
A BILL FOR AN ACT

RELATING TO EMPLOYMENT SECURITY.

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

1 SECTION 1. Chapter 383, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 **"PART . WORK-SHARING PROGRAM BENEFITS**

5 **§383-A Definitions.** As used in this part:

6 "Affected unit" means a specified plant, department, shift,
7 or other definable unit consisting of two or more eligible
8 employees to which a work-sharing plan applies.

9 "Director" means the director of labor and industrial
10 relations.

11 "Eligible employee" means an individual who usually works
12 for an eligible employer who submits a work-sharing plan.

13 "Eligible employer" means a private employer:

14 (1) Who has had contributions credited to the private
15 employer's account;

16 (2) To whose account benefits have been chargeable; and

17 (3) Who is not delinquent in the payment of contributions
18 or reimbursements or in the reporting of wages.



1 "Fringe benefits" includes, but is not limited to, health
2 insurance, retirement benefits, paid vacation and holidays, sick
3 leave, and similar advantages that are incidents of employment.

4 "Intermittent employment" means employment that is not
5 continuous but may consist of intervals of weekly work and
6 intervals of no weekly work.

7 "Seasonal employment" means employment in seasonal
8 industries within the determined seasonal period or periods.

9 "Seasonal industry" means an industry in which it is
10 customary to operate only during a regularly recurring period or
11 periods of less than twenty-six weeks in a calendar year.

12 "Temporary layoff" means the layoff of workers in an
13 affected unit for an indefinite period expected to last for at
14 least two months but less than six months.

15 "Usual weekly hours of work" means the normal hours of work
16 each week for an eligible employee in an affected unit when that
17 unit is operating on a full-time basis, not to exceed forty
18 hours a week and not including overtime.

19 "Work-sharing benefits" means benefits payable to eligible
20 employees in an affected unit under an approved work-sharing
21 plan.



1 "Work-sharing employer" means an eligible employer with an
2 approved work-sharing plan in effect.

3 "Work-sharing plan" means a plan submitted to the director
4 by an eligible employer under which there is a reduction in the
5 number of hours worked by the eligible employees in the affected
6 unit in lieu of temporary layoffs of some of the employees.

7 **§383-B Work-sharing program established; eligibility.** The
8 director shall establish and administer a work-sharing program
9 in accordance with this part; provided that:

10 (1) No employee shall be eligible for work-sharing
11 benefits under this part unless the employee usually
12 works thirty hours or more each week for the employer
13 submitting a work-sharing plan; and

14 (2) No employer may submit or administer a work-sharing
15 plan under this part unless the employer is a private
16 employer who has had contributions credited to the
17 employer's account and benefits have been chargeable
18 to this account, and the employer is not delinquent in
19 the payment of contributions or reimbursements.

20 **§383-C Criteria for approval of a work-sharing plan.** To
21 participate in a work-sharing program under this section, an
22 eligible employer shall submit a signed work-sharing plan to the



1 director for approval. The director shall approve a work-
2 sharing plan if the following requirements are met:

3 (1) The work-sharing plan identifies the affected unit or
4 units and specifies the effective date of the plan;

5 (2) The work-sharing plan identifies the eligible
6 employees in the affected unit or units by name, last
7 four digits of the employee's social security number,
8 usual weekly hours of work, proposed wage and hour
9 reduction, and any other information that the director
10 requires;

11 (3) The work-sharing plan certifies that the reduction in
12 the usual weekly hours of work is in lieu of temporary
13 layoffs that would affect not less than ten per cent
14 of the eligible employees in the affected unit and
15 that would result in an equivalent reduction in work
16 hours;

17 (4) Under the work-sharing plan, the usual weekly hours of
18 work for eligible employees in the affected unit are
19 reduced by not less than ten per cent and not more
20 than fifty per cent and the reduction in hours in each
21 affected unit is spread equally among eligible
22 employees in the affected unit;

- 1 (5) The work-sharing plan specifies the manner in which
2 the fringe benefits of the eligible employees will be
3 affected;
- 4 (6) If eligible employees are represented by a collective
5 bargaining unit, the work-sharing plan shall be
6 approved in writing by the collective bargaining unit
7 that covers the affected eligible employees. In the
8 absence of a collective bargaining unit, the work-
9 sharing plan shall contain a certification by the
10 eligible employer that the proposed plan, or a summary
11 of the plan, has been made available to each eligible
12 employee in the affected unit;
- 13 (7) A statement that the work-sharing plan shall not serve
14 as a subsidy of seasonal employment during the off-
15 season or of intermittent employment is included; and
- 16 (8) The eligible employer shall agree to furnish reports
17 relating to the proper conduct of the work-sharing
18 plan and agrees to allow the director, the director's
19 designee, or authorized representatives of the
20 department access to all records necessary to verify
21 the plan prior to approval and to monitor and evaluate
22 application of the plan after approval.



