

JAN 24 2007

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 the employee
10 are appropriate and equitable.

11 The purpose of this Act is:

12 (1) To provide an adjustment in 2008 and 2009 to the
13 calculation of contributions paid for by employers.

14 The adjustment should provide some relief to employers
15 without unnecessarily depleting the fund; and



1 (2) To adjust certain areas of benefits paid to the
2 unemployed who have gone without substantial changes
3 to the statutory language on benefits for many years.

4 This Act also clarifies that the ineligibility for benefits
5 arises from wilful or wanton misconduct of an employee.

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

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



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



1 the benefit year commencing on or after the first day of the
 2 calendar year immediately following the determination of the
 3 maximum weekly benefit amount. For benefit years beginning
 4 January 1, 2008, and thereafter, eighty per cent of the average
 5 weekly wage shall constitute the maximum weekly benefit amount
 6 and shall apply to all claims for benefits filed by an
 7 individual qualifying for payment at the maximum weekly benefit
 8 amount in the benefit year commencing on or after the first day
 9 of the calendar year immediately following the determination of
 10 the maximum weekly benefit amount. The maximum weekly benefit
 11 amount, if not a multiple of \$1, shall be computed to the next
 12 higher multiple of \$1.

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



1	250.01 - 275.00	11.00	330.00	286.00
2	275.01 - 300.00	12.00	360.00	312.00
3	300.01 - 325.00	13.00	390.00	338.00
4	325.01 - 350.00	14.00	420.00	364.00
5	350.01 - 375.00	15.00	450.00	390.00
6	375.01 - 400.00	16.00	480.00	416.00
7	400.01 - 425.00	17.00	510.00	442.00
8	425.01 - 450.00	18.00	540.00	468.00
9	450.01 - 475.00	19.00	570.00	494.00
10	475.01 - 500.00	20.00	600.00	520.00
11	500.01 - 525.00	21.00	630.00	546.00
12	525.01 - 550.00	22.00	660.00	572.00
13	550.01 - 575.00	23.00	690.00	598.00
14	575.01 - 600.00	24.00	720.00	624.00
15	600.01 - 625.00	25.00	750.00	650.00
16	625.01 - 650.00	26.00	780.00	676.00
17	650.01 - 675.00	27.00	810.00	702.00
18	675.01 - 700.00	28.00	840.00	728.00
19	700.01 - 725.00	29.00	870.00	754.00
20	725.01 - 750.00	30.00	900.00	780.00
21	750.01 - 775.00	31.00	930.00	806.00
22	775.01 - 800.00	32.00	960.00	832.00



1	800.01 - 825.00	33.00	990.00	858.00
2	825.01 - 850.00	34.00	1020.00	884.00
3	850.01 - 875.00	35.00	1050.00	910.00
4	875.01 - 900.00	36.00	1080.00	936.00
5	900.01 - 925.00	37.00	1110.00	962.00
6	925.01 - 950.00	38.00	1140.00	988.00
7	950.01 - 975.00	39.00	1170.00	1014.00
8	975.01 -1000.00	40.00	1200.00	1040.00
9	1000.01 -1025.00	41.00	1230.00	1066.00
10	1025.01 -1050.00	42.00	1260.00	1092.00
11	1050.01 -1075.00	43.00	1290.00	1118.00
12	1075.01 -1100.00	44.00	1320.00	1144.00
13	1100.01 -1125.00	45.00	1350.00	1170.00
14	1125.01 -1150.00	46.00	1380.00	1196.00
15	1150.01 -1175.00	47.00	1410.00	1222.00
16	1175.01 -1200.00	48.00	1440.00	1248.00
17	1200.01 -1225.00	49.00	1470.00	1274.00
18	1225.01 -1250.00	50.00	1500.00	1300.00
19	1250.01 -1275.00	51.00	1530.00	1326.00
20	1275.01 -1300.00	52.00	1560.00	1352.00
21	1300.01 -1325.00	53.00	1590.00	1378.00
22	1325.01 -1350.00	54.00	1620.00	1404.00



1 1350.01 and over 55.00 1650.00 1430.00"

