

STAND. COM. REP. NO.

2687

Honolulu, Hawaii
MAR - 3 2006

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

Honorable Robert Bunda
President of the Senate
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committees on Labor and Ways and Means, to which was referred S.B. No. 2190 entitled:

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

beg leave to report as follows:

The purpose of this measure is to amend the Employment Security Law to provide two years of relief to employers in the face of an estimated balance of \$457,000,000 in the Unemployment Compensation Fund.

Testimony in support of this measure was submitted by the Office of the Governor, the Department of Labor and Industrial Relations, the National Federation of Independent Businesses, First Hawaiian Bank, the Hawaii Business League, Koga Engineering & Construction, Inc., the Molokai Chamber of Commerce, Retail Merchants of Hawaii, The Chamber of Commerce of Hawaii, the Building Industry Association of Hawaii, the Hawaii Business League, MOSS Engineering, Inc., HSI Mechanical, Inc., Kokea Construction and Consultants, Inc., and three individuals. Testimony in opposition to this measure was submitted by the ILWU Local 142.

Your Committees recognize that over the years, through the sacrifices of both employers and employees, the reserve fund has grown to its present level. Your Committees find that while the fund has experienced a growth in its balance from those sacrifices and the recent economic upswing, the consensus of the various reports prepared related to the fund over the years indicates that

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a significant decline in the economy for just eighteen months could deplete the balance, leaving the fund without enough reserves during an economic downturn. The impact of terrorist attacks, pandemic events, or other events that would affect our fragile economy caution against allowing too substantial a use of the balance.

As a result, your Committees are concerned with the length of the relief provided to the employer and the inequitable use of the fund's balance that this measure proposes. In the past the Legislature has provided single year relief to employers during times of economic upswing or reserves in the balance. Therefore, your Committees have amended this measure to provide for one year of relief to the employers in the amount paid in contributions to the fund.

Additionally, with only minor exception, the Legislature has not provided adjustments to the statutory language on benefits paid to unemployed individuals for over a decade. Your Committees are mindful that employees themselves have played a role in creating the present balance going without any substantial changes to the law relating to unemployment benefits for several years.

Your Committees have made changes in the statutory language to unemployment benefits provided based on four areas of concern. First, employees in the construction industry are adversely affected by the arbitrary cap placed on the maximum weekly benefits paid, yet these employees earn a proportionately high income in a field that is a heavy contributor to the fund. Second, the present law creates too low a threshold that discourage employees from seeking secondary, supplemental income. Third, as our agricultural workers and employees in other fields face unemployment they need additional time to develop skills or locate work within their present skills. Your Committees find as a matter of policy what constitutes misconduct, recently decided in Medeiros v. Hawaii Dep't of Labor and Industrial Relations, 108 Haw. 258 (2005), should be statutorily established to reflect protecting the benefits of the employee. The amendments to the law as provided in this measure will give needed adjustments to the benefits paid to unemployed individuals while not significantly taxing the reserve fund.

Accordingly, your Committees have amended this measure by:



- (1) Limiting the adjustment to the employer's contribution to only 2007;
- (2) Increasing the maximum potential benefits paid to an eligible individual to thirty times the individual's weekly benefit amount;
- (3) Increasing the cap on the maximum weekly benefit amount to eighty percent of the individual's average weekly wage beginning in 2007 and ninety percent beginning in 2012;
- (4) Increasing to \$150 the threshold for deducting wages earned in a benefit week;
- (5) Specifying that the exclusion from benefits to employees terminated for misconduct shall be based upon willful and wanton misconduct;
- (6) Changing the effective date of the Act from effective upon approval to July 1, 2050 to allow further discussion on the measure; and
- (7) Making technical, nonsubstantive changes for purposes of clarity and to reflect preferred drafting style.

As affirmed by the records of votes of the members of your Committees on Labor and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2190, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2190, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committees on Labor and Ways
and Means,


BRIAN T. TANIGUCHI, Chair


BRIAN KANNO, Chair



The Senate
Twenty-Third Legislature
State of Hawaii


Record of Votes of the
Committee on Labor
(Bills and Resolutions)

Measure:* SB 2190	Committee Referral: LBR/WAM	Date: 3-2-06		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is to: <input type="checkbox"/> Pass, unamended (2312) <input checked="" type="checkbox"/> Pass, with amendments (2311) <input type="checkbox"/> Hold (2310) <input type="checkbox"/> Recommit (2313)				
Members	Ayes	Ayes(WR)	Nays	Excused
KANNO, Brian (C)	✓			
IHARA, Jr., Les (VC)				✓
TANIGUCHI, Brian T.	✓			
SLOM, Sam		✓		
TOTAL	2	1		1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Do not list more than one measure per Record of Votes.

The Senate
Twenty-Third Legislature
State of Hawaii

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Members	Ayes	Ayes(WR)	Nays	Excused
TANIGUCHI, Brian T. (C)	/			
TSUTSUI, Shan S. (VC)	/			
ENGLISH, J. Kalani	/			
ESPERO, Will	/			
FUKUNAGA, Carol	/			
HOOSER, Gary L.	/			
INOUE, Lorraine R.	/			
KANNO, Brian	/			
KIM, Donna Mercado		/		
KOKUBUN, Russell S.				/
NISHIHARA, Clarence K.				/
SAKAMOTO, Norman		/		
HEMMINGS, Fred	/			
SLOM, Sam		/		
TRIMBLE, Gordon		/		
TOTAL	9	4	0	2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Do not list more than one measure per Record of Votes.