1 **§383-D Approval or rejection of the work-sharing plan.**

2 The director shall approve or reject a work-sharing plan in
3 writing. The director's decision shall be final and not subject
4 to appeal. The eligible employer may submit another work-
5 sharing plan for approval, and the director shall make a
6 determination based upon information contained in the new work-
7 sharing plan submitted by the eligible employer.

8 **§383-E Effective date and duration of the work-sharing**

9 **plan.** A work-sharing plan shall take effect on the date
10 specified in the plan or on the first Sunday following the date
11 on which the plan is approved by the director, whichever is
12 later. The work-sharing plan shall expire at the end of the
13 twelfth full calendar month after its effective date or on the
14 date specified in the plan if that date is earlier, unless the
15 plan is revoked by the director. If a plan is revoked by the
16 director, it shall terminate on the date specified in the
17 written order of revocation.

18 **§383-F Review; revocation of approval.** (a) The director
19 shall review the operation of each approved work-sharing plan at
20 least once during the period that the plan is in effect to
21 ensure that it complies with the work-sharing plan requirements



1 under section 383-B. The director may revoke approval of a
2 work-sharing plan for good cause.

3 For the purposes of this section, "good cause" includes:

- 4 (1) Failure to comply with assurances given in the work-
5 sharing plan;
- 6 (2) Unreasonable revision of productivity standards for
7 the affected unit;
- 8 (3) Conduct or occurrences tending to defeat the intent
9 and effective operation of the plan; and
- 10 (4) Violation of any criteria on which approval of the
11 plan was based.

12 (b) A revocation order shall be in writing, state the
13 reason for revocation, and specify the date that the revocation
14 shall take effect. A revocation order shall be final and shall
15 not be subject to appeal.

16 (c) Action to revoke the work-sharing plan may be taken at
17 any time by the director on the director's own motion, on the
18 motion of any of the affected unit's eligible employees, or on
19 the motion of a collective bargaining unit that covers the
20 affected employees.

21 **§383-G Modification of the work-sharing plan.** (a) An
22 operational approved work-sharing plan may be modified by the



1 eligible employer with the consent of the collective bargaining
2 unit that covers the affected employees, if any, if the
3 modification:

4 (1) Is not substantial;

5 (2) Conforms with the plan approved by the director; and

6 (3) Is reported promptly to the director by the eligible
7 employer.

8 (b) If the hours of work are increased or decreased
9 substantially beyond the level in the original work-sharing plan
10 or any other conditions are changed substantially, the director
11 shall approve or disapprove the modifications without changing
12 the expiration date of the original plan. If the substantial
13 modifications do not meet the requirements for approval under
14 section 383-B, the director shall disallow those modifications
15 in writing.

16 (c) A decision of the director under this section shall be
17 final and not subject to appeal.

18 **§383-H Eligibility for work-sharing benefits.** (a) After
19 serving a waiting period as prescribed by the director, an
20 eligible employee shall be eligible to receive work-sharing
21 benefits with respect to any week only if the director finds
22 that, in addition to meeting other conditions of eligibility for



1 regular benefits under this part that are not inconsistent with
2 this section:

3 (1) During the week, the eligible employee shall be
4 employed as a member of an affected unit under an
5 approved work-sharing plan that was approved prior to
6 that week and that is in effect with respect to the
7 week for which work-sharing benefits are claimed; and

8 (2) The eligible employee is available and able to work
9 the normal workweek with the work-sharing employer.

10 (b) Notwithstanding any other provisions of this part, an
11 eligible employee shall be deemed unemployed in any week for
12 which remuneration is payable to that eligible employee as an
13 eligible employee in an affected unit for less than that
14 eligible employee's normal weekly hours of work as specified
15 under the approved work-sharing plan in effect for the week.

16 (c) Notwithstanding any other provisions of this chapter,
17 an eligible employee shall not be denied work-sharing benefits
18 for any week by reason of the application of laws and rules
19 relating to the availability for work and active search for work
20 with an employer other than the work-sharing employer.

