

ACT 11

A Bill for An Act to Provide Assistance to Individuals Whose Unemployment or Continued Unemployment is or was Wholly or Partially Caused by the Tsunami of May 23, 1960, and Making An Appropriation Therefor.

Be it Enacted by the Legislature of the State of Hawaii:

SECTION 1. **Purpose.** The purpose of this Act is to provide assistance to the unemployed whose unemployment or continued unemployment is or was wholly or partially caused by the tsunami which struck the state of Hawaii on May 23, 1960.

SECTION 2. **Definitions, generally.** As used in this Act, unless the context clearly requires otherwise:

(a) "Director" means the director of labor and industrial relations of the State.

(b) "Fund" means the disaster unemployment compensation fund established by this Act.

(c) "Unemployment". An individual shall be deemed "unemployed" in any week during which he performs no services and with respect to which no wages are receivable by him, or in any week of less than full time work if the wages receivable by him with respect to such week are less than his weekly benefit amount payable under this Act.

(d) "Disaster unemployment benefits" means the unemployment compensation benefits payable under this Act.

(e) "Normal benefits" means the unemployment compensation benefits payable pursuant to Chapters 93 and 93A, Revised Laws of Hawaii 1955, as amended, and Title XV of the Social Security Act, as amended. Benefits payable under said Title XV shall be considered normal benefits for the purposes of this Act only if such Title XV benefits are based on wages assignable to the State of Hawaii.

(f) "Claimant" means an individual whose unemployment or continued unemployment was proximately caused by the tsunami which struck the State of Hawaii on May 23, 1960; and

(1) who is not entitled to normal benefits or any other benefits under

any state or federal unemployment compensation laws for the week in which he claims for disaster unemployment benefits due to exhaustion or unavailability of such benefits, and who has an unexpired benefit year or whose benefit year expired after May 21, 1960; or

(2) who was employed or self-employed during the week ending May 21, 1960 and who is not entitled to normal benefits or any other benefits under any state or federal unemployment compensation laws for the week in which he claims for disaster unemployment benefits. For the purposes of this Act a claimant is deemed to be self-employed if he was operating or engaged in a trade, occupation or business of his own immediately preceding May 23, 1960.

(g) "Wages" means all remuneration for services from whatever source, including commissions and bonuses, and remuneration from self-employment, and the cash value of all remuneration in any medium other than cash, but not including tips or gratuities paid directly to an individual by a customer of his employer and not accounted for by the individual to his employer. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rules prescribed by the director. For the purposes of this Act "wages" does not include the amount of payment or remuneration set forth in section 93-11, Revised Laws of Hawaii 1955, as amended.

(h) "Week" means any period of seven consecutive days as the director may by regulation prescribe.

(i) "Benefit year" refers to "benefit year" as that term is defined in section 93-1(c), Revised Laws of Hawaii 1955, as amended.

SECTION 3. Payment of benefits. Disaster unemployment benefits are payable from the fund to unemployed claimants who are eligible under this Act.

SECTION 4. Weekly benefit amount. A claimant's weekly benefit amount under this Act shall be the same as his weekly normal benefit amount payable during his most recent benefit year less that part of wages (if any) payable to him with respect to such week which is in excess of \$2.00; provided, that if he has no determinable weekly normal benefit amount, then his weekly benefit amount shall be \$35.00 less that part of wages (if any) payable to him with respect to such week which is in excess of \$2.00.

SECTION 5. Maximum benefits payable. A claimant's maximum potential disaster unemployment benefits shall be 13 times his weekly benefit amount, and shall be determined in the week in which he first claims for disaster unemployment benefits and shall remain unchanged for the period of this Act.

SECTION 6. Requirements for eligibility. An unemployed claimant is eligible to receive disaster unemployment benefits with respect to any week only if the director finds that:

(a) He has made a claim for disaster unemployment benefits with respect to such week in accordance with the regulations as the director may prescribe with respect to claims for normal benefits.

(b) He meets the eligibility requirements of subsections (b) and (c) of section 93-28, Revised Laws of Hawaii 1955, as amended.

(c) He is not subject to disqualification and is not under disqualifica-

tion for normal benefits under any provision of section 93-29, Revised Laws of Hawaii 1955, as amended.

SECTION 7. Disqualification for disaster unemployment benefits. A claimant shall be disqualified for disaster unemployment benefits:

(a) **Voluntary separation.** For any week in which he has left his work voluntarily without good cause and for not more than seven consecutive weeks of unemployment which immediately follow such week, as determined according to the circumstances in each case.

(b) **Discharge for misconduct.** For the week in which he has been discharged for misconduct connected with his work and for not more than seven consecutive weeks of unemployment which immediately follow such week, as determined in each case in accordance with the seriousness of the misconduct.

(c) **Failure to apply for work, etc.** If he has failed, without good cause, either to apply for available, suitable work when so directed by the director or any duly authorized representative of the director, or to accept suitable work when offered him. Such disqualification shall continue for the week in which such failure occurred and for not more than seven consecutive weeks of unemployment which immediately follow such week, as determined according to the circumstances of each case.

