
A BILL FOR AN ACT

RELATING TO EMPLOYMENT SECURITY.

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 . WORK-SHARING BENEFITS

5 §383- Definitions. As used in this part, unless the
6 context clearly requires otherwise:

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

10 "Fringe benefits" include health insurance, retirement
11 benefits, paid vacation and holidays, sick leave, and similar
12 advantages that are incidents of employment.

13 "Intermittent employment" means employment that is not
14 continuous but may consist of periodic intervals of weekly work
15 and intervals of no weekly work.

16 "Regular benefits" has the same meaning as in section 383-
17 168.



1 "Seasonal employment" means employment with an employer who
2 displays a twenty per cent difference between its highest level
3 of employment and its lowest level of employment each year for
4 the three previous calendar years as reported to the department,
5 or as shown in the information that is available and
6 satisfactory to the director.

7 "Temporary layoffs" means the separation of workers in the
8 affected unit for an indefinite period expected to last for at
9 least two months but less than six months.

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

14 "Work-sharing benefits" means benefits payable to employees
15 in an affected unit under an approved work-sharing plan.

16 "Work-sharing employer" means an employer with an approved
17 work-sharing plan in effect.

18 "Work-sharing plan" means a plan submitted by an employer
19 under which there is a reduction in the number of hours worked
20 by the employees in the affected unit in lieu of temporary
21 layoffs of some of the employees.



1 §383- **Work-sharing program established; eligibility.**

2 The director shall establish and administer a work-sharing
3 program in accordance with this part; provided that:

4 (1) No employee shall be eligible for work-sharing
5 benefits under this part unless the employee usually
6 works thirty hours or more each week for the employer
7 submitting a work-sharing plan; and

8 (2) No employer may submit or administer a work-sharing
9 plan under this part unless the employer is a private
10 employer who has had contributions credited to the
11 employer's account and benefits have been chargeable
12 to this account, and the employer is not delinquent in
13 the payment of contributions or reimbursements.

14 §383- **Criteria for approval of a work-sharing plan.**

15 (a) An employer wishing to participate in the work-sharing
16 program under this part shall submit a signed written work-
17 sharing plan to the director for approval. The director shall
18 approve a work-sharing plan only if the following requirements
19 are met:

20 (1) The plan identifies the affected unit or units and
21 specifies the effective date of the plan;



- 1 (2) The employees in the affected unit or units are
2 identified by name, social security number, the usual
3 weekly hours of work, proposed wage and hour
4 reduction, and any other information that the director
5 may require;
- 6 (3) The plan certifies that the reduction in the usual
7 weekly hours of work is in lieu of temporary layoffs
8 that would have affected at least ten per cent of the
9 employees in the affected unit or units to which the
10 plan applies and that would have resulted in an
11 equivalent reduction in work hours;
- 12 (4) The usual weekly hours of work for employees in the
13 affected unit or units are reduced by not less than
14 ten per cent and not more than fifty per cent, and the
15 reduction in hours in each affected unit are spread
16 equally among employees in the affected unit;
- 17 (5) The plan specifies the manner in which the fringe
18 benefits of the participating employees will be
19 affected;
- 20 (6) In the case of employees represented by a collective
21 bargaining agent or union, the plan is approved in
22 writing by the collective bargaining agents or unions



1 that cover the affected employees. In the absence of
2 any collective bargaining agent or union, the plan
3 shall include a certification by the employer that the
4 proposed plan, or a summary of the plan, has been made
5 available to each employee in the affected unit;

6 (7) The plan will not serve as a subsidy of seasonal
7 employment during the off season, nor as a subsidy for
8 intermittent employment; and

9 (8) The employer agrees to furnish reports relating to the
10 proper conduct of the plan and agrees to allow the
11 director or the director's authorized representatives
12 access to all records necessary to verify the plan
13 prior to approval and, after approval, to monitor and
14 evaluate the application of the plan.

