

STAND. COM. REP. NO. |

Honolulu, Hawaii

FEB 0 2 2021

RE: S.B. No. 1159
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committee on Labor, Culture and the Arts, to which was referred S.B. No. 1159 entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to provide relief to employers contributing to the State Unemployment Compensation Trust Fund (UCTF) and expedite the State's economic recovery from the disruptions caused by the coronavirus disease 2019 (COVID-19) pandemic by amending the rates and method by which employer contributions are computed, as follows:

- (1) Setting the employer contribution rate schedules for calendar years 2021, 2022, and 2023 at schedules D, F, and G, respectively; and
- (2) Allowing the Director of Labor and Industrial Relations to modify the annual contribution rate computation method for all employers for calendar years 2020 and 2021, by omitting from the calculation, benefits charged against their accounts.

Your Committee received testimony in support of this measure from the Department of Labor and Industrial Relations; ABTS Wholesale, Inc., ABTS PK Inc., and ABTS HV, Inc., dba Angels By The Sea Hawaii; Hawaii Food Industry Association; Hawaii



Petroleum, LLC; Honolulu Japanese Chamber of Commerce; International Longshore and Warehouse Union, Local 142; Maui Chamber of Commerce; and Parents and Children Together. Your Committee received testimony in opposition to this measure from the Kona-Kohala Chamber of Commerce; Retail Merchants of Hawaii, Inc.; Warren W. Gibson III, LLC, dba Warren & Annabelle's; and five individuals. Your Committee received comments on this measure from Tax Foundation of Hawaii; A.V.S. Audio Visual Services Hawaii, Corp.; Chamber of Commerce of Hawaii; Cyanotech Corporation; Diamond Head Dental Care Corp.; FishHopper LLC; GM Construction, Inc.; Hawaii Automobile Dealers' Association; Hawaiian Humane Society; Industrial Battery Solutions, LLC; Layout Etc., Inc.; Lisa L. Wong, M.D., Inc.; Michael A. McMann, M.D., LLC, dba McMann Eye Institute; Maui Adventure Group, Inc. dba The Snorkel Store; Metzler Contracting Co. LLC; Premier Title and Escrow, Inc.; ProService Pacific, LLC dba ProService Hawaii; Society for Human Resource Management (Hawaii Chapter); Sofasogood Learning Preparatory & The Reading Tutor, Inc., dba Corvid Academy & Performing Arts; Woo's Electrical LLC; and seventeen individuals.

Your Committee finds that the computation of an employer's UCTF contribution rate is computed once a year using the employer's classification, which is determined based on the employer's actual experience in the payment of contributions and benefits charged against their accounts; and one of eight contribution rate schedules (A through H) that is in effect for the year, which is determined based on the relationship between the most recent current reserve fund and the most recent adequate reserve fund.

Your Committee finds that the UCTF, which had a reserve of \$607.5 million as of November 2019, was depleted in June 2020, due to the extraordinary increase in Hawaii's unemployment rate caused by the COVID-19 pandemic. Consequently, the State received a \$700 million loan from the federal government as federal unemployment insurance advances under Title XII of the Social Security Act to continue payment of unemployment benefits.

Your Committee further finds that due to the depletion of the UCTF, by statute the applicable contribution rate schedule for calendar years 2021, 2022, and 2023, will be at Schedule H, the highest statutory rate.



Your Committee finds that to provide relief to contributory employers and help expedite the State's economic recovery from the disruptions caused by the COVID-19 pandemic, it is necessary to apply lower contribution rate schedules for calendar years 2021, 2022, and 2023, from Schedule H to Schedules D, E, and F, respectively; and allow the Director of Labor and Industrial Relations to modify the annual contribution rate computation method for all employers for calendar years 2021 and 2022, by omitting from the calculation, benefits charged against the employers' accounts.

Your Committee acknowledges that S.B. No. 682, Regular Session of 2021, has a similar content to this measure with even lower contribution rate schedules, Schedules C, D, and E, for calendar years 2021, 2022, and 2023, respectively. Your Committee finds the schedules under this measure provides a more balanced approach. First, the lowest contribution rate under Schedules C and D are zero percent and 0.2 percent, respectively. Therefore, under Schedule C, there will be employers who will not be contributing to the UCTF at all, whereas under Schedule D, all contributory employers will share the weight in replenishing the UCTF and re-establishing the fund's integrity. Second, and more importantly, your Committee finds that the lower contribution rates in S.B. No. 682 may have a detrimental impact to Hawaii employers in the long term. According to the Department of Labor and Industrial Relations, if the State is not able to repay the federal Title XII advances by November 10, 2022, Hawaii employers will be required to make payments toward the outstanding federal loan balance in the form of a federal unemployment insurance (FUTA) credit reduction, which will increase the FUTA taxes employers must pay. Specifically, Hawaii employers will lose 0.3 percent of their FUTA credit each year after 2022 when there is an outstanding balance on Hawaii's Title XII advances. Therefore, the longer it takes for the UCTF to be replenished, the longer Hawaii employers will be required to pay higher FUTA taxes. If the contribution rate schedules in this measure are applied, the insolvency of the UCTF after five years will be under \$1 billion. The UCTF insolvency under the rate schedules in S.B. No. 682 will be significantly higher at \$1.6 billion. Therefore, your Committee finds that the rate schedules under this measure offer a more prudent approach for Hawaii employers in the long term.

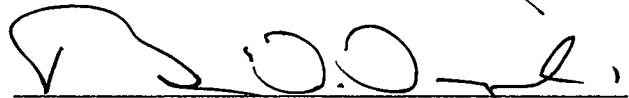


Your Committee has amended this measure by:

- (1) Authorizing the Director of Labor and Industrial Relations to modify the annual contribution rate computation method for calendar years 2021 and 2022, rather than calendar years 2020 and 2021; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and conformity.

As affirmed by the record of votes of the members of your Committee on Labor, Culture and the Arts that is attached to this report, your Committee concurs with the intent and purpose of S.B. No. 1159, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1159, S.D. 1, and be referred to your Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Labor, Culture and
the Arts,



BRIAN T. TANIGUCHI, Chair



The Senate
Thirty-First Legislature
State of Hawai'i

Record of Votes
Committee on Labor, Culture and the Arts
LCA

Bill / Resolution No.:* SB 1159	Committee Referral: LCA, WAM	Date: 2/01/2021		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <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	Aye	Aye (WR)	Nay	Excused
TANIGUCHI, Brian T. (C)	✓			
IHARA, Jr., Les (VC)				✓
CHANG, Stanley	✓			
KEOHOKALOPE, Jarrett	✓			
FEVELLA, Kurt	✓			
TOTAL	4	0	0	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				

*Only one measure per Record of Votes