

**Session Laws of Hawaii
Passed By The
Thirty-First State Legislature
Regular Session
2021**

ACT 1

H.B. NO. 1278

A Bill for an Act Relating to Employment Security.

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

SECTION 1. Section 383-1, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of “benefit year” to read:

““Benefit year” [with respect to any individual means the one-year period beginning with the first day of the first week with respect to which the individual first files a valid claim for benefits and thereafter the one-year period beginning with the first day of the first week with respect to which the individual next files a valid claim for benefits after the termination of the individual’s last preceding benefit year. Any claim for benefits made in accordance with section 383-32 shall be deemed a “valid claim” for the purpose of this paragraph if the individual has satisfied the conditions required under section 383-29(a)(5). Nothing in sections 383-29 and 383-30, except section 383-29(a)(5), shall affect the filing of a “valid claim” or the establishment of a “benefit year”. For the purposes of this paragraph a week with respect to which an individual files a valid claim shall be deemed to be “in”, “within”, or “during” that benefit year which includes the greater part of such week.] means a period of fifty-two consecutive weeks beginning with the first day of the week in which an individual files a new valid claim for benefits; except that the benefit year shall be fifty-three weeks if the filing of a new valid claim would result in overlapping any quarter of the base year of a previously filed new claim. A subsequent benefit year cannot be established until the expiration of the current benefit year.”

2. By amending the definition of “week” to read:

““Week” means [any period of seven consecutive days as the department may by rule prescribe.] a period of seven consecutive calendar days commencing with Sunday and ending at midnight the following Saturday.”

SECTION 2. Section 383-29.7, Hawaii Revised Statutes, is amended to read as follows:

“§383-29.7 Partial unemployment; claim filing requirements, determinations. (a) Claims for partial unemployment shall be filed according to section 383-32. [For partially unemployed individuals, a new claim may be taken within twenty-eight days from the week-ending date of the first week of partial unemployment for which the claim is filed; provided that an individual shall not be

ACT 1

required to file a claim earlier than two weeks from the date wages are paid for the claim period.]

(b) ~~[An individual may file a continued claim certification for partial unemployment benefits in person, by mail, by telephone, or by using other alternative claim filing procedures as instructed or authorized by the department and in the manner prescribed by the department with respect to each week of the individual's partial unemployment. A continued claim certification shall be filed in the same manner as prescribed in rules of the department for continued claim certifications for total or part-total unemployment benefits and not later than twenty-eight days from the end of the week for which the individual claims benefits; provided that an individual shall not be required to file a continued claim certification earlier than two weeks from the date wages are paid for a claim period.]~~ Continued claim certifications for partial unemployment benefits shall be filed in the same manner and extent that apply to total or part-total unemployment benefits.

SECTION 3. Section 383-62, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Except as otherwise provided in this section, each employer shall pay contributions determined in accordance with sections 383-66 and 383-68.

Notwithstanding any other provision of this part to the contrary, for the calendar years 1977 and 1978 each employer (except any employer making payments instead of contributions pursuant to subsection (b) or (d)) shall pay contributions equal to three and one-half per cent of wages paid by the employer during such calendar years.

Notwithstanding any other provision of this part to the contrary, for weeks of unemployment beginning March 15, 2020, and ending on March 20, 2021, any base period employer charged with benefits that are not a direct result of the COVID-19 pandemic shall be entitled to a relief in the form of a fifty per cent credit against the amount owed by the reimbursable employer; provided that this relief shall not apply to any base period employer making reimbursements instead of contributions pursuant to subsection (b).”

SECTION 4. Section 383-68, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Effective with calendar year 1992 and thereafter, before December 31 of the previous year the contribution rate schedule for the following calendar year shall be determined on the basis of the relationship between the most recent current reserve fund and the most recent adequate reserve fund, in accordance with this subsection and subsection (d).

- (1) Whenever the ratio of the current reserve fund to the adequate reserve fund is greater than 1.69, contribution rate schedule A shall apply.
- (2) Whenever the ratio of the current reserve fund to the adequate reserve fund is 1.3 to 1.69, contribution rate schedule B shall apply.
- (3) Whenever the ratio of the current reserve fund to the adequate reserve fund is 1.0 to 1.29, contribution rate schedule C shall apply.
- (4) Whenever the ratio of the current reserve fund to the adequate reserve fund is .80 to .99, contribution rate schedule D shall apply.
- (5) Whenever the ratio of the current reserve fund to the adequate reserve fund is .60 to .79, contribution rate schedule E shall apply.
- (6) Whenever the ratio of the current reserve fund to the adequate reserve fund is .40 to .59, contribution rate schedule F shall apply.
- (7) Whenever the ratio of the current reserve fund to the adequate reserve fund is .20 to .39, contribution rate schedule G shall apply.

- (8) Whenever the ratio of the current reserve fund to the adequate reserve fund is less than .20, contribution rate schedule H shall apply.

Notwithstanding the ratio of the current reserve fund to the adequate reserve fund, contribution rate schedule D shall apply for calendar [year 2010 and contribution rate schedule F shall apply for calendar years 2011 and 2012.] years 2021 and 2022.”

SECTION 5. Section 383-69, Hawaii Revised Statutes, is amended to read as follows:

“§383-69 Procedure for rate determination. The department of labor and industrial relations, as soon as is reasonably possible in each period, shall make its classification of employers for the period and notify each employer of the employer’s rate of contributions for the period as determined pursuant to sections 383-63 to 383-69. The determination shall become conclusive and binding upon the employer unless the employer appeals the determination by filing a written notice of appeal within fifteen days after the mailing of notice of the determination to the employer’s last known address. The appeal shall be heard by the referee in accordance with applicable provisions of sections 383-38 and 383-39 but no employer shall have standing, in any proceeding involving the employer’s rate of contributions or contribution liability, to contest the chargeability to the employer’s account of any benefits paid in accordance with a determination, redetermination, or decision pursuant to sections 383-31 to 383-43; provided that the services on the basis of which the benefits were found to be chargeable did not constitute services performed in employment for the employer and only if the employer was not a party to the determination, redetermination, or decision, or to any other proceedings under this chapter in which the character of the services was determined. The referee’s determination shall become final unless a proceeding for judicial review in the manner provided in chapter 91 is commenced in the circuit court of the judicial circuit in which the employer resides or has the employer’s principal place of business or in the circuit court of the first judicial circuit. An appeal may be taken from the decision of the circuit court to the intermediate appellate court, subject to chapter 602. Notwithstanding any other provision of this chapter, the director shall for calendar years 2021 and 2022 modify the annual computation to omit benefits charged for all employers to address the disruptions caused by the COVID-19 pandemic.”

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval; provided that sections 4 and 5 of this Act shall take effect retroactive to January 1, 2021.

(Approved March 2, 2021.)