
A BILL FOR AN ACT

RELATING TO EMPLOYMENT SECURITY.

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

1 SECTION 1. Section 383-66, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) The department, for the nine-month period April 1,
4 1941, to December 31, 1941, and for each calendar year
5 thereafter, except as otherwise provided in this part, shall
6 classify employers in accordance with their actual experience in
7 the payment of contributions and with respect to benefits
8 charged against their accounts with a view to fixing the
9 contribution rates to reflect this experience. The department
10 shall determine the contribution rate of each employer in
11 accordance with the following requirements:

12 (1) The standard rate of contributions payable by each
13 employer for any calendar year through 1984 shall be
14 three per cent. For the calendar [~~year~~] years 1985
15 [~~and thereafter,~~] through 2012, the standard rate of
16 contributions payable by each employer shall be five
17 and four-tenths per cent[+]. For the calendar year
18 2013 and thereafter, the standard rate of



1 contributions payable by each employer shall be six
2 and six-tenths per cent;
3 (2) No employer's rate for the calendar year 1942 and for
4 any calendar year thereafter shall be other than the
5 maximum rate unless and until the employer's account
6 has been chargeable with benefits throughout the
7 thirty-six consecutive calendar month period ending on
8 December 31 of the preceding calendar year, except
9 that, for the calendar year 1956 and for each calendar
10 year thereafter, an employer who has not been subject
11 to the law for a sufficient period to meet this
12 requirement may qualify for a rate other than the
13 maximum rate if the employer's account has been
14 chargeable throughout a lesser period but in no event
15 less than the twelve consecutive calendar month period
16 ending on December 31 of the preceding calendar year.
17 For the calendar years 1985 through 1991, the
18 contribution rate for a new or newly covered employer
19 shall be the sum of the employer's basic contribution
20 rate of three and six-tenths per cent and the fund
21 solvency contribution rate determined for that year
22 pursuant to section 383-68(a), until the employer's



1 account has been chargeable with benefits throughout
2 the twelve consecutive calendar month period ending on
3 December 31 of the preceding calendar year; except
4 that no employer's contribution rate shall be greater
5 than five and four-tenths per cent and no employer
6 with a negative reserve ratio shall have a
7 contribution rate less than the employer's basic
8 contribution rate. For calendar years 1992 and
9 thereafter, the contribution rate for a new or newly
10 covered employer shall be the contribution rate
11 assigned to any employer with .0000 reserve ratio,
12 until the employer's account has been chargeable with
13 benefits throughout the twelve consecutive calendar
14 month period ending on December 31 of the preceding
15 calendar year;

- 16 (3) Any amount credited to this State under section 903 of
17 the Social Security Act, as amended, which has been
18 appropriated for expenses of administration, whether
19 or not withdrawn from the trust fund, shall be
20 excluded from the fund for the purposes of this
21 paragraph. Any advance that may be made to this State
22 under section 1201 of the Social Security Act, whether



1 or not withdrawn from this trust fund, shall be
2 excluded from the fund for the purposes of this
3 paragraph. No employer's rate shall be reduced in any
4 amount that is not allowable as an additional credit,
5 against the tax levied by the federal Unemployment Tax
6 Act pursuant to section 3302(b) of the federal
7 Internal Revenue Code or pursuant to any other federal
8 statute, successor to section 3302(b), which provides
9 for the additional credit now provided for in section
10 3302(b);

- 11 (4) If, when any classification of employers is to be made
12 (which may be after the commencement of the period for
13 which the classification is to be made), the
14 department finds that any employer has failed to file
15 any report required in connection therewith or has
16 filed a report that the department finds incorrect or
17 insufficient, the department shall notify the employer
18 thereof by mail addressed to the employer's last known
19 address. Unless the employer files the report or a
20 corrected or sufficient report, as the case may be,
21 within fifteen days after the mailing of the notice,
22 the maximum rate of contributions shall be payable by



1 the employer for the period for which the contribution
2 rate is to be fixed. Effective January 1, 1987, the
3 director, for excusable failure, may redetermine the
4 assignment of the maximum contribution rate in
5 accordance with this section, provided the employer
6 files all reports as required by the department and
7 submits a written request for redetermination before
8 December 31 of the year for which the contribution
9 rate is to be fixed;

- 10 (5) For the purpose of sections 383-63 to 383-69, if after
11 December 31, 1939, any employing unit in any manner
12 succeeds to or acquires the organization, trade, or
13 business, or substantially all the assets thereof
14 (whether or not the successor or acquiring unit was an
15 "employing unit", as that term is defined in section
16 383-1 prior to the acquisition), or after
17 December 31, 1988 and prior to December 31, 1992,
18 acquires a clearly identifiable and segregable portion
19 of the organization, trade, or business of another
20 that at the time of the acquisition was an employer
21 subject to this chapter, and the successor continues
22 or resumes the organization, trade, or business and