(1) In determining whether or not any work is suitable for a claimant there shall be considered among other factors and in addition to those enumerated in paragraph (2) of this subsection, the degree of risk involved to his health, safety and morals, his physical fitness and prior training, his experience and prior earnings, the length of his unemployment, his prospects for obtaining work in his customary occupation, and the distance of available work from his residence and prospects for obtaining local work.

(2) No work shall be deemed suitable and benefits shall not be denied under this Act to any otherwise eligible claimant for refusing to accept new work under any of the following conditions:

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

(ii) If the wages, hours or other conditions of the work offered are substantially less favorable to the claimant than those prevailing for similar work in the locality;

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

(d) **Labor dispute.** For any week with respect to which it is found that his unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment or other premises at which he is or was last employed; provided that this subsection shall not apply if it is shown that:

(1) He is not participating in or directly interested in the labor dispute which caused the stoppage of work; and

(2) He does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or directly interested in the dispute; pro-

vided that, if in any case separate branches of work which are commonly conducted as separate businesses in separate premises, are conducted in separate departments of the same premises, each such department shall, for the purpose of this subsection, be deemed to be a separate factory, establishment or other premises.

(e) If the director finds that he has made a false statement or representation knowing it to be false or knowingly fails to disclose a material fact to obtain any disaster unemployment benefits under this Act, in which case he shall be disqualified for the week in which the director makes such determination and for the remainder of the weeks for which he would otherwise be eligible.

(f) **Pregnancy.** Within four months prior to the anticipated date of such claimant's giving birth to a child and two months after childbirth.

SECTION 8. Claim. A claimant who desires to claim disaster unemployment benefits shall file a claim pursuant to section 93-31, Revised Laws of Hawaii 1955, as amended.

SECTION 9. Effective date of claim; waiting period not required. The effective date of a claim shall be the first day of the week in which a claim is first filed. No claimant shall be required to serve a waiting period. Provided, that a claimant shall be entitled to benefits under the Act commencing on the week beginning June 5, 1960.

SECTION 10. Determination, redetermination, notice of determination, appeal. The procedure with respect to the determinations and redeterminations of claims for disaster unemployment benefits and with respect to appeals from such determinations and redeterminations and with respect to judicial review of decisions on such appeals shall be governed by the provisions of sections 93-32 to 93-40, Revised Laws of Hawaii 1955, as amended.

SECTION 11. Recovery of disaster unemployment benefits; penalties. (a) Any person who makes, or causes to be made by another, a false statement or representation of material fact knowing it to be false or who knowingly fails, or causes another to fail, to disclose a material fact, and as a result thereof has received any amount as benefits under this Act to which he was not entitled shall be liable for such amount. Notice of redetermination in such cases shall specify that the person is liable to repay to the fund the amount of disaster unemployment benefits paid to him by reason of such nondisclosure or misrepresentation, and the week or weeks for which such benefits were paid.

(b) In case in which under this section a claimant is liable to repay any amount to the director, such amount shall be collectible without interest by civil action in the name of the director.

(c) Whoever makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact to obtain or increase any benefit or other payment under this Act shall be fined not less than \$20.00 nor more than \$200.00, or imprisoned not more than thirty days, or both.

SECTION 12. Disaster unemployment compensation fund. There is hereby created a fund to be known as the disaster unemployment compensation fund. The director of the budget of the State shall be custodian

of the fund, and all disbursements therefrom shall be paid by him upon orders signed by the director.

SECTION 13. **Appropriation.** There is hereby appropriated out of the general funds of the State of Hawaii the sum of \$300,000 or so much thereof as may be necessary, to be credited to the disaster unemployment compensation fund, for the purposes of this Act.

SECTION 14. **Administrative expense.** Moneys credited to the account of the disaster unemployment compensation fund may be requisitioned and used for the payment of expenses incurred for the administration of this Act.

SECTION 15. **Administration; other sections applicable.** For the purposes of this Act, the provisions of sections 93-90, 93-91, 93-94, 93-95, and 93-97 to 93-102, Revised Laws of Hawaii 1955, as amended, shall apply, mutatis mutandis, to the administration of this Act.

SECTION 16. **Rights, etc., preserved; other sections applicable.** For the purposes of this Act, the provisions of sections 93-150 to 93-152, Revised Laws of Hawaii 1955, as amended, shall apply mutatis mutandis.

SECTION 17. **Non-liability of State.** Disaster unemployment benefits shall be deemed to be due and payable under this Act only to the extent provided in this Act, and to the extent that moneys are available therefor to the credit of the disaster unemployment compensation fund.

SECTION 18. **Savings clause, amendment or repeal.** The legislature reserves the right to amend or repeal all or any part of this Act at any time; and there shall be no vested private right of any kind against such amendment or repeal. All rights, privileges or immunities conferred by this Act or by acts done pursuant thereto shall exist subject to the power of the legislature to amend or repeal this Act at any time.

SECTION 19. **Termination date.** No claimant shall be entitled to any disaster unemployment benefits provided by this Act after the week ending June 30, 1961. Any moneys remaining in the disaster unemployment compensation fund, after payment of all benefits and expenses, shall revert to the general funds of the State.

SECTION 20. **Effective date.** This Act shall take effect upon its approval; provided, that claims may be paid from the week beginning June 5, 1960.

(Approved July 6, 1960.) S.B. 2.
