

JAN 18 2013

A BILL FOR AN ACT

RELATING TO UNEMPLOYMENT COMPENSATION.

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

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2 SECTION 1. Section 383-65, Hawaii Revised Statutes, is
3 amended to read as follows:

4 **"§383-65 Charges and noncharges for benefits.** (a) Except
5 as otherwise provided in subsection (b), benefits paid to an
6 individual shall be charged against the accounts of the
7 individual's base period employers and the amount of benefits so
8 chargeable against each base period employer's account shall
9 bear the same ratio to the total benefits paid to the individual
10 as the base period wages paid to the individual by the employer
11 bear to the total amount of base period wages paid to the
12 individual by all of the individual's base period employers.
13 Benefits paid shall be charged to employers' accounts in the
14 calendar year in which the benefits are paid.

15 (b) Benefits paid to an individual shall not be charged
16 against the account of any of the individual's base period
17 employers on a contributory plan under section 383-61 when such
18 benefits are:



1 (1) Paid to an individual during any benefit year if the
2 individual:

3 (A) Left work voluntarily without good cause; or

4 (B) Was discharged for misconduct connected with the
5 individual's work; or

6 (C) Left work voluntarily for good cause not
7 attributable to the employer.

8 The chargeability of benefits to an employer's account
9 shall be determined in accordance with section 383-94
10 and other applicable provisions of this chapter, or as
11 may be otherwise specified by the department;

12 (2) Paid to an individual, who, during the individual's
13 base period, earned wages for part-time employment
14 with an employer, if the employer continues to give
15 the individual employment to the same extent while the
16 individual is receiving benefits as during the base
17 period and the employer establishes such fact to the
18 satisfaction of the director of labor and industrial
19 relations;

20 (3) Paid to an individual for the period the individual is
21 enrolled in and is in regular attendance at a



- 1 vocational training or retraining course approved by
2 the director pursuant to section 383-29;
- 3 (4) Paid to an individual under the extended benefits
4 program, sections 383-168 to 383-174; except that one-
5 half of the amount of such benefits which are based on
6 services performed for a governmental employer on a
7 contributory plan shall be charged to the account of
8 such employer;
- 9 (5) Paid to an individual who qualifies to receive
10 benefits by meeting the minimum earnings and
11 employment requirements only by combining the
12 individual's employment and wages earned in two or
13 more states;
- 14 (6) Benefits overpaid to a claimant as a result of
15 ineligibility or disqualification under sections 383-
16 29 and 383-30 unless such overpayment resulted from
17 the employer's failure to furnish information as
18 required by this chapter or the rules of the
19 department; or
- 20 (7) Benefits paid to an individual during any benefit year
21 beginning September 13, 1992 and thereafter shall not
22 be charged to the account of any base period employer



1 from whose employment the individual is separated as a
2 direct result of a major disaster and would have been
3 entitled to disaster unemployment assistance under the
4 Stafford Disaster Relief and Emergency Assistance Act
5 (P.L. 100-707) but for the receipt of unemployment
6 insurance benefits paid under this chapter; provided
7 that the employer must petition for relief of any
8 charges to an employer's reserve account as requested
9 by the department and the director approves granting
10 relief of charges.

11 (c) The amount of noncharged benefits shall bear the same
12 ratio to the total benefits paid to the individual as the base
13 period wages paid to the individual by the employer or employers
14 not charged bear to the total amount of base period wages paid
15 to the individual by all of the individual's base period
16 employers. The noncharging provisions of subsection (b) shall
17 not apply to governmental employers or nonprofit organizations
18 making payments in lieu of contributions under section 383-62.

19 (d) For the purposes of the arrangements in which the
20 department will participate pursuant to section 383-106(b) only,
21 "base period" as used in this section means the base period of
22 this or any other state applied to a claim involving the



1 combining of an individual's wages and employment covered under
2 two or more state unemployment compensation laws.

3 "(e) An employer's account shall not be relieved of charges
4 relating to a payment that was made erroneously from the state
5 unemployment compensation fund if the department determines
6 that:

7 (1) The erroneous payment was made because the
8 employer, or the agent of the employer, was at
9 fault for failing to respond timely or adequately
10 to a written request from the department for
11 information relating to the claim for
12 unemployment compensation; and

13 (2) The employer or agent has established a pattern
14 of failing to respond timely or adequately to
15 requests for information.

16 As used in this subsection, 'erroneous payment' means a
17 payment that but for the failure by the employer or the
18 employer's agent with respect to the claim for unemployment
19 compensation, would not have been made; and 'pattern of failing'
20 means repeated documented failure on the part of the employer or
21 the agent of the employer to respond, taking into consideration
22 the number of instances of failure in relation to the total



1 volume of requests to that employer. An employer or employer's
2 agent failing to respond as described in this subsection shall
3 not be construed as a 'pattern of failure' if the number of such
4 failures during the year prior to such request is less than two
5 per cent of such requests to that employer.

6 (f) Determinations of the department prohibiting the relief
7 of charges pursuant to this section shall be subject to appeal
8 or protest as other determinations of the agency with respect to
9 the charging of employer accounts.

10 (g) This subsection shall apply to erroneous payments
11 established after October 21, 2013."

12 SECTION 2. New statutory material is underscored.

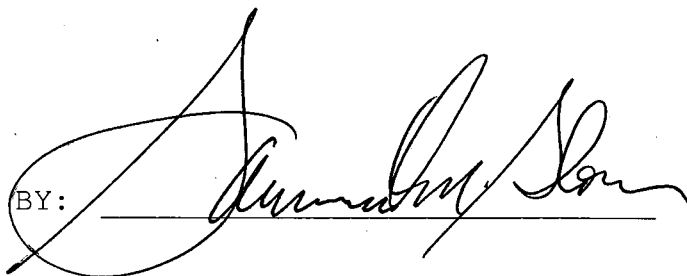
13 SECTION 3. This Act shall take effect upon its approval

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INTRODUCED BY:



S.B. NO. 297

Report Title:

Erroneous payments from state unemployment compensation fund.

Description:

Amends HRS 383 to comply with prohibition enacted in Section 252 of the federal Trade Adjustment Assistance Extension Act of 2011.

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