, and continuing until
10 the individual has, subsequent to the week in which
11 the voluntary separation occurred, been employed for
12 at least five consecutive weeks of employment. For
13 the purposes of this paragraph, "weeks of employment"
14 means all those weeks within each of which the
15 individual has performed services in employment for
16 not less than two days or four hours per week, for one
17 or more employers, whether or not such employers are
18 subject to this chapter. For any week beginning on
19 and after October 1, 1989, in which the individual has
20 left the individual's work voluntarily without good
21 cause, and continuing until the individual has,
22 subsequent to the week in which the voluntary



1 separation occurred, been paid wages in covered
2 employment equal to not less than five times the
3 individual's weekly benefit amount as determined under
4 section 383-22(b).

5 An owner-employee of a corporation who brings
6 about the owner-employee's unemployment by divesting
7 ownership, leasing the business interest, terminating
8 the business, or by other similar actions where the
9 owner-employee is the party initiating termination of
10 the employment relationship, has voluntarily left
11 employment.

- 12 (2) Discharge or suspension for misconduct. For any week
13 prior to October 1, 1989, in which the individual has
14 been discharged for wilful or wanton misconduct
15 connected with work, and continuing until the
16 individual has, subsequent to the week in which the
17 discharge occurred, been employed for at least five
18 consecutive weeks of employment. For the week in
19 which the individual has been suspended for wilful or
20 wanton misconduct connected with work and for not less
21 than one or more than four consecutive weeks of
22 unemployment which immediately follow such week, as



1 determined in each case in accordance with the
2 seriousness of the wilful or wanton misconduct. For
3 the purposes of this paragraph, "weeks of employment"
4 means all those weeks within each of which the
5 individual has performed services in employment for
6 not less than two days or four hours per week, for one
7 or more employers, whether or not such employers are
8 subject to this chapter. For any week beginning on
9 and after October 1, 1989, in which the individual has
10 been discharged for wilful or wanton misconduct
11 connected with work, and until the individual has,
12 subsequent to the week in which the discharge
13 occurred, been paid wages in covered employment equal
14 to not less than five times the individual's weekly
15 benefit amount as determined under section 383-22(b).

16 (3) Failure to apply for work, etc. For any week prior to
17 October 1, 1989, in which the individual failed,
18 without good cause, either to apply for available,
19 suitable work when so directed by the employment
20 office or any duly authorized representative of the
21 department of labor and industrial relations, or to
22 accept suitable work when offered and continuing until



1 the individual has, subsequent to the week in which
2 the failure occurred, been employed for at least five
3 consecutive weeks of employment. For the purposes of
4 this paragraph, "weeks of employment" means all those
5 weeks within each of which the individual has
6 performed services in employment for not less than two
7 days or four hours per week, for one or more
8 employers, whether or not such employers are subject
9 to this chapter. For any week beginning on and after
10 October 1, 1989, in which the individual failed,
11 without good cause, either to apply for available,
12 suitable work when so directed by the employment
13 office or any duly authorized representative of the
14 department of labor and industrial relations, or to
15 accept suitable work when offered until the individual
16 has, subsequent to the week in which the failure
17 occurred, been paid wages in covered employment equal
18 to not less than five times the individual's weekly
19 benefit amount as determined under section 383-22(b).

20 (A) In determining whether or not any work is
21 suitable for an individual there shall be
22 considered among other factors and in addition to



1 those enumerated in paragraph (3)(B), the degree
2 of risk involved to the individual's health,
3 safety, and morals, the individual's physical
4 fitness and prior training, the individual's
5 experience and prior earnings, the length of
6 unemployment, the individual's prospects for
7 obtaining work in the individual's customary
8 occupation, the distance of available work from
9 the individual's residence, and prospects for
10 obtaining local work. The same factors so far as
11 applicable shall be considered in determining the
12 existence of good cause for an individual's
13 voluntarily leaving work under paragraph (1).

14 (B) Notwithstanding any other provisions of this
15 chapter, no work shall be deemed suitable and
16 benefits shall not be denied under this chapter
17 to any otherwise eligible individual for refusing
18 to accept new work under any of the following
19 conditions:

20 (i) If the position offered is vacant due
21 directly to a strike, lockout, or other
22 labor dispute;



1 (ii) If the wages, hours, or other conditions of
2 the work offered are substantially less
3 favorable to the individual than those
4 prevailing for similar work in the locality;

5 and

6 (iii) If as a condition of being employed the
7 individual would be required to join a
8 company union or to resign from or refrain
9 from joining any bona fide labor
10 organization.

