



March 16, 2022

To: The Honorable Brian T. Taniguchi, Chair,
The Honorable Les Ihara, Jr. Vice Chair, and
Members of the Senate Committee on Labor, Culture and the Arts

Date: Wednesday, March 16, 2022

Time: 3:00 p.m.

Place: Conference Room 225, State Capitol

From: Anne Perreira-Eustaquio, Director
Department of Labor and Industrial Relations (DLIR)

**Re: H.B. 2469 HD1 RELATING TO THE UNEMPLOYMENT
COMPENSATION TRUST FUND**

I. OVERVIEW OF PROPOSED LEGISLATION

HB2469 HD1 establishes an “unemployment compensation insolvency special fund” to cover the State’s obligations to pay out Unemployment Insurance (UI) benefits when there are insufficient funds in the Unemployment Compensation Trust Fund (UCTF). The measure also authorizes the Governor to declare an “unemployment compensation trust fund insolvency emergency” and transfer monies from the special fund to the UCTF to pay UI benefits

The DLIR offers comments on this measure.

II. CURRENT LAW

The Federal Unemployment Tax Act (FUTA) and Social Security Act (SSA) operate in tandem and provide the framework for the Federal-State Unemployment Compensation Program. Title XII of the SSA provides for advances to the states to pay UI benefits when the state’s unemployment compensation trust funds are insolvent. When approved by the U.S. Labor Secretary, the funds are placed into the state account in monthly increments through daily draw downs. Effectively, the states have open lines of credit to the Treasury provided that they remain in conformance with above the federal law & regulations.

The FUTA imposes a 6.0% gross federal unemployment tax rate on the first \$7,000 paid annually and as long as the State remains in conformity with the UI law and regulations and does not carry an outstanding loan balance for certain periods of time FUTA provides a 5.4% credit reduction. If the State carries loan

loan balances for certain periods of time, then the FUTA reduction is reduced incrementally over time.

III. COMMENTS ON THE HOUSE BILL

This measure provides greater flexibility in operating the Federal-State Unemployment Compensation Program. The DLIR defers to the Department of Budget and Finance about the appropriation and technical aspects of the proposed provisions.

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON LABOR, CULTURE AND THE ARTS
ON
HOUSE BILL NO. 2469, H.D. 1

March 16, 2022
3:00 p.m.
Room 225 and Videoconference

RELATING TO THE UNEMPLOYMENT COMPENSATION TRUST FUND

The Department of Budget and Finance (B&F) offers comments on House Bill (H.B.) No. 2469, H.D. 1.

H.B. No. 2469, H.D. 1, establishes an Unemployment Compensation Insolvency Special Fund (UCISF) to be administered by the Department of Labor and Industrial Relations (DLIR) and to be expended solely to resolve an Unemployment Compensation Trust Fund (UCTF) insolvency emergency declared by the Governor; permits the Governor to declare a UCTF insolvency emergency and to expend moneys from the fund if the Director of Finance determines that the fund balance is insufficient to meet the State's obligations; and appropriates an unspecified amount of general funds in FY 23 for deposit into the UCISF.

B&F does not see the necessity for H.B. No. 2469, H.D. 1, because current State and federal statutes have provisions to address insolvency in the UCTF. B&F defers to DLIR on the specifics of such provisions.

However, if the Committee decides to pass this bill out, B&F notes that, with respect to the general fund appropriation in this bill, the federal Coronavirus Response and Relief Supplemental Appropriations Act requires that states receiving Elementary and Secondary School Emergency Relief (ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with these ESSER MOE requirements.

Additionally, regarding the establishment of the UCISF, as a matter of general policy, B&F does not support the creation of special funds which do not meet the requirements of Section 37-52.3, HRS. Special funds should: 1) serve a need as demonstrated by the purpose, scope of work and an explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining. In regard to H.B. No. 2469, H.D. 1, it is difficult to determine whether the special fund meets the criteria to establish a special fund.

Thank you for your consideration of our comments.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: UNEMPLOYMENT; Add Another Unemployment Compensation Reserve Fund

BILL NUMBER: HB 2469 HD 1

INTRODUCED BY: House Committee on Labor & Tourism

EXECUTIVE SUMMARY: Establishes an unemployment compensation insolvency special fund to be expended solely to resolve an unemployment compensation trust fund insolvency emergency declared by the Governor. Permits the Governor to declare an unemployment compensation trust fund insolvency emergency and to expend moneys from the fund if the Director of Finance determines that the fund balance is insufficient to meet the State's obligations. Appropriates moneys into the unemployment compensation insolvency special fund. Our view is that we already have a rainy-day fund and don't need another one.

SYNOPSIS: Adds two new sections to chapter 383, HRS, that would establish an unemployment compensation special fund and define an unemployment compensation trust fund insolvency emergency that would trigger the ability to disburse from the special fund.

Makes technical and conforming amendments to other sections in chapter 383, HRS.

EFFECTIVE DATE: December 25, 2040.

STAFF COMMENTS: At present, we already have a fund in which we save up money for a rainy day. It's called the emergency and budget reserve fund, and it is governed by section 328L-3, HRS.

Do we really need a second rainy day fund? If we allow rainy day funds to proliferate, there will be that much more money sitting around and doing nothing, waiting for the next emergency to hit. With more of these beasts lounging in various places, it gets more difficult to keep track of them, and by the same token it is harder to figure out how much money the state really has.

Digested: 2/15/2022



1050 Bishop St. PMB 235 | Honolulu, HI 96813
P: 808-533-1292 | e: info@hawaiiifood.com

Executive Officers

Charlie Gustafson, Tamura Super Market, *Chair*
Eddie Asato, Pint Size Hawaii, *Vice Chair*
Gary Okimoto, Safeway, *Secretary/Treas.*
Lauren Zirbel, HFIA, *Executive Director*
John Schliff, Rainbow Sales and Marketing, *Advisor*
Stan Brown, Acosta Sales & Marketing, *Advisor*
Paul Kosasa, ABC Stores, *Advisor*
Derek Kurisu, KTA Superstores, *Advisor*
Toby Taniguchi, KTA Superstores, *Advisor*
Joe Carter, Coca-Cola Bottling of Hawaii, *Immediate Past Chair*

TO: Committee on Labor, Culture, and the Arts
Senator Brian T. Taniguchi, Chair
Senator Les Ihara, Jr., Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

DATE: March 16, 2022
TIME: 3pm
PLACE: Via Videoconference

RE: HB2469 HD1 Relating to the Unemployment Compensation Trust Fund

Position: Support

The Hawaii Food Industry Association is comprised of two hundred member companies representing retailers, suppliers, producers, and distributors of food and beverage related products in the State of Hawaii.

HFIA is in support of this measure to establish an unemployment compensation insolvency special fund to be expended solely to resolve an unemployment compensation trust fund insolvency emergency declared by the Governor. The Unemployment Compensation Trust Fund was not originally created or structured to handle the type economic turmoil we have seen over the past two years. We encourage the committee to pass this measure and we support putting a plan in place so that the fund is prepared if a similar situation arises in future.

In addition to HB2469 HD1, the Hawaii Food Industry Association also supports the SB3128 SD2 (relating to the Adequate Reserve Fund) and companion bill HB2471 HD1 (relating to the Adequate Reserve Fund).

We thank you for the opportunity to testify.