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

4 **"§383-23 Weekly benefit for unemployment.** For weeks
5 beginning prior to January 5, 1992, each eligible individual who
6 is unemployed, as defined in section 383-1, in any week shall be
7 paid with respect to that week a benefit in an amount equal to
8 the individual's weekly benefit amount less that part of the
9 wages (if any) payable to the individual with respect to that
10 week which is in excess of \$2. Effective for weeks beginning
11 January 5, 1992, and thereafter, each eligible individual who is
12 unemployed, as defined in section 383-1, in any week shall be
13 paid with respect to that week a benefit in an amount equal to
14 the individual's weekly benefit amount less that part of the
15 wages (if any) payable to the individual with respect to that
16 week which is in excess of \$50. Effective for weeks beginning
17 July 2, 2007, and thereafter, each eligible individual who is
18 unemployed, as defined in section 383-1, in any week shall be
19 paid with respect to that week a benefit in an amount equal to
20 the individual's weekly benefit amount less that part of the
21 wages, if any, payable to the individual with respect to that



1 week which is in excess of \$150. The benefit, if not a multiple
2 of \$1, shall be computed to the next higher multiple of \$1."

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

5 "**§383-24 Maximum potential benefits.** The maximum
6 potential benefits of an eligible individual in a benefit year
7 shall be twenty-six times the eligible individual's weekly
8 benefit amount. For claims filed on or after January 1, 2008,
9 and thereafter, the maximum potential benefits of an eligible
10 individual's weekly benefit amount shall be thirty times the
11 eligible individual's weekly benefit amount."

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

14 "**§383-30 Disqualification for benefits.** An individual
15 shall be disqualified for benefits:

16 (1) Voluntary separation. For any week prior to
17 October 1, 1989, in which the individual has left work
18 voluntarily without good cause, and continuing until
19 the individual has, subsequent to the week in which
20 the voluntary separation occurred, been employed for
21 at least five consecutive weeks of employment. For
22 the purposes of this paragraph, "weeks of employment"



1 means all those weeks within each of which the
2 individual has performed services in employment for
3 not less than two days or four hours per week, for one
4 or more employers, whether or not such employers are
5 subject to this chapter. For any week beginning on
6 and after October 1, 1989, in which the individual has
7 left the individual's work voluntarily without good
8 cause, and continuing until the individual has,
9 subsequent to the week in which the voluntary
10 separation occurred, been paid wages in covered
11 employment equal to not less than five times the
12 individual's weekly benefit amount as determined under
13 section 383-22(b).

14 An owner-employee of a corporation who brings
15 about the owner-employee's unemployment by divesting
16 ownership, leasing the business interest, terminating
17 the business, or by other similar actions where the
18 owner-employee is the party initiating termination of
19 the employment relationship, has voluntarily left
20 employment.

21 (2) Discharge or suspension for misconduct. For any week
22 prior to October 1, 1989, in which the individual has



1 been discharged for wilful or wanton misconduct
2 connected with work, and continuing until the
3 individual has, subsequent to the week in which the
4 discharge occurred, been employed for at least five
5 consecutive weeks of employment. For the week in
6 which the individual has been suspended for wilful or
7 wanton misconduct connected with work and for not less
8 than one or more than four consecutive weeks of
9 unemployment which immediately follow such week, as
10 determined in each case in accordance with [~~the~~
11 ~~seriousness of~~] the wilful or wanton misconduct. For
12 the purposes of this paragraph, "weeks of employment"
13 means all those weeks within each of which the
14 individual has performed services in employment for
15 not less than two days or four hours per week, for one
16 or more employers, whether or not such employers are
17 subject to this chapter. For any week beginning on
18 and after October 1, 1989, in which the individual has
19 been discharged for wilful or wanton misconduct
20 connected with work, and until the individual has,
21 subsequent to the week in which the discharge
22 occurred, been paid wages in covered employment equal



1 to not less than five times the individual's weekly
2 benefit amount as determined under section 383-22(b).
3 Wilful or wanton misconduct consists of actions that
4 show a wilful or wanton disregard of the employer's
5 interest. It includes deliberate or intentional
6 violations or deliberate disregard for established
7 standards of behavior that indicate a wrongful intent
8 or evil design. Mere inefficiency, unsatisfactory
9 conduct, poor performance, isolated instances, or good
10 faith errors in judgment or discretion shall not
11 constitute wilful or wanton misconduct.