15 (b) In addition to the requirements specified in
16 subsection (a), the director shall consider any other factors
17 that may be pertinent to the proper implementation of the plan.

18 §383- **Approval or rejection of work-sharing plan.** The
19 director shall approve or reject a work-sharing plan in writing.
20 The reasons for rejection shall be final and not subject to
21 appeal. The employer may thereafter submit another plan for



1 consideration and that determination shall be made based upon
2 the new data submitted by the employer.

3 **§383- Effective date and duration of work-sharing plan.**

4 A work-sharing plan shall be effective on the date specified in
5 the plan or on the first Sunday following the date on which the
6 plan is approved by the director, whichever is later. The plan
7 shall expire at the end of the twelfth full calendar month after
8 the effective date of the plan or on an earlier date specified
9 in the plan; provided that the plan is not previously revoked by
10 the director. A plan revoked by the director shall terminate on
11 the date specified in the director's written order of
12 revocation.

13 **§383- Revocation of approval.** (a) The director may
14 revoke approval of a work-sharing plan for good cause. The
15 revocation order shall be in writing and shall specify the date
16 the revocation is effective and the reasons therefor. The
17 revocation order shall be final and not subject to appeal.

18 (b) A revocation of approval of a work-sharing plan under
19 this section may be made at any time by the director's own
20 motion, on the motion of any of the affected unit's employees,
21 or on the motion of any collective bargaining agent. The
22 director shall review the operation of each work-sharing plan at



1 least once during the period the plan is in effect to ensure
2 that the plan complies with the work-sharing requirements.

3 (c) For the purposes of this section, "good cause"
4 includes failure to comply with assurances given in the work-
5 sharing plan; unreasonable revision of productivity standards
6 for the affected unit; conduct or occurrences tending to defeat
7 the intent and effective operation of the plan; and violation of
8 any criteria on which approval of the plan was based.

9 §383- Modification of work-sharing plan. An operational
10 approved work-sharing plan may be modified by the work-sharing
11 employer with the consent of any collective bargaining agent or
12 union if the modification is insubstantial and conforms with the
13 plan approved by the director; provided that the work-sharing
14 employer promptly reports the modifications to the director. If
15 the hours of work are increased or decreased substantially
16 beyond the level in the original plan, or any other conditions
17 are changed substantially, the director shall approve or
18 disapprove the modifications without changing the expiration
19 date of the original plan. If the substantial modifications do
20 not meet the requirements for approval, the director shall
21 disallow that portion of the plan in writing. The decision of
22 the director shall be final and not subject to appeal.



1 §383- **Eligibility for work-sharing benefits.** (a)
2 Subsequent to serving a waiting period as prescribed by the
3 director, an individual shall be eligible to receive work-
4 sharing benefits with respect to any week only if, in addition
5 to meeting other conditions of eligibility for regular benefits
6 under this chapter that are not inconsistent with this section,
7 the director finds that:

8 (1) During the week, the individual is employed as a
9 member of an affected unit under a work-sharing plan
10 that was approved prior to that week, and the plan is
11 in effect with respect to the week for which work-
12 sharing benefits are claimed; and

13 (2) The individual is able to work and is available for
14 the normal work week with the work-sharing employer.

15 (b) Notwithstanding any other provisions of this chapter
16 to the contrary, an individual is deemed unemployed in any week
17 for which remuneration is payable to the individual as an
18 employee in an affected unit for less than the individual's
19 normal weekly hours of work as specified under the approved
20 work-sharing plan in effect for the week.

21 (c) Notwithstanding any other provisions of this chapter
22 to the contrary, an individual shall not be denied work-sharing

1 benefits for any week by reason of the application of provisions
2 relating to the availability for work and active search for work
3 with an employer other than the work-sharing employer.

