
A BILL FOR AN ACT

RELATING TO WORK-SHARING.

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

1 SECTION 1. Chapter 383, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 "PART . UNEMPLOYMENT INSURANCE WORK-SHARING PROGRAM

5 §383-A Definitions. As used in this part:

6 "Affected unit" means a specified plant, department, shift
7 or other definable unit consisting of two or more eligible
8 employees to which a work-sharing plan applies.

9 "Director" means the director of labor and industrial
10 relations.

11 "Eligible employee" means an individual who usually works
12 for an eligible employer who submits a work-sharing plan.

13 "Eligible employer" means a private employer:

14 (1) Who has had contributions credited to the private
15 employer's account;

16 (2) To whose account benefits have been chargeable; and

17 (3) Who is not delinquent in the payment of contributions
18 or reimbursements or in the reporting of wages.



1 "Fringe benefits" includes, but is not limited to, health
2 insurance, retirement benefits, paid vacation and holidays, sick
3 leave, and similar advantages that are incidents of employment.

4 "Intermittent employment" means employment that is not
5 continuous but may consist of intervals of weekly work and
6 intervals of no weekly work.

7 "Seasonal employment" means employment in seasonal
8 industries within the determined seasonal period or periods.

9 "Seasonal industry" means an industry in which it is
10 customary to operate only during a regularly recurring period or
11 periods of less than twenty-six weeks in a calendar year.

12 "Temporary layoff" means the layoff of workers in an
13 affected unit for an indefinite period expected to last for at
14 least two months but less than six months.

15 "Usual weekly hours of work" means the normal hours of work
16 each week for an eligible employee in an affected unit when that
17 unit is operating on a full-time basis, not to exceed forty
18 hours a week and not including overtime.

19 "Work-sharing benefits" means benefits payable to eligible
20 employees in an affected unit under an approved work-sharing
21 plan.



1 "Work-sharing employer" means an eligible employer with an
2 approved work-sharing plan in effect.

3 "Work-sharing plan" means a plan submitted to the director
4 by an eligible employer under which there is a reduction in the
5 number of hours worked by the eligible employees in the affected
6 unit in lieu of temporary layoffs of some of the employees.

7 §383-B Criteria for approval of a work-sharing plan. An
8 eligible employer wishing to participate in a work-sharing
9 program under this section shall submit a signed work-sharing
10 plan to the director for approval. The director shall approve a
11 work-sharing plan if the following requirements are met:

12 (1) The work-sharing plan identifies the affected unit or
13 units and specifies the effective date of the plan;

14 (2) The work-sharing plan identifies the eligible
15 employees in the affected unit or units by name, last
16 four digits of the employee's social security number,
17 usual weekly hours of work, proposed wage and hour
18 reduction, and any other information that the director
19 requires;

20 (3) The work-sharing plan certifies that the reduction in
21 the usual weekly hours of work is in lieu of temporary
22 layoffs that would affect not less than ten per cent



1 of the eligible employees in the affected unit and
2 that would result in an equivalent reduction in work
3 hours;

4 (4) Under the work-sharing plan, the usual weekly hours of
5 work for eligible employees in the affected unit are
6 reduced by not less than ten per cent and not more
7 than fifty per cent and the reduction in hours in each
8 affected unit is spread equally among eligible
9 employees in the affected unit;

10 (5) The work-sharing plan specifies the manner in which
11 the fringe benefits of the eligible employees will be
12 affected;

13 (6) If eligible employees are represented by a collective
14 bargaining unit, the work-sharing plan shall be
15 approved in writing by the collective bargaining unit
16 that covers the affected eligible employees. In the
17 absence of a collective bargaining unit, the work-
18 sharing plan shall contain a certification by the
19 eligible employer that the proposed plan, or a summary
20 of the plan, has been made available to each eligible
21 employee in the affected unit;



- 1 (7) A statement that the work-sharing plan shall not serve
2 as a subsidy of seasonal employment during the off-
3 season or of intermittent employment is included; and
- 4 (8) The eligible employer shall agree to furnish reports
5 relating to the proper conduct of the work-sharing
6 plan and agrees to allow the director, the director's
7 designee, or authorized representatives of the
8 department access to all records necessary to verify
9 the plan prior to approval and to monitor and evaluate
10 application of the plan after approval.