- 12 (3) Failure to apply for work, etc. For any week prior to
13 October 1, 1989, in which the individual failed,
14 without good cause, either to apply for available,
15 suitable work when so directed by the employment
16 office or any duly authorized representative of the
17 department of labor and industrial relations, or to
18 accept suitable work when offered and continuing until
19 the individual has, subsequent to the week in which
20 the failure occurred, been employed for at least five
21 consecutive weeks of employment. For the purposes of
22 this paragraph, "weeks of employment" means all those



1 weeks within each of which the individual has
2 performed services in employment for not less than two
3 days or four hours per week, for one or more
4 employers, whether or not such employers are subject
5 to this chapter. For any week beginning on and after
6 October 1, 1989, in which the individual failed,
7 without good cause, either to apply for available,
8 suitable work when so directed by the employment
9 office or any duly authorized representative of the
10 department of labor and industrial relations, or to
11 accept suitable work when offered until the individual
12 has, subsequent to the week in which the failure
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 (A) In determining whether or not any work is
17 suitable for an individual there shall be
18 considered among other factors and in addition to
19 those enumerated in paragraph (3)(B), the degree
20 of risk involved to the individual's health,
21 safety, and morals, the individual's physical
22 fitness and prior training, the individual's



1 experience and prior earnings, the length of
2 unemployment, the individual's prospects for
3 obtaining work in the individual's customary
4 occupation, the distance of available work from
5 the individual's residence, and prospects for
6 obtaining local work. The same factors so far as
7 applicable shall be considered in determining the
8 existence of good cause for an individual's
9 voluntarily leaving work under paragraph (1).

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

16 (i) If the position offered is vacant due
17 directly to a strike, lockout, or other
18 labor dispute;

19 (ii) If the wages, hours, or other conditions of
20 the work offered are substantially less
21 favorable to the individual than those



1 prevailing for similar work in the locality;

2 and

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

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

14 (A) The individual is not participating in or
15 directly interested in the labor dispute which
16 caused the stoppage of work; and

17 (B) The individual does not belong to a grade or
18 class of workers of which, immediately before the
19 commencement of the stoppage, there were members
20 employed at the premises at which the stoppage
21 occurs, any of whom are participating in or
22 directly interested in the dispute; provided that

1 if in any case separate branches of work, which
2 are commonly conducted as separate businesses in
3 separate premises, are conducted in separate
4 departments of the same premises, each such
5 department shall, for the purpose of this
6 paragraph, be deemed to be a separate factory,
7 establishment, or other premises.

8 (5) If the department finds that the individual has within
9 the twenty-four calendar months immediately preceding
10 any week of unemployment made a false statement or
11 representation of a material fact knowing it to be
12 false or knowingly failed to disclose a material fact
13 to obtain any benefits not due under this chapter, the
14 individual shall be disqualified for benefits
15 beginning with the week in which the department makes
16 the determination and for each consecutive week during
17 the current and subsequent twenty-four calendar months
18 immediately following such determination, and such
19 individual shall not be entitled to any benefit under
20 this chapter for the duration of such period; provided
21 that no disqualification shall be imposed if

1 proceedings have been undertaken against the
2 individual under section 383-141.

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

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

15 **"§383-61 Payment of contributions; wages not included.**

16 (a) Contributions with respect to wages for employment shall
17 accrue and become payable by each employer for each calendar
18 year in which the employer is subject to this chapter. The
19 contributions shall become due and be paid by each employer to
20 the director [~~of labor and industrial relations~~] for the fund in
21 accordance with such rules as the department [~~of labor and~~
22 ~~industrial relations~~] may prescribe, and shall not be deducted,



1 in whole or in part, from the wages of individuals in the
2 employer's employ.

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

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

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

21 ~~(d) For calendar year 1988 only, the term "wages" as used~~
22 ~~in this part does not include remuneration paid with respect to~~



1 ~~employment to an individual by an employer during the calendar~~
2 ~~year which exceeds:~~

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

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

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

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

20 (c) For calendar years 2008 and 2009 only, the term
21 "wages" as used in this part does not include remuneration in
22 excess of \$7,000 paid with respect to employment to an



1 individual by an employer; provided that this subsection shall
2 apply only to the contribution rate paid into the unemployment
3 insurance trust fund.

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

17 ~~(f)~~ (e) Subsections (b) through ~~(e)~~ (d)
18 notwithstanding, for the purposes of this part the term "wages"
19 shall include at least that amount of remuneration paid in a
20 calendar year to an individual by an employer or the employer's
21 predecessor with respect to employment during any calendar year
22 which is subject to a tax under a federal law imposing a tax



1 against which credit may be taken for contributions required to
2 be paid into a state unemployment fund.

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

10 SECTION 7. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

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

13

INTRODUCED BY: *Maureen J. Proulx*

Amily J. J.



Report Title:

Employment Security; Unemployment Insurance

Description:

Provides temporary tax relief to employers by lowering the maximum taxable wage base for calendar years 2008 and 2009. Increases unemployment benefits for eligible individuals. Excludes the payment of benefits to individuals terminated from employment for wilful or wanton misconduct.