4 §383- **Work-sharing benefits.** (a) The work-sharing
5 weekly benefit amount shall be the product of the regular weekly
6 benefit amount under section 383-22, including any dependents'
7 allowances, multiplied by the percentage reduction in the
8 individual's usual weekly hours of work as specified in the
9 approved plan. If the work-sharing weekly benefit amount is not
10 an exact multiple of \$1, then the weekly benefit amount shall be
11 rounded down to the next lower multiple of \$1.

12 (b) An individual may be eligible for work-sharing
13 benefits or regular benefits, as appropriate, except that no
14 individual shall be eligible for combined benefits in any
15 benefit year in an amount exceeding the maximum entitlement
16 established under section 383-24, nor shall an individual be
17 paid work-sharing benefits for more than fifty-two weeks,
18 whether or not consecutive, in any benefit year pursuant to an
19 approved work-sharing plan.

20 (c) The work-sharing benefits paid shall be deducted from
21 the maximum entitlement amount established for that individual's
22 benefit year pursuant to section 383-24.



1 (d) If an employer approves time off and the worker has
2 performed some work during the week, the individual shall be
3 eligible for work-sharing benefits based on the combined work
4 and paid leave hours for that week.

5 (e) If an employee was sick and consequently did not work
6 all the hours offered by the work-sharing employer in a given
7 week, the employee shall be denied work-sharing benefits for
8 that week.

9 (f) Claims for work-sharing benefits shall be filed in the
10 same manner as claims for regular benefits or in accordance with
11 rules adopted by the director.

12 (g) Provisions applicable to claimants of regular benefits
13 shall apply to work-sharing claimants to the extent that they
14 are not inconsistent with the established work-sharing
15 provisions. An individual who files an initial claim for work-
16 sharing benefits, if eligible for benefits, shall be provided a
17 monetary determination of entitlement to work-sharing benefits
18 and shall serve a waiting week.

19 (h) If an individual works in the same week for an
20 employer other than the work-sharing employer, the individual's
21 work-sharing benefits shall be computed in the same manner as if
22 the individual worked solely with the work-sharing employer. If



1 the individual is not able to work or is not available for the
2 normal work week with the work-sharing employer, then no work-
3 sharing benefits shall be payable to that individual for that
4 week.

5 (i) An individual who performs no services during a week
6 for the work-sharing employer and is otherwise eligible shall be
7 paid the full weekly benefit amount under section 383-22;
8 provided that week shall not be counted as a week with respect
9 to which work-sharing benefits were received.

10 (j) An individual who does not work for the work-sharing
11 employer during a week but works for another employer and is
12 otherwise eligible shall be paid benefits for that week under
13 the partial unemployment benefit provisions of part II; provided
14 that week shall not be counted as a week with respect to which
15 work-sharing benefits were received.

16 (k) Nothing in this section shall preclude an otherwise
17 eligible individual from receiving total or partial unemployment
18 benefits when the individual's work-sharing benefits have been
19 exhausted.

20 §383- Benefit charges. Notwithstanding any provision of
21 this chapter to the contrary, work-sharing benefits shall be
22 charged to the account of the work-sharing employer. Employers



1 liable for payments in lieu of contributions shall be
2 responsible for reimbursing the fund for the full amount of
3 work-sharing benefits paid to employees under an approved work-
4 sharing plan.

5 §383- Extended benefits. An individual who has received
6 all of the regular benefits or combined regular benefits and
7 work-sharing benefits available in a benefit year shall be
8 considered an exhaustee for purposes of extended benefits under
9 part VII and, if otherwise eligible under that part, shall be
10 eligible to receive extended benefits."

11 SECTION 2. This Act shall take effect upon its approval.
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H.B. NO. 2025

Report Title:

Employment Security; Unemployment; Work-sharing Benefits

Description:

Authorizes certain private employers to administer a work-sharing plan to avoid temporary layoffs, if approved by the DLIR. Allows employees under a work-sharing plan to receive unemployment benefits to compensate for lost wages.

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