11 §383-C Approval or rejection of the work-sharing plan.

12 The director shall approve or reject a work-sharing plan in
13 writing. The director's decision shall be final and not subject
14 to appeal. The eligible employer may submit another work-
15 sharing plan for approval, and the director shall make a
16 determination based upon information contained in the new work-
17 sharing plan submitted by the eligible employer.

18 §383-D Effective date and duration of the work-sharing

19 plan. A work-sharing plan shall take effect on the date
20 specified in the plan or on the first Sunday following the date
21 on which the plan is approved by the director, whichever is
22 later. The work-sharing plan shall expire at the end of the



1 twelfth full calendar month after its effective date or on the
2 date specified in the plan if that date is earlier, unless the
3 plan is revoked by the director. If a plan is revoked by the
4 director, it shall terminate on the date specified in the
5 written order of revocation.

6 §383-E Review; revocation of approval. (a) The director
7 shall review the operation of each approved work-sharing plan at
8 least once during the period that the plan is in effect to
9 ensure that it complies with the work-sharing plan requirements
10 under section 383-B. The director may revoke approval of a
11 work-sharing plan for good cause.

12 For the purposes of this section, "good cause" includes:

- 13 (1) Failure to comply with assurances given in the work-
14 sharing plan;
- 15 (2) Unreasonable revision of productivity standards for
16 the affected unit;
- 17 (3) Conduct or occurrences tending to defeat the intent
18 and effective operation of the plan; and
- 19 (4) Violation of any criteria on which approval of the
20 plan was based.

21 (b) A revocation order shall be in writing, state the
22 reason for revocation, and specify the date that the revocation



1 shall take effect. A revocation order shall be final and shall
2 not be subject to appeal.

3 (c) Action to revoke the work-sharing plan may be taken at
4 any time by the director on the director's own motion, on the
5 motion of any of the affected unit's eligible employees, or on
6 the motion of a collective bargaining unit that covers the
7 affected employees.

8 §383-F Modification of the work-sharing plan. (a) An
9 operational approved work-sharing plan may be modified by the
10 eligible employer with the consent of the collective bargaining
11 unit that covers the affected employees, if any, if the
12 modification:

- 13 (1) Is not substantial;
- 14 (2) Conforms with the plan approved by the director; and
- 15 (3) Is reported promptly to the director by the eligible
16 employer.

17 (b) If the hours of work are increased or decreased
18 substantially beyond the level in the original work-sharing plan
19 or any other conditions are changed substantially, the director
20 shall approve or disapprove the modifications without changing
21 the expiration date of the original plan. If the substantial
22 modifications do not meet the requirements for approval under



1 section 383-B, the director shall disallow those modifications
2 in writing.

3 (c) A decision of the director under this section shall be
4 final and not subject to appeal.

5 §383-G Eligibility for work-sharing benefits. (a) After
6 serving a waiting period as prescribed by the director, an
7 eligible employee shall be eligible to receive work-sharing
8 benefits with respect to any week only if the director finds
9 that, in addition to meeting other conditions of eligibility for
10 regular benefits under this part that are not inconsistent with
11 this section:

12 (1) During the week, the eligible employee shall be
13 employed as a member of an affected unit under an
14 approved work-sharing plan that was approved prior to
15 that week and that is in effect with respect to the
16 week for which work-sharing benefits are claimed; and

17 (2) The eligible employee is available and able to work
18 the normal workweek with the work-sharing employer.

19 (b) Notwithstanding any other provisions of this part, an
20 eligible employee shall be deemed unemployed in any week for
21 which remuneration is payable to that eligible employee as an
22 eligible employee in an affected unit for less than that



1 eligible employee's normal weekly hours of work as specified
2 under the approved work-sharing plan in effect for the week.

3 (c) Notwithstanding any other provisions of this chapter,
4 an eligible employee shall not be denied work-sharing benefits
5 for any week by reason of the application of laws and rules
6 relating to the availability for work and active search for work
7 with an employer other than the work-sharing employer.