1 continues to employ all or nearly all of the
2 predecessor's employees, or the successor continues or
3 resumes the clearly identifiable and segregable
4 portion of the organization, trade, or business and
5 continues to employ all or nearly all of the employees
6 of the clearly identifiable and segregable portion, an
7 application may be made for transfer of the
8 predecessor's experience record. If the predecessor
9 employer has submitted all information and reports
10 required by the department including amended quarterly
11 wage reports identifying the employees transferred or
12 retained and executed and filed with the department
13 before December 31 of the calendar year following the
14 calendar year in which the acquisition occurred on a
15 form approved by the department a waiver relinquishing
16 the rights to all or the clearly identifiable and
17 segregable portion of the predecessor's prior
18 experience record with respect to its separate
19 account, actual contribution payment, and benefit
20 chargeability experience, annual payrolls and other
21 data for the purpose of obtaining a reduced rate, and
22 requesting the department to permit the experience



1 record to inure to the benefit of the successor
2 employing unit upon request of the successor employing
3 unit, the experience record for rate computation
4 purposes of the predecessor shall thereupon be deemed
5 the experience record of the successor and the
6 experience record shall be transferred by the
7 department to the successor employing unit and shall
8 become the separate account of the employing unit as
9 of the date of the acquisition. Benefits chargeable
10 to the predecessor employer or successor employer in
11 case of an acquisition of a clearly identifiable and
12 segregable portion of the organization, trade, or
13 business, after the date of acquisition on account of
14 employment prior to the date of the acquisition shall
15 be charged to the separate account of the successor
16 employing unit. In case of an acquisition of a
17 clearly identifiable and segregable portion of the
18 organization, trade, or business, the experience
19 record that inures to the benefit of the successor
20 employer shall be determined as follows:

- 21 (A) Wages, as used in section 383-61, attributable to
- 22 the clearly identifiable and segregable portion

1 shall be for the period beginning with the most
2 recent three consecutive calendar years
3 immediately preceding the determination of rates
4 under sections 383-63 to 383-69 and through the
5 date of acquisition; and

6 (B) Reserve balance attributable to the clearly
7 identifiable and segregable portion shall be the
8 amount determined by dividing the wages, as used
9 in section 383-61, of the clearly identifiable
10 and segregable portion in the three calendar
11 years (or that lesser period as the clearly
12 identifiable and segregable portion may have been
13 in operation) immediately preceding the
14 computation date of the rating period prior to
15 which the acquisition occurred by the total
16 taxable payrolls of the predecessor for the
17 three-year period (or that lesser period as the
18 clearly identifiable and segregable portion may
19 have been in operation) and multiplying the
20 quotient by the reserve balance of the
21 predecessor employer calculated as of the
22 acquisition date;



1 provided the waiver or waivers required herein are
2 filed with the department within sixty days after the
3 date of acquisition, the successor employing unit,
4 unless already an employer subject to this chapter,
5 shall be subject from the date of acquisition to the
6 rate of contribution of the predecessor or of two or
7 more predecessors if they have the same contribution
8 rate. If there are two or more predecessors having
9 different contribution rates, the successor shall be
10 subject to the rate prescribed for new or newly
11 covered employers under paragraph (2) until the next
12 determination of rates under sections 383-63 to
13 383-69, at which time the experience records of the
14 predecessors and successor shall be combined and shall
15 be deemed to be the experience record of a single
16 employing unit and the successor's rate shall
17 thereupon be determined upon the basis of the combined
18 experience. If the successor at the time of the
19 transfer is an employer subject to this chapter, the
20 rate of contribution to which the successor is then
21 subject shall remain the same until the next
22 determination of rates under sections 383-63 to



1 383-69, at which time the experience records of the
2 predecessor and successor shall be combined and shall
3 be deemed to be the experience record of a single
4 employing unit and the successor's rate shall
5 thereupon be determined upon the basis of the combined
6 experience. For the purpose of determination of rates
7 under sections 383-63 to 383-69 of all successor
8 employing units, waivers as required herein, if not
9 previously filed as hereinabove provided, shall be
10 filed with the department not later than March 1 of
11 the year for which the rate is determined; provided
12 that no waiver shall be accepted by the department for
13 filing unless the employing unit executing the waiver
14 has filed all reports and paid all contributions
15 required by this chapter;

- 16 (6) The department may prescribe rules for the
17 establishment, maintenance, and dissolution of joint
18 accounts by two or more employers, and, in accordance
19 with the rules and upon application by two or more
20 employers to establish such an account, or to merge
21 their several individual accounts in a joint account,
22 shall maintain the joint account as if it constituted



1 a single employer's account. The rules shall be
2 consistent with the federal requirements for
3 additional credit allowance in section 3303 of the
4 federal Internal Revenue Code and consistent with this
5 chapter;

6 (7) Whenever there is an amendment to this chapter which,
7 if immediately effective, would change an employer's
8 rate of contributions, the rate of the employer shall
9 be changed in accordance with the amendment and the
10 new rate shall apply for the remainder of the calendar
11 year beginning with the calendar quarter immediately
12 following the effective date of the amendment
13 providing for the change, unless otherwise provided by
14 the amendment;

