

JAN 19 2024

---

---

# A BILL FOR AN ACT

RELATING TO UNEMPLOYMENT BENEFITS.

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

1           SECTION 1. Section 383-30, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§383-30 Disqualification for benefits.** An individual  
4 shall be disqualified for benefits:

5           (1) Voluntary separation. For any week prior to  
6           October 1, 1989, in which the individual has left work  
7           voluntarily without good cause, and continuing until  
8           the individual has, subsequent to the week in which  
9           the voluntary separation occurred, been employed for  
10          at least five consecutive weeks of employment. For  
11          the purposes of this paragraph, "weeks of employment"  
12          means all those weeks within each of which the  
13          individual has performed services in employment for  
14          not less than two days or four hours per week, for one  
15          or more employers, whether or not [~~such~~] the employers  
16          are subject to this chapter. For any week beginning  
17          on and after October 1, 1989, in which the individual



1 has left the individual's work voluntarily without  
2 good cause, and continuing until the individual has,  
3 subsequent to the week in which the voluntary  
4 separation occurred, been paid wages in covered  
5 employment equal to not less than five times the  
6 individual's weekly benefit amount as determined under  
7 section 383-22(b).

8 An owner-employee of a corporation who brings  
9 about the owner-employee's unemployment by divesting  
10 ownership, leasing the business interest, terminating  
11 the business, or by other similar actions where the  
12 owner-employee is the party initiating termination of  
13 the employment relationship, has voluntarily left  
14 employment.

- 15 (2) Discharge or suspension for misconduct. For any week  
16 prior to October 1, 1989, in which the individual has  
17 been discharged for misconduct connected with work,  
18 and continuing until the individual has, subsequent to  
19 the week in which the discharge occurred, been  
20 employed for at least five consecutive weeks of  
21 employment. For the week in which the individual has



1           been suspended for misconduct connected with work and  
2           for not less than one or more than four consecutive  
3           weeks of unemployment [~~which~~] that immediately follow  
4           [~~such~~] that week, as determined in each case in  
5           accordance with the seriousness of the misconduct.  
6           For the purposes of this paragraph, "weeks of  
7           employment" means all those weeks within each of which  
8           the individual has performed services in employment  
9           for not less than two days or four hours per week, for  
10          one or more employers, whether or not [~~such~~] the  
11          employers are subject to this chapter. For any week  
12          beginning on and after October 1, 1989, in which the  
13          individual has been discharged for misconduct  
14          connected with work, and until the individual has,  
15          subsequent to the week in which the discharge  
16          occurred, been paid wages in covered employment equal  
17          to not less than five times the individual's weekly  
18          benefit amount as determined under section 383-22(b).  
19          (3) Failure to apply for work, etc. For any week prior to  
20          October 1, 1989, in which the individual failed,  
21          without good cause, either to apply for available,



# S.B. NO. 2663

1           suitable work when so directed by the employment  
2           office or any duly authorized representative of the  
3           department of labor and industrial relations, or to  
4           accept suitable work when offered and continuing until  
5           the individual has, subsequent to the week in which  
6           the failure occurred, been employed for at least five  
7           consecutive weeks of employment. For the purposes of  
8           this paragraph, "weeks of employment" means all those  
9           weeks within each of which the individual has  
10          performed services in employment for not less than two  
11          days or four hours per week, for one or more  
12          employers, whether or not [~~such~~] the employers are  
13          subject to this chapter. For any week beginning on  
14          and after October 1, 1989, in which the individual  
15          failed, without good cause, either to apply for  
16          available, suitable work when so directed by the  
17          employment office or any duly authorized  
18          representative of the department of labor and  
19          industrial relations, or to accept suitable work when  
20          offered until the individual has, subsequent to the  
21          week in which the failure occurred, been paid wages in



1 covered employment equal to not less than five times  
2 the individual's weekly benefit amount as determined  
3 under section 383-22(b).

4 (A) In determining whether or not any work is  
5 suitable for an individual there shall be  
6 considered among other factors and in addition to  
7 those enumerated in paragraph (3)(B), the degree  
8 of risk involved to the individual's health,  
9 safety, and morals, the individual's physical  
10 fitness and prior training, the individual's  
11 experience and prior earnings, the length of  
12 unemployment, the individual's prospects for  
13 obtaining work in the individual's customary  
14 occupation, the distance of available work from  
15 the individual's residence, and prospects for  
16 obtaining local work. The same factors so far as  
17 applicable shall be considered in determining the  
18 existence of good cause for an individual's  
19 voluntarily leaving work under paragraph (1).