8 §383-H Work-sharing benefits. (a) The weekly work-
9 sharing benefit amount shall be the product of the regular
10 weekly benefit amount, including any dependents' allowances,
11 multiplied by the percentage reduction in the eligible
12 employee's usual weekly hours of work as specified in the
13 approved work-sharing plan. If the weekly work-sharing benefit
14 amount is not an exact multiple of \$1, the weekly work-sharing
15 benefit amount shall be rounded down to the next lower multiple
16 of \$1.

17 (b) An eligible employee shall not receive a total of
18 work-sharing benefits and regular unemployment compensation in
19 any benefit year that exceeds the maximum entitlement
20 established for unemployment compensation, nor shall an eligible
21 employee be paid work-sharing benefits for more than fifty-two



1 weeks in any benefit year pursuant to an approved work-sharing
2 plan.

3 (c) The work-sharing benefits paid shall be deducted from
4 the maximum entitlement amount established for an eligible
5 employee's benefit year.

6 (d) If an eligible employer approves time off and the
7 eligible employee has performed any amount of work during the
8 week, the eligible employee shall be eligible for work-sharing
9 benefits based on the combined work and paid leave hours for
10 that week. If the eligible employer does not grant time off, the
11 question of availability shall be investigated by the director.

12 (e) If an eligible employee did not work all the hours
13 offered by the work-sharing employer in a given week because the
14 employee was sick, the employee shall be denied work-sharing
15 benefits for that week.

16 (f) Claims for work-sharing benefits shall be filed in the
17 same manner as claims for unemployment compensation or as
18 prescribed in rules adopted by the director pursuant to chapter
19 91.

20 (g) Laws and rules applicable to unemployment compensation
21 claimants shall apply to work-sharing claimants to the extent
22 that they are not inconsistent with the established work-sharing



1 provisions. An eligible employee who files an initial claim for
2 work-sharing benefits, if eligible for work-sharing benefits,
3 shall be provided a monetary determination of entitlement to
4 work-sharing benefits and shall serve a waiting period of one
5 week.

6 (h) If an eligible employee works in the same week for a
7 work-sharing employer and an employer other than the work-
8 sharing employer, the eligible employee's work-sharing benefits
9 shall be computed in the same manner as if the eligible employee
10 worked solely with the work-sharing employer, except that if the
11 eligible employee is not able to work or is not available for
12 the normal workweek with the work-sharing employer, work-sharing
13 benefits shall not be paid to that eligible employee for that
14 week.

15 (i) An eligible employee who does not work during a week
16 for the work-sharing employer and is otherwise eligible shall be
17 paid the full weekly unemployment compensation amount. That
18 week shall not be counted as a week for which work-sharing
19 benefits were received.

20 (j) An eligible employee who does not work for the work-
21 sharing employer during a week, but works for another employer
22 and is otherwise eligible, shall be paid benefits for that week



1 under the partial unemployment compensation provisions of this
2 chapter. That week shall not be counted as a week for which
3 work-sharing benefits were received.

4 (k) Nothing in this section shall preclude an otherwise
5 eligible employee from receiving total or partial unemployment
6 benefits when the eligible employee's work-sharing benefits have
7 been exhausted.

8 §383-I Benefit charges. Notwithstanding any other
9 provisions of this part, work-sharing benefits shall be charged
10 to the account of the work-sharing employer. Employers liable
11 for payments in lieu of contributions shall reimburse the state
12 unemployment compensation fund for the full amount of work-
13 sharing benefits paid to their employees under an approved work-
14 sharing plan.

15 §383-J Extended benefits. An individual who has received
16 all of the unemployment compensation or combined unemployment
17 compensation and work-sharing benefits available in a benefit
18 year shall be considered an exhaustee for purposes of extended
19 benefits, as provided in section 383-168(10), and, if otherwise
20 eligible under that paragraph, shall be eligible to receive
21 extended benefits."



1 SECTION 2. In codifying the new sections added by section
2 1 of this Act, the revisor of statutes shall substitute
3 appropriate section numbers for the letters used in designating
4 the new sections in this Act.

5 SECTION 3. This Act shall take effect on July 1, 2012.

6

INTRODUCED BY:

Beck

Kal N. Brock

JAN 11 2012



H.B. NO. 1677

Report Title:

Work-Sharing; Unemployment; Employment Security

Description:

Creates a work-sharing program that provides an alternative to layoffs during a temporary slowdown in business.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

