

**ACT 157**

A Bill for an Act Providing Additional Unemployment Compensation Benefits in Times of Disaster and Economic Distress.

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

SECTION 1. There is hereby added to the Revised Laws of Hawaii 1955 a new chapter numbered 93B, entitled :

**"CHAPTER 93B**

**ADDITIONAL UNEMPLOYMENT COMPENSATION BENEFITS LAW.**

**Sec. 93B-1. Purpose.** The purpose of this Act is to provide assistance to the unemployed whose unemployment is caused by the occurrence of natural or man-made disasters or occasioned by excessive unemployment by providing additional unemployment compensation benefits for those who are otherwise eligible for payments.

**Sec. 93B-2. Additional Unemployment Compensation Benefits, Payable When.** The additional unemployment benefits provided for in this chapter shall be authorized only upon the following conditions:

(a) When a disaster, either natural or man-made, has struck the State, or any county thereof causing damage to a substantial number of persons and families so as to require assistance from the State, and an unemployment problem has been created thereby, or

(b) when the extent of unemployment in any county or counties as measured by the labor force estimates of the department of labor and industrial relations, State of Hawaii, is six (6) per cent or higher of the civilian labor force, provided that for the purposes of this subsection only, individuals who are subject to disqualification for benefits under Section 93-29(d) of the R.L.H. 1955, as amended, shall not be deemed unemployed.

Upon the occurrence of either of the conditions described in (a) or (b) of this section, the governor may provide additional unemployment benefits in the appropriate county or counties as provided for this chapter. Such additional benefits shall be operative upon the issuance by the governor of a proclamation specifically invoking the provisions of this chapter and identifying the county or counties which have been affected and in which provision for additional unemployment benefits shall be made operative.

**Sec. 93B-3. Definitions, generally.** As used in this chapter, unless the context clearly requires otherwise:

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

(b) 'Fund' means the additional 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 chapter.

(d) 'Additional unemployment benefits' means the unemployment compensation benefits payable under this chapter.

(e) 'Normal benefits' means the unemployment compensation benefits payable pursuant to chapters 93 and 93A, Revised Laws of Hawaii 1955, as amended.

(f) 'Claimant' means an individual:

(1) who has an unexpired benefit year and has exhausted his normal benefits; or

(2) whose benefit year expired, or whose normal benefits were exhausted, within a period of 26 consecutive weeks immediately preceding the week in which the proclamation provided for in section 93B-2 became effective; or

(3) who was employed during the week in which the governor's proclamation pursuant to section 93B-2 became effective, but who became unemployed and whose total earned wages are insufficient to entitle him to normal benefits ; or

(4) whose unemployment was proximately caused by the disaster identified by the governor in the proclamation provided for in section 93B-2 and was self-employed during the week in which the disaster occurred.

(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 chapter "wages" does not include the amount of payment or remuneration set forth in section 93-11, Revised Laws of Hawaii 1955, 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.

**Sec. 93B-4. Payment of benefits.** Additional unemployment benefits are payable from the fund to unemployed claimants who are eligible under this chapter.

**Sec. 93B-5. Weekly benefit amount.** A claimant's weekly benefit amount under this chapter shall be the same as his weekly normal benefit amount payable during his current benefit year if he has an unexpired benefit year, or 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; provided that if the claimant was self-employed during the week in which the disaster identified by the governor in the proclamation provided for in section 93B-2 occurred, or he was employed during such week but his total earned wages are insufficient to entitle him to normal benefits, then his weekly benefit amount shall be \$35 less that part of wages (if any) payable to him with respect to such week which is in excess of \$2.

**Sec. 93B-6. Maximum benefits payable.** A claimant's maximum potential additional unemployment benefits shall be 13 times his weekly benefit amount, and shall be determined in the week in which he first claims for additional unemployment benefits and shall remain unchanged for the period specified in Sec. 93B-17.

**Sec. 93B-7. Requirements for eligibility.** An unemployed claimant is eligible to receive additional unemployment benefits with respect to any week only if the director finds that :

(a) He has made a claim for additional 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, or chapter 93A, Revised Laws of Hawaii 1955, as amended.

(c) He is not subject to disqualification and is not under disqualification for normal benefits under any provision of section 93-29, Revised Laws of Hawaii 1955, as amended.

(d) He is not entitled to receive unemployment compensation benefits under any State or Federal unemployment compensation laws for the week in which he claims for additional unemployment benefits.

**Sec. 93B-8. Disqualification for additional unemployment benefits.** A claimant shall be disqualified for extended 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 of 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 chapter 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 or 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; provided 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) **Fraud.** 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 additional unemployment benefits under this chapter, 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.

**Sec. 93B-9. Claim.** A claimant who desires to claim additional unemployment benefits shall file a claim pursuant to section 93-31, Revised Laws of Hawaii 1955.

**Sec. 93B-10. 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.

**Sec. 93B-11. Determination, redetermination, notice of determination, appeal.** The procedure with respect to the determinations and redeterminations of claims for additional unemployment benefits and with respect to appeals from such determination 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.

**Sec. 93B-12. Recovery of additional 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 chapter 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 extended unemployment benefits paid to him by reason of such nondisclosure or misrepresentation, and the week or weeks for which such benefits were paid.

(b) If, 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 chapter shall be fined not less than \$20 nor more than \$200, or imprisoned not more than thirty days, or both.

**Sec. 93B-13. Additional unemployment compensation fund.** There is hereby created a fund to be known as the additional 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.

Moneys credited to the account of the fund may be requisitioned and used for the payment of expenses incurred for the administration of this chapter.

**Sec. 93B-14. Administration: other sections applicable.** For the purposes of this chapter, 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 chapter.

**Sec. 93B-15. Rights, etc., preserved: other sections applicable.** For the purposes of this chapter, the provisions of sections 93-150 to 93-152, Revised Laws of Hawaii 1955, as amended, shall apply mutatis mutandis.

**Sec. 93B-16. Non-liability of State.** Extended unemployment benefits shall be deemed to be due and payable under this chapter only to the extent provided in this chapter, subject to amendment or repeal thereof, and to the extent that moneys are available therefor to the credit of the additional unemployment compensation fund.

**Sec. 93B-17. Period of Benefits Payments; Issuance of Further Proclamations.** Where the additional benefits provided by this chapter are made payable by the governor's proclamation after the occurrence of a disaster, such benefits shall be payable only for a period of one year after the effective date of said proclamation.

Where the additional benefits provided by this chapter are made payable by the governor's proclamation because of this existence of conditions described in 93B-2 (b), such benefits shall be payable while said conditions exist but not for more than a period of one year following the effective date of the proclamation.

Nothing contained herein shall prevent the governor from issuing further proclamations invoking the provisions of this chapter in the event other disasters occur or the conditions described in 93B-2 (b) exist one year after the first proclamation.

**SECTION 2. Appropriation.** There is hereby appropriated out of the general funds of the State of Hawaii the sum of \$50,000, or so much thereof as may be necessary, to be credited to the additional compensation fund, for the purposes of this chapter. Section 19 or any other section of Act 11, Special Session Laws of Hawaii 1960 to the contrary notwithstanding, there is hereby further appropriated to the additional compensation fund established by this Act, the balances that may exist in the disaster unemployment compensation fund, established by said Act 11, after the payment of all benefits and expenses due under said Act.

**SECTION 3. Effective date.** This Act shall take effect upon its approval.  
(Approved July 7, 1961.) **H.B. 20.**

---