15 (8) For the purposes of this section, "contribution rate"
16 shall mean the basic contribution rate as defined in
17 section 383-68 when applied to calendar year 1978 or
18 any calendar year thereafter; and

19 (9) For the purposes of this section, the terms "employing
20 unit", "employer", "predecessor", and "successor"
21 shall include both the singular and the plural of each
22 term. Nothing in this section shall prevent two or



1 more successor employing units, which each succeed to
2 or acquire a clearly identifiable and segregable
3 portion of a predecessor employing unit, from gaining
4 the benefit of the clearly identifiable and segregable
5 portion of the predecessor's experience record;
6 provided that the terms of this section are complied with,
7 nothing herein shall bar a predecessor employer from waiving the
8 rights to all or the clearly identifiable and segregable portion
9 of the predecessor's prior experience record in favor of a
10 successor employer where the successor acquired a clearly
11 identifiable and segregable portion of the predecessor's
12 organization, trade, or business after December 31, 1988 and
13 prior to December 31, 1992."

14 SECTION 2. Section 383-68, Hawaii Revised Statutes, is
15 amended by amending subsection (d) to read as follows:

16 "(d) Subject to the requirements of ~~[section]~~ sections
17 383-63 to 383-69, an employer's contribution rate for calendar
18 year 1992 and for each calendar year thereafter shall be that
19 rate which appears on the same line as the employer's reserve
20 ratio for that year in the contribution rate schedule applicable
21 for the year as specified in subsection (c).

22 CONTRIBUTION RATE SCHEDULES (rates in percentages)



1	Reserve Ratio	A	B	C	D	E	F	G	H
2	.1500 and over	0.0	0.0	0.0	0.2	0.6	1.2	1.8	2.4
3	.1400 to .1499	0.0	0.0	0.1	0.4	0.8	1.4	2.0	2.6
4	.1300 to .1399	0.0	0.0	0.2	0.6	1.0	1.6	2.2	2.8
5	.1200 to .1299	0.0	0.1	0.4	0.8	1.2	1.8	2.4	3.0
6	.1100 to .1199	0.0	0.2	0.6	1.0	1.4	2.0	2.6	3.2
7	.1000 to .1099	0.1	0.3	0.8	1.2	1.6	2.2	2.8	3.4
8	.0900 to .0999	0.3	0.5	1.0	1.4	1.8	2.4	3.0	3.6
9	.0800 to .0899	0.5	0.7	1.2	1.6	2.0	2.6	3.2	3.8
10	.0700 to .0799	0.7	0.9	1.4	1.8	2.2	2.8	3.4	4.0
11	.0600 to .0699	0.9	1.1	1.6	2.0	2.4	3.0	3.6	4.2
12	.0500 to .0599	1.1	1.3	1.8	2.2	2.6	3.2	3.8	4.4
13	.0300 to .0499	1.3	1.5	2.0	2.6	3.0	3.6	4.2	4.8
14	.0000 to .0299	1.7	1.9	2.4	3.0	3.4	4.0	4.6	5.2
15	-.0000 to -.0499	2.1	2.3	2.8	3.4	3.8	4.4	5.0	5.4
16	-.0500 to -.0999	2.5	2.7	3.2	4.0	4.4	5.0	5.4	[5.4]
17									<u>5.6</u>
18	-.1000 to -.4999	2.9	3.1	3.6	4.6	5.0	5.4	[5.4]	[5.4]
19								<u>5.6</u>	<u>5.8</u>
20	-.5000 to -.9999	3.4	3.6	4.2	5.2	5.4	[5.4]	[5.4]	[5.4]
21							<u>5.6</u>	<u>5.8</u>	<u>6.0</u>
22	-1.0000 to -1.4999	4.1	4.2	4.8	5.4	[5.4]	[5.4]	[5.4]	[5.4]



1						<u>5.6</u>	<u>5.8</u>	<u>6.0</u>	<u>6.2</u>
2	-1.5000 to -1.9999	4.7	4.8	5.4	[5.4]	[5.4]	[5.4]	[5.4]	[5.4]
3					<u>5.6</u>	<u>5.8</u>	<u>6.0</u>	<u>6.2</u>	<u>6.4</u>
4	-2.0000 and less	5.4	5.4	[5.4]	[5.4]	[5.4]	[5.4]	[5.4]	[5.4]
5					<u>5.6</u>	<u>5.8</u>	<u>6.0</u>	<u>6.2</u>	<u>6.4</u> <u>6.6"</u>

6 SECTION 3. This Act does not affect rights and duties that
7 matured, penalties that were incurred, and proceedings that were
8 begun before its effective date.

9 SECTION 4. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 5. This Act shall take effect on January 1, 2013.

Report Title:

Employment Security; Unemployment Insurance Contribution Rate
Schedule; Unemployment Compensation Fund

Description:

Increases the maximum contribution rate, effective January 1,
2013. (HB2264 HD1)

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