

JAN 26 2011

A BILL FOR AN ACT

RELATING TO EMPLOYMENT SECURITY LAW.

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

1 SECTION 1. The purpose of this Act is to provide for a
2 mechanism of collecting special assessments from employers in a
3 fair and equitable manner to pay for interest on unpaid Title
4 XII loans that are due on September 30, 2011. Act 2, passed
5 during the Regular Session of 2010, assisted employers by
6 providing relief from a scheduled increase in the unemployment
7 insurance (UI) contribution rates for calendar years 2010 and
8 2011. This action, however, contributed to the insolvency of
9 the UI trust fund beginning in December 2010 and required the
10 State of Hawaii to borrow monies from the federal government in
11 order to pay unemployment insurance benefits. The Employment
12 and Training (E&T) fund is the only cost effective mechanism
13 available to charge a surtax on the employer. It is for this
14 reason that the current law must be amended to include the
15 payment of interest on Title XII loans as one of the uses of the
16 E&T fund and to expand the assessment on all employers. The
17 surtax must be included in the notices that are mailed out to
18 the employers in early March of each year.

1 SECTION 2. Section 383-128, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) The moneys in the employment and training fund may be
4 used for funding:

- 5 (1) The operation of the state employment service for
6 which no federal funds have been allocated;
- 7 (2) Business-specific training programs to create a more
8 diversified job base and to carry out the purposes of
9 the new industry training program pursuant to section
10 394-8;
- 11 (3) Industry or employer-specific training programs where
12 there are critical skill shortages in high growth
13 occupational or industry areas;
- 14 (4) Training and retraining programs to assist workers who
15 have become recently unemployed or likely to be
16 unemployed;
- 17 (5) Programs to assist residents who do not otherwise
18 qualify for federal or state job training programs to
19 overcome employment barriers; ~~and~~
- 20 (6) Training programs to provide job-specific skills for
21 individuals in need of assistance to improve career
22 employment prospects~~[.]~~; and
- 23 (7) The payment of interest due under the provisions of
24 section 1202(b) of the Social Security Act, as

1 amended, for advances made to the unemployment
2 compensation fund."

3 SECTION 3. Section 383-129, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) In addition to contributions determined by section
6 383-68, every employer, except an employer who has selected an
7 alternative method of financing liability for unemployment
8 compensation benefits pursuant to section 383-62 [~~or an~~
9 ~~employer who has been assigned a minimum rate of zero per cent~~
10 ~~or the maximum rate of five and four-tenths per cent in~~
11 ~~accordance with section 383-68]~~, shall be subject to an
12 employment and training fund assessment at a rate of .01 per
13 cent of taxable wages as specified in section 383-61. If
14 interest is due on a Title XII advance under the provisions of
15 section 1202(b) of the Social Security Act, the employment and
16 training fund assessment shall be increased to pay the interest
17 due. The director shall have the discretion to determine the
18 amount of such increase in the employment and training
19 assessment rate for the calendar year 2011. The increase in the
20 employment and training assessment rate shall be in increments
21 of .01 per cent."

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

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1 SECTION 5. This Act shall take effect upon its approval
2 and shall apply retroactively to January 1, 2011; provided that
3 on January 1, 2012, this Act shall be repealed and sections 383-
4 128 and 383-129, Hawaii Revised Statutes, are reenacted in the
5 form in which they read on December 31, 2010.

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INTRODUCED BY: ASTL

BY REQUEST

SB. NO. 1304

Report Title:

Employment Security

Description:

Provides for payment of interest due on Title XII loans from the Employment and Training (E&T) Fund. Authorizes the Department of Labor and Industrial Relations director to increase the E&T assessment in increments of .01 per cent retroactive to January 1, 2011.

JUSTIFICATION SHEET

DEPARTMENT: Labor and Industrial Relations

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

PURPOSE: This bill temporarily broadens the use of the Employment and Training Fund (ETF) to include payment of interest on Title XII loans.

MEANS: Amend sections 383-128(b) and 383-129(a), Hawaii Revised Statutes.

JUSTIFICATION: In December 2010, Hawaii's unemployment trust fund became insolvent and had to request Title XII loans in order to continue payment of jobless benefits. According to federal law, if there is an outstanding loan balance on September 30, 2011, the State must pay interest on the amount due by that date. Failure to pay interest when due may result in the loss of the employers' 5.4 percent FUTA tax offset credit and loss of approximately \$15,000,000 in administrative grants to operate the Unemployment Insurance (UI) system in Hawaii. This means that employers will be liable for the full 6.2 percent FUTA tax (increased from \$56 to \$434 per employee annually) and jobless workers will not be able to file UI claims due to the total shutdown of all UI local offices.

The Department intends to collect the monies needed to pay interest due on Title XII loans in calendar year 2011 by increasing the current .01 percent employment and training (E&T) assessment, as determined by the Director. As continued support of the UI system, facilitating reemployment by improving job skills through training and maintaining lower payroll taxes is the collective responsibility of all contributory employers, the increased E&T assessment will apply to all employers,

including those with minimum and maximum tax rates of 0 percent and 5.4 percent. After 2011, the provisions of this bill will sunset and the law will revert to its original language prior to January 2011.

Impact on the public: All employers will share in the cost to help pay the interest due and replenish the E&T Fund.

Impact on the department and other agencies: There are no effects on the ETF program which is administered by the Workforce Development Division.

GENERAL FUND: None.

OTHER FUNDS: Federal.

PPBS PROGRAM
DESIGNATION: LBR-171.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Retroactively to January 1, 2011.