

JAN 22 2007

S.B. NO. 1471

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# A BILL FOR AN ACT

RELATING TO EMPLOYMENT SECURITY LAW.

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

1           SECTION 1. This Act is aimed at providing sustainability  
2 to Hawaii's economy by offering Hawaii employers significant tax  
3 relief during the next five years. The legislature recognizes  
4 that those receiving benefits from Hawaii's unemployment  
5 insurance system receive some of the richest benefits in the  
6 nation. The legislature also recognizes that while Hawaii  
7 maintains the lowest unemployment rate in the nation and strong  
8 job growth, Hawaii's employers pay the highest unemployment  
9 insurance taxes in the nation.

10           Further, the legislature recognizes that the current  
11 unemployment insurance law benefits claimants in that the  
12 maximum benefit level awarded to the unemployed is increased  
13 automatically each year. Concurrently, the maximum taxable wage  
14 base, the maximum dollar amount of wages that is subject to  
15 unemployment insurance taxes imposed upon employers, also  
16 automatically increases each year, ensuring that unemployment  
17 insurance taxes also increase each year.

1           In 2006, Hawaii's employers were taxed at the highest  
2 maximum taxable wage base in the nation at \$34,000. In 2007,  
3 Hawaii employers will continue to be taxed at the highest  
4 maximum taxable wage base in the nation at \$35,300, with an  
5 automatic increase to an estimated \$36,500 for 2008.

6           The purpose of this Act is to assist in providing economic  
7 sustainability to Hawaii by providing long needed tax relief,  
8 though temporary, to Hawaii's employers for calendar years 2008,  
9 2009, 2010, 2011, and 2012. This tax relief will help to  
10 sustain Hawaii's economy by assisting with small business growth  
11 and provide immediate economic prosperity that will give  
12 Hawaii's employers more money to create new jobs, expand  
13 benefits, or provide overdue pay increases to their employees.

14           SECTION 2. Section 383-61, Hawaii Revised Statutes, is  
15 amended to read as follows:

16           "**§383-61 Payment of contributions; wages not included.**

17           (a) Contributions with respect to wages for employment shall  
18 accrue and become payable by each employer for each calendar  
19 year in which the employer is subject to this chapter. The  
20 contributions shall become due and be paid by each employer to  
21 the director of labor and industrial relations for the fund in  
22 accordance with such rules as the department of labor and

1 industrial relations may prescribe, and shall not be deducted,  
2 in whole or in part, from the wages of individuals in the  
3 employer's employ.

4 (b) Except as provided in subsections (c) [~~and~~], (d), and  
5 (e), the term "wages" does not include remuneration paid with  
6 respect to employment to an individual by an employer during any  
7 calendar year which exceeds the average annual wage, rounded to  
8 the nearest hundred dollars, for the four calendar quarter  
9 period ending on June 30 of the preceding year.

10 The average annual wage shall be computed as follows: on  
11 or before November 30 of each year the total remuneration paid  
12 by employers, as reported on contribution reports on or before  
13 such date, with respect to all employment during the four  
14 consecutive calendar quarters ending on June 30 of such year  
15 shall be divided by the average monthly number of individuals  
16 performing services in such employment during the same four  
17 calendar quarters as reported on such contribution reports and  
18 rounded to the nearest hundred dollars.

19 (c) For calendar years 2008, 2009, 2010, 2011, and 2012  
20 only, the term "wages" as used in this part does not include  
21 remuneration in excess of \$13,000 paid with respect to  
22 employment to an individual by an employer so long as the

1 balance of the unemployment trust fund does not fall below the  
2 adequate reserve fund as specified by section 383-63. This  
3 subsection shall apply only to the contribution rate paid into  
4 the unemployment insurance trust fund.

5 [~~e~~] (d) For the calendar year 1991 only, the term  
6 "wages" does not include remuneration in excess of \$7,000 paid  
7 with respect to employment to an individual by an employer.

8 [~~d~~] (e) For calendar year 1988 only, the term "wages" as  
9 used in this part does not include remuneration paid with  
10 respect to employment to an individual by an employer during the  
11 calendar year which exceeds:

12 (1) One hundred per cent of the average annual wage if the  
13 most recently computed ratio of the current reserve  
14 fund to the adequate reserve fund prior to that  
15 calendar year is equal to or less than .80; or

16 (2) Seventy-five per cent of the average annual wage if  
17 the most recently computed ratio of the current  
18 reserve fund to the adequate reserve fund prior to  
19 that calendar year is greater than .80 but less than  
20 1.2; or

21 (3) Fifty per cent of the average annual wage if the most  
22 recently computed ratio of the current reserve fund to

1           the adequate reserve fund prior to that calendar year  
2           is equal to or more than 1.2;  
3 provided that "wages" with respect to which contributions are  
4 paid are not less than that part of the remuneration which is  
5 subject to tax in accordance with section 3306(b) of the  
6 Internal Revenue Code of 1986, as amended.

7           ~~(e)~~ (f) If an employer during any calendar year acquires  
8 substantially all the property used in a trade or business, or  
9 in a separate unit of a trade or business, of another employer,  
10 and after the acquisition employs an individual who prior to the  
11 acquisition was employed by the predecessor, then for the  
12 purpose of determining whether remuneration in excess of the  
13 average annual wages has been paid to the individual for  
14 employment, remuneration paid to the individual by the  
15 predecessor during the calendar year shall be considered as  
16 having been paid by the successor employer. For the purposes of  
17 this subsection, the term "employment" includes services  
18 constituting employment under any employment security law of  
19 another state or of the federal government.

