
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 part III to be appropriately
3 designated and to read as follows:

4 "§383- Treatment of Indian tribes. (a) As used in this
5 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, as defined by section 3306(u) of the Federal
10 Unemployment Tax Act; provided that the service is excluded from
11 "employment" as defined in the Federal Unemployment Tax Act
12 solely by reason of section 3306(c)(7) of the Federal
13 Unemployment Tax Act and is not otherwise excluded from
14 "employment" under this chapter. For purposes of this section,
15 the exclusions from employment under section 383-7 apply to
16 service performed in the employ of an Indian tribe in the same
17 manner as the exclusions apply to government and nonprofit
18 entities.



1 "Indian tribe" has the same meaning given the term by
2 section 4(e) of the Indian Self-Determination and Education
3 Assistance Act, 25 U.S.C. section 450b(e), and includes any
4 subdivision, subsidiary, or business enterprise wholly owned by
5 an Indian tribe.

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

15 (1) Effective January 1, 2006, an Indian tribe subject to
16 this chapter shall pay contributions under the
17 provisions of this part, except for payments pursuant
18 to section 383-62(b), applicable to other employers
19 unless the Indian tribe elects to pay to the director
20 of labor and industrial relations for the fund an
21 amount equal to the amount of benefits attributable to
22 service in the employ of an Indian tribe;



- 1 (2) An Indian tribe electing to make payments in lieu of
2 contributions shall make this election in the same
3 manner and under the same conditions as provided in
4 section 383-62(d)(1). An Indian tribe shall determine
5 if reimbursement for benefits paid will be elected by
6 the tribe as a whole, by individual tribal units, or
7 by combinations of individual tribal units;
- 8 (3) An Indian tribe shall be billed and shall make
9 payments made in accordance with section 383-62(d)(2)
10 for the full amount of benefits attributable to
11 service in the employ of the Indian tribe on the same
12 schedule as nonprofit organizations that have elected
13 to make reimbursement payments in lieu of
14 contributions; and
- 15 (4) An Indian tribe that elects to become liable for
16 payments of contributions shall be required, within
17 thirty days after the effective date of its election,
18 to deposit with the department an amount of money as
19 security as determined under section 383-62(d)(3).
- 20 (c) An Indian tribe that fails to make the payments
21 required under this chapter is subject to this subsection as
22 follows:

- 1 (1) An Indian tribe that fails to make the payments
2 required under this chapter, within ninety days after
3 a bill was mailed to its last known address or was
4 otherwise delivered to it, shall lose the option to
5 make payments in lieu of contributions throughout the
6 next four consecutive calendar quarters, beginning
7 with the quarter in which the loss of option becomes
8 effective;
- 9 (2) An Indian tribe that loses the option to make payments
10 in lieu of contributions due to late payment or
11 nonpayment shall have the option reinstated after a
12 period of one year if all contributions have been
13 timely made and no contributions, payments in lieu of
14 contributions for benefits paid, security deposit and
15 penalties, or interest remain outstanding; and
- 16 (3) If an Indian tribe fails to make payments required
17 under this chapter, including assessments of interest
18 and penalty, within ninety days of a final notice of
19 delinquency, the department shall immediately notify
20 the United States Internal Revenue Service and the
21 United States Department of Labor.



1 (d) Notices of payment and reporting delinquency to Indian
2 tribes shall include information that failure to make full
3 payments within the prescribed time shall cause the Indian tribe
4 to:

5 (1) Be liable for taxes under the Federal Unemployment Tax
6 Act; and

7 (2) Lose the option to make payments in lieu of
8 contributions.

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

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

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

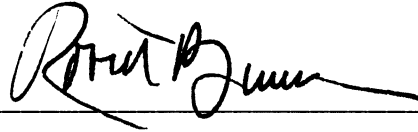


1 SECTION 2. Constitutional material to be repealed is
2 bracketed and stricken. New constitutional material is
3 underscored.

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

5

INTRODUCED BY:





SB2034

Report Title:

Unemployment Insurance Law; Treatment of Indian Tribes

Description:

Conforms the unemployment insurance law to FUTA by requiring unemployment insurance coverage of Indian tribes and by extending to Indian tribes the same option afforded to state and local governments to pay contributions or reimburse UI costs.