11 (4) Labor dispute. For any week with respect to which it
12 is found that unemployment is due to a stoppage of
13 work which exists because of a labor dispute at the
14 factory, establishment, or other premises at which the
15 individual is or was last employed; provided that this
16 paragraph shall not apply if it is shown that:

17 (A) The individual is not participating in or
18 directly interested in the labor dispute which
19 caused the stoppage of work; and

20 (B) The individual does not belong to a grade or
21 class of workers of which, immediately before the
22 commencement of the stoppage, there were members



1 employed at the premises at which the stoppage
2 occurs, any of whom are participating in or
3 directly interested in the dispute; provided that
4 if in any case separate branches of work, which
5 are commonly conducted as separate businesses in
6 separate premises, are conducted in separate
7 departments of the same premises, each such
8 department shall, for the purpose of this
9 paragraph, be deemed to be a separate factory,
10 establishment, or other premises.

- 11 (5) If the department finds that the individual has within
12 the twenty-four calendar months immediately preceding
13 any week of unemployment made a false statement or
14 representation of a material fact knowing it to be
15 false or knowingly failed to disclose a material fact
16 to obtain any benefits not due under this chapter, the
17 individual shall be disqualified for benefits
18 beginning with the week in which the department makes
19 the determination and for each consecutive week during
20 the current and subsequent twenty-four calendar months
21 immediately following such determination, and such
22 individual shall not be entitled to any benefit under



1 this chapter for the duration of such period; provided
2 that no disqualification shall be imposed if
3 proceedings have been undertaken against the
4 individual under section 383-141.

5 (6) Other unemployment benefits. For any week or part of
6 a week with respect to which the individual has
7 received or is seeking unemployment benefits under any
8 other employment security law, but this paragraph
9 shall not apply (A) if the appropriate agency finally
10 determines that the individual is not entitled to
11 benefits under such other law, or (B) if benefits are
12 payable to the individual under an act of Congress
13 which has as its purpose the supplementation of
14 unemployment benefits under a state law."

15 SECTION 6. Section 383-61, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§383-61 Payment of contributions; wages not included.**

18 (a) Contributions with respect to wages for employment shall
19 accrue and become payable by each employer for each calendar
20 year in which the employer is subject to this chapter. The
21 contributions shall become due and be paid by each employer to
22 the director of labor and industrial relations for the fund in



1 accordance with such rules as the department of labor and
2 industrial relations may prescribe, and shall not be deducted,
3 in whole or in part, from the wages of individuals in the
4 employer's employ.

5 (b) Except as provided in subsections (c) and (d), the
6 term "wages" does not include remuneration paid with respect to
7 employment to an individual by an employer during any calendar
8 year which exceeds the average annual wage, rounded to the
9 nearest hundred dollars, for the four calendar quarter period
10 ending on June 30 of the preceding year.

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

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



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

5 ~~(1) One hundred per cent of the average annual wage if the~~
6 ~~most recently computed ratio of the current reserve~~
7 ~~fund to the adequate reserve fund prior to that~~
8 ~~calendar year is equal to or less than .80; or~~

9 ~~(2) Seventy-five per cent of the average annual wage if~~
10 ~~the most recently computed ratio of the current~~
11 ~~reserve fund to the adequate reserve fund prior to~~
12 ~~that calendar year is greater than .80 but less than~~
13 ~~1.2; or~~

14 ~~(3) Fifty per cent of the average annual wage if the most~~
15 ~~recently computed ratio of the current reserve fund to~~
16 ~~the adequate reserve fund prior to that calendar year~~
17 ~~is equal to or more than 1.2;~~

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



1 (c) For calendar year 2007 only, the term "wages" as used
2 in this part does not include remuneration in excess of \$7,000
3 paid with respect to employment to an individual by an employer;
4 provided that this subsection shall apply only to the
5 contribution rate paid into the unemployment insurance trust
6 fund.

7 [~~e~~] (d) If an employer during any calendar year acquires
8 substantially all the property used in a trade or business, or
9 in a separate unit of a trade or business, of another employer,
10 and after the acquisition employs an individual who prior to the
11 acquisition was employed by the predecessor, then for the
12 purpose of determining whether remuneration in excess of the
13 average annual wages has been paid to the individual for
14 employment, remuneration paid to the individual by the
15 predecessor during the calendar year shall be considered as
16 having been paid by the successor employer. For the purposes of
17 this subsection, the term "employment" includes services
18 constituting employment under any employment security law of
19 another state or of the federal government.

20 [~~f~~] (e) Subsections (b) through [~~e~~] (d)
21 notwithstanding, for the purposes of this part the term "wages"
22 shall include at least that amount of remuneration paid in a



1 calendar year to an individual by an employer or the employer's
2 predecessor with respect to employment during any calendar year
3 which is subject to a tax under a federal law imposing a tax
4 against which credit may be taken for contributions required to
5 be paid into a state unemployment fund.

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

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

15 SECTION 8. This Act shall take effect upon its approval.



SB NO. 2190 SDI
HD2

Report Title:

Employment Security; Unemployment Insurance

Description:

Provides temporary tax relief to employers by lowering the maximum taxable wage base for calendar year 2007. Increases unemployment benefits for eligible individuals. Excludes the payment of benefits to individuals terminated from employment for willful or wanton misconduct. (SB2190 HD2)