21 **§383-I Work-sharing benefits.** (a) The weekly work-
22 sharing benefit amount shall be the product of the regular



1 weekly benefit amount, including any dependents' allowances,
2 multiplied by the percentage reduction in the eligible
3 employee's usual weekly hours of work as specified in the
4 approved work-sharing plan. If the weekly work-sharing benefit
5 amount is not an exact multiple of \$1, the weekly work-sharing
6 benefit amount shall be rounded down to the next lower multiple
7 of \$1.

8 (b) An eligible employee shall not receive a total of
9 work-sharing benefits and regular unemployment compensation in
10 any benefit year that exceeds the maximum entitlement
11 established for unemployment compensation, nor shall an eligible
12 employee be paid work-sharing benefits for more than fifty-two
13 weeks in any benefit year pursuant to an approved work-sharing
14 plan.

15 (c) The work-sharing benefits paid shall be deducted from
16 the maximum entitlement amount established for an eligible
17 employee's benefit year.

18 (d) If an eligible employer approves time off and the
19 eligible employee has performed any amount of work during the
20 week, the eligible employee shall be eligible for work-sharing
21 benefits based on the combined work and paid leave hours for



1 that week. If the eligible employer does not grant time off, the
2 question of availability shall be investigated by the director.

3 (e) If an eligible employee did not work all the hours
4 offered by the work-sharing employer in a given week because the
5 employee was sick, the employee shall be denied work-sharing
6 benefits for that week.

7 (f) Claims for work-sharing benefits shall be filed in the
8 same manner as claims for unemployment compensation or as
9 prescribed in rules adopted by the director pursuant to chapter
10 91.

11 (g) Laws and rules applicable to unemployment compensation
12 claimants shall apply to work-sharing claimants to the extent
13 that they are not inconsistent with the established work-sharing
14 provisions. An eligible employee who files an initial claim for
15 work-sharing benefits, if eligible for work-sharing benefits,
16 shall be provided a monetary determination of entitlement to
17 work-sharing benefits and shall serve a waiting period of one
18 week.

19 (h) If an eligible employee works in the same week for a
20 work-sharing employer and an employer other than the work-
21 sharing employer, the eligible employee's work-sharing benefits
22 shall be computed in the same manner as if the eligible employee



1 worked solely with the work-sharing employer, except that if the
2 eligible employee is not able to work or is not available for
3 the normal workweek with the work-sharing employer, work-sharing
4 benefits shall not be paid to that eligible employee for that
5 week.

6 (i) An eligible employee who does not work during a week
7 for the work-sharing employer and is otherwise eligible shall be
8 paid the full weekly unemployment compensation amount. That
9 week shall not be counted as a week for which work-sharing
10 benefits were received.

11 (j) An eligible employee who does not work for the work-
12 sharing employer during a week, but works for another employer
13 and is otherwise eligible, shall be paid benefits for that week
14 under the partial unemployment compensation provisions of this
15 chapter. That week shall not be counted as a week for which
16 work-sharing benefits were received.

17 (k) Nothing in this section shall preclude an otherwise
18 eligible employee from receiving total or partial unemployment
19 benefits when the eligible employee's work-sharing benefits have
20 been exhausted.

21 **§383-J Benefit charges.** Notwithstanding any other
22 provisions of this part, work-sharing benefits shall be charged



1 to the account of the work-sharing employer. Employers liable
2 for payments in lieu of contributions shall reimburse the state
3 unemployment compensation fund for the full amount of work-
4 sharing benefits paid to their employees under an approved work-
5 sharing plan.

6 **§383-K Extended benefits.** An individual who has received
7 all of the unemployment compensation or combined unemployment
8 compensation and work-sharing benefits available in a benefit
9 year shall be considered an exhaustee for purposes of extended
10 benefits, as provided in section 383-168(10), and, if otherwise
11 eligible under that paragraph, shall be eligible to receive
12 extended benefits."

13 SECTION 2. In codifying the new sections added by section
14 1 of this Act, the revisor of statutes shall substitute
15 appropriate section numbers for the letters used in designating
16 the new sections in this Act.

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

18

INTRODUCED BY: _____



JAN 16 2013



H.B. NO. 58

Report Title:

Employment Security; Unemployment; Work-sharing Benefits

Description:

Authorizes certain private employers to administer a work-sharing plan to avoid temporary layoffs, if approved by the DLIR. Allows employees under a work-sharing plan to receive unemployment benefits to compensate for lost wages.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