20           ~~(f)~~ (g) Subsections (b) through ~~(e)~~ (f)  
21 notwithstanding, for the purposes of this part the term "wages"  
22 shall include at least that amount of remuneration paid in a

1 calendar year to an individual by an employer or the employer's  
2 predecessor with respect to employment during any calendar year  
3 which is subject to a tax under a federal law imposing a tax  
4 against which credit may be taken for contributions required to  
5 be paid into a state unemployment fund.

6 [~~g~~] (h) In accordance with section 303(a)(5) of the  
7 Social Security Act, as amended, and section 3304(a)(4) of the  
8 Internal Revenue Code of 1986, as amended, any contributions  
9 overpaid due to a retroactive reduction in the taxable wage base  
10 may be credited against the employer's future contributions upon  
11 request by the employer; provided that no employer shall be  
12 given a cash refund."

13 SECTION 3. Section 383-63, Hawaii Revised Statutes, is  
14 amended by amending the definition of "adequate reserve fund" to  
15 read as follows:

16 ""Adequate reserve fund" means an amount that is equal to  
17 the amount derived by multiplying the benefit cost rate that is  
18 the highest during the ten-year period ending on November 30 of  
19 each year by the total remuneration paid by all employers, with  
20 respect to all employment for which contributions are payable  
21 during the last four calendar quarters ending on June 30 of the  
22 same year, as reported on contribution reports filed on or

1 before October 31 of the same year. "Remuneration", as used in  
2 this definition, means wages as defined in section 383-10. For  
3 the purpose of determining the highest benefit cost rate, the  
4 benefit cost rate for the first twelve-consecutive-calendar-  
5 month period beginning with the first day of the first month of  
6 the ten-year period and for each succeeding twelve-consecutive-  
7 calendar-month period beginning with the first day of each  
8 subsequent month shall be computed.

9 ~~[Effective for the calendar year 1992 and thereafter,~~  
10 ~~"adequate reserve fund" means an amount that is equal to one and~~  
11 ~~one half times the amount derived by multiplying the benefit~~  
12 ~~cost rate that is the highest during the ten year period ending~~  
13 ~~on November 30 of each year by the total remuneration paid by~~  
14 ~~all employers, with respect to all employment for which~~  
15 ~~contributions are payable during the last four calendar quarters~~  
16 ~~ending on June 30 of the same year, as reported on contribution~~  
17 ~~reports filed on or before October 31 of the same year.~~

18 ~~"Remuneration", as used in this definition, means wages as~~  
19 ~~defined in section 383 10. For the purpose of determining the~~  
20 ~~highest benefit cost rate, the benefit cost rate for the first~~  
21 ~~twelve consecutive calendar month period beginning with the~~  
22 ~~first day of the first month of the ten year period and for each~~

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1 ~~succeeding twelve consecutive calendar month period beginning~~  
2 ~~with the first day of each subsequent month shall be computed.] "~~

3 SECTION 4. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 5. This Act shall take effect on January 1, 2008.

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7 INTRODUCED BY: \_\_\_\_\_

8 BY REQUEST  
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JUSTIFICATION SHEET

DEPARTMENT: Labor and Industrial Relations

TITLE: A BILL FOR AN ACT RELATING TO EMPLOYMENT SECURITY LAW.

PURPOSE: To provide economic sustainability to Hawaii by lowering the maximum taxable wage base from \$35,300 to the national average of \$13,000 for calendar years 2008, 2009, 2010, 2011, and 2012. Additionally, the definition of "Adequate reserve fund" is amended by reducing from 18 months times the benefit cost rate that is the highest during the ten-year period to 12 months.

While it is important to maintain a healthy fund balance, it is also important to ensure Hawaii's economy is provided the necessary tools to be able to sustain itself after several years of strong performance. This tax relief will help to sustain Hawaii's economy by assisting with small business growth and providing more money to create new jobs, expand benefits, or provide overdue pay increases to their employees.

MEANS: Amend sections 383-61 and 383-63, Hawaii Revised Statutes.

JUSTIFICATION: Hawaii's unemployment insurance system automatically increases contribution and benefit levels paid to unemployed workers on a yearly basis. For example, in 2001, Hawaii's maximum weekly benefit amount was \$383 dollars. In 2002, the maximum weekly benefit rose to \$395 and in 2003, it again rose to \$407. The current maximum weekly benefit amount is \$459.

Hawaii's low unemployment rate and strong job growth has helped the unemployment insurance trust fund balance grow to approximately \$532 million. In December.

2004 the fund balance was \$387.9 million, with \$104.6 million paid out in benefits. It is estimated that total benefit payments will decrease to \$91 million for 2006. With these estimates, it is projected that the trust fund will have a projected balance of \$622 million dollars on December 31, 2009.

In 2006, Hawaii's employers were taxed at the highest maximum taxable wage base in the nation at \$34,000. In 2007, Hawaii employers will continue to be taxed at the highest maximum taxable wage base in the nation at \$35,300, with an automatic increase to an estimated \$36,500 for 2008.

This bill does not decrease benefits paid to employees or deny them the yearly increases they receive and it will not place the unemployment trust fund in jeopardy. It simply helps to provide the resources necessary to allow for economic sustainability to help further stimulate the economy.

Impact on the public: This tax relief will help small business growth and provide immediate economic prosperity that will give Hawaii's employers more money to create new jobs, expand benefits or provide pay increases to their employees.

Impact on the department and other agencies:  
None.

GENERAL FUND: None.

OTHER FUNDS: The unemployment insurance trust fund is anticipated to decrease from \$530 million to \$420 million from 2006 to 2012, while still maintaining more than adequate reserves.

PPBS PROGRAM DESIGNATION: LBR-171.

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OTHER AFFECTED  
AGENCIES:

None.

EFFECTIVE DATE:

January 1, 2008.