

Honolulu, Hawaii

Aug 17, 2006

RE: S.B. No. 2190
S.D. 1
H.D. 2

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committee on Finance, to which was referred S.B. No. 2190, S.D. 1, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO EMPLOYMENT SECURITY,"

begs leave to report as follows:

The purpose of this measure is to amend the Employment Security Law to:

- (1) Lower the maximum taxable wage base for contributions by employers to the Unemployment Insurance Fund;
- (2) Remove the maximum age restriction on the unemployment insurance contribution exemption for children who are employed by a parent; and
- (3) Provide for an automatic repeal of the tax relief provided for in this bill should the economy take a significant downturn.

General Contractors Association of Hawaii, Kauai Chamber of Commerce, The Chamber of Commerce of Hawaii, Retail Merchants of Hawaii, Building Industry Association of Hawaii, Building Owners and Managers Association Hawaii, National Federation of Independent Businesses, Society for Human Resource Management - Hawaii Chapter, Iron Workers Stabilization Fund, Kokea Construction & Consultants, Inc., American Savings Bank, Oahu

SB2190 HD2 HSCR FIN HMS 2006-3453



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Plumbing & Sheet Metal, Ltd., KOGA Engineering & Construction, Inc., KAI Hawaii, Inc., Honolulu Wood Treating LLC, Mark Development, Inc., Erwin Cabrinha & Au, LLP, Mouse Builders, Inc., Star Protection Agency, LLC, Delta Construction Corporation, Homeworks Construction Inc., American Building Maintenance Family of Services, and Associated Builders and Contractors, Inc., Hawaii Chapter testified in support of this bill in its H.D. 1 version. The Hawaii State AFL-CIO, Hawaii State Teachers Association, Hawaii Government Employees Association AFSCME Local 152, United Public Workers AFSCME Local 646, International Longshore and Warehouse Union Local 142, Hawaii Carpenters Union and SHOPO supported this bill in its S.D. 1 version that provided a balance of relief to employers and employees. The Department of Labor and Industrial Relations, KilaKila Employer Services, and The Hawaii Business League supported H.D. 1, but with no improvement of any kind in benefits.

Your Committee is concerned that providing relief to employers without recognizing the condition of our unemployed does not create the type of balance helpful to the workforce community as a whole. Your Committee has therefore amended this bill accordingly.

The Unemployment Trust Fund (Fund) has a reported balance of \$457 million. Your Committee recognizes that this balance was achieved not only through contributions from employers over the past few years, but also from freezing the calculation of employee benefits over the past ten years with only limited exceptions. Your Committee is mindful that significant declines in the economy for just 18 months could deplete the balance leaving the Fund without enough reserves during an economic downturn. Therefore, recognizing the needs and contributions of both sides of the workforce while limiting the amount of relief provided to employers and employees is appropriate.

Your Committee has amended this bill to limit the relief to employers for one year down from two years. Even with one year, employers will realize a reportedly 55 million dollars in savings in contributions. This period of relief is consistent with prior legislation that provided single year relief to employers during times of economic upswing or reserves in the balance. With only minor exceptions, the Legislature has not provided adjustments to the statutory language on benefits paid to unemployed workers for over a decade.



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Your Committee recognizes that Hawaii's unemployed have played a role in creating the present balance, going for several years without any substantial changes in the calculation of unemployed benefits.

Your Committee finds that adjustments in four areas of benefits will address the different challenges that workers face who make up Hawaii's varied employment workforce without depleting the fund significantly.

Your Committee also finds that the cap on weekly benefit amounts in section 383-22(b), Hawaii Revised Statutes (HRS), intended as an incentive to unemployed to get back quickly into the workplace, arbitrarily punishes workers who were earning well above the State's average weekly wage prior to their unemployment. Reducing their benefits further by a 70 percent reduction to the State's average weekly wage is unnecessary as an incentive for them to get back to their higher earning power. Moving to 80 percent will not address all their concerns, but will give some relief to workers who are looking at substantial decreases in their earning capacity while unemployed. Your Committee finds it more appropriate to address a further increase in the cap in future years and has limited this increase to a one-time adjustment.

Many workers in Hawaii hold two or more jobs to meet the basic economic needs of themselves and their families. Your Committee finds that section 383-23, HRS, that reduces the unemployment benefit by earnings from a second job except for a nominal amount, may act as a disincentive for employees to continue the second job while unemployed. Your Committee has increased to \$150 the amount of wages an employee must earn from another job while unemployed before his benefits are reduced by the amount of his wages over the \$150.

Your Committee further finds that more and more employees are being laid off because of downturns in certain fields such as agriculture and manufacturing. A slight adjustment to section 383-24, HRS, on the number of maximum weeks an employee can receive benefits will give employees coming from these fields the additional time they may need to locate new fields of work that often require skills or knowledge that are not easily transferable from their prior type of employment.



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Hawaii's economy does not benefit when good workers who have had momentary lapses in judgment find themselves terminated and barred from unemployment benefits. This sudden state of unemployment deprives these employees of benefits and will only create unexpected, economic crises to them and their families. Your Committee further finds, as a matter of policy, that what constitutes misconduct, raised in *Medeiros v. Hawaii Dep't of Labor and Industrial Relations*, 108 Haw. 258 (2005), should be statutorily established in section 383-30(2), HRS, to protect the benefits of employees who are terminated for misconduct that does not rise to willful or wanton misconduct.

Accordingly, your Committee has amended this measure by:

- (1) Reducing the adjustment to the employer's contribution for the year 2007 with a \$7,000 base;
- (2) Increasing to 30 weeks the maximum potential benefits paid to an eligible employee;
- (3) Increasing to 80 percent the cap on maximum weekly benefit amounts;
- (4) Increasing to \$150 the threshold for deducting wages earned in a benefit week; and
- (5) Amending the law to exclude benefits to employees terminated for willful or wanton misconduct.

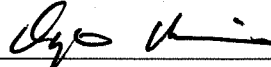
Technical, nonsubstantive amendments were also made for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2190, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2190, S.D. 1, H.D. 2.



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Respectfully submitted on
behalf of the members of the
Committee on Finance,



DWIGHT TAKAMINE, Chair