20 (B) Notwithstanding any other provisions of this  
21 chapter, no work shall be deemed suitable and



1 benefits shall not be denied under this chapter  
2 to any otherwise eligible individual for refusing  
3 to accept new work under any of the following  
4 conditions:

5 (i) If the position offered is vacant due  
6 directly to a strike, lockout, or other  
7 labor dispute;

8 (ii) If the wages, hours, or other conditions of  
9 the work offered are substantially less  
10 favorable to the individual than those  
11 prevailing for similar work in the locality;  
12 or

13 (iii) If as a condition of being employed the  
14 individual would be required to join a  
15 company union or to resign from or refrain  
16 from joining any bona fide labor  
17 organization.

18 (4) Labor dispute. For any week with respect to which it  
19 is found that unemployment is due to a stoppage of  
20 work [~~which~~] that exists because of a labor dispute at  
21 the factory, establishment, or other premises at which

1           the individual is or was last employed; provided that  
2           this paragraph shall not apply if ~~it~~:

3           (A) It is shown that:

4           ~~(A)~~ (i)   The individual is not participating in or  
5                           directly interested in the labor dispute  
6                           ~~which~~ that caused the stoppage of work;  
7                           and

8           ~~(B)~~ (ii)   The individual does not belong to a grade or  
9                           class of workers of which, immediately  
10                          before the commencement of the stoppage,  
11                          there were members employed at the premises  
12                          at which the stoppage occurs, any of whom  
13                          are participating in or directly interested  
14                          in the dispute; provided that if in any case  
15                          separate branches of work, ~~which~~ that are  
16                          commonly conducted as separate businesses in  
17                          separate premises, are conducted in separate  
18                          departments of the same premises, each  
19                          ~~such~~ department shall, for the purpose of  
20                          this paragraph, be deemed to be a separate



1 factory, establishment, or other  
2 premises[-]; or

3 (B) The Hawaii labor relations board determines that  
4 the employer has not made or is failing to make  
5 reasonable, timely, and good faith efforts to  
6 negotiate.

7 (5) If the department finds that the individual has within  
8 the twenty-four calendar months immediately preceding  
9 any week of unemployment made a false statement or  
10 representation of a material fact knowing it to be  
11 false or knowingly failed to disclose a material fact  
12 to obtain any benefits not due under this chapter, the  
13 individual shall be disqualified for benefits  
14 beginning with the week in which the department makes  
15 the determination and for each consecutive week during  
16 the current and subsequent twenty-four calendar months  
17 immediately following [~~such~~] the determination, and  
18 [~~such~~] the individual shall not be entitled to any  
19 benefit under this chapter for the duration of [~~such~~]  
20 the period; provided that no disqualification shall be





1 imposed if proceedings have been undertaken against  
2 the individual under section 383-141.

3 (6) Other unemployment benefits. For any week or part of  
4 a week with respect to which the individual has  
5 received or is seeking unemployment benefits under any  
6 other employment security law, but this paragraph  
7 shall not apply[+]:[+]

8 (A) If the appropriate agency finally determines that  
9 the individual is not entitled to benefits under  
10 [~~such~~] the other law; or

11 (B) If benefits are payable to the individual under  
12 an act of Congress [~~which~~] that has as its  
13 purpose the supplementation of unemployment  
14 benefits under a state law."

15 SECTION 2. This Act does not affect rights and duties that  
16 matured, penalties that were incurred, and proceedings that were  
17 begun before its effective date.

18 SECTION 3. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.



1 SECTION 4. This Act shall take effect upon its approval.

2

INTRODUCED BY:

A handwritten signature in black ink, appearing to be 'C. Lee', is written over a horizontal line.



# S.B. NO. 2663

**Report Title:**

Unemployment Benefits; Labor Dispute; Strike; HLRB

**Description:**

Authorizes employees who are not working due to a strike, lockout, or other labor dispute to receive unemployment benefits if the Hawaii Labor Relations Board determines that the employer has not made or is failing to make reasonable, timely, and good faith efforts to negotiate.

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

