

H.B. NO. 2388

A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

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

1 SECTION 1. The purpose of this bill is to ensure injured
2 workers receive the quality medical care that they are entitled
3 to when they are injured on the job by repealing Act 11, Special
4 Session Laws of Hawaii 2005.

5 Act 11 amended Hawaii's workers' compensation law to repeal
6 administrative rules mandating the use of evidence based,
7 clinically tested, treatment guidelines that would have ensured
8 injured employees received quality medical treatment for their
9 work injury.

10 Act 11 also prohibited the director of labor and industrial
11 relations from adopting or amending administrative rules
12 pertaining to chapter 386 until July 1, 2007, except for rules
13 relating to the annual update of the medical fee schedules
14 specific to the amount paid to medical providers. Further, this
15 bill also repeals several amendments within Act 11 that codified
16 several administrative rules into state law. These amendments
17 should be repealed and placed back into the jurisdiction of
18 administrative rulemaking to allow the director the flexibility

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1 to adjust these administrative rules as necessary and
2 appropriate.

3 This Act would return authority to the director to adopt or
4 amend administrative rules pertaining to chapter 386, to ensure
5 that the workers' compensation system is administered
6 efficiently and fairly.

7 SECTION 2. Act 11, Special Session Laws of Hawaii 2005, is
8 repealed; provided that sections 386-1, 371-7, 371-8, 386-25,
9 386-26, 386-31(b), 386-72, 386-86, 386-94, 386-96(a), 386-98(e),
10 and 386-121(a), Hawaii Revised Statutes, are reenacted in the
11 form they read on July 11, 2005.

12 SECTION 3. This Act shall take effect upon approval.

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INTRODUCED BY: Calvin K. Y. Soy
BY REQUEST
JAN 23 2006

JUSTIFICATION SHEET

DEPARTMENT: Labor and Industrial Relations

TITLE: A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION.

PURPOSE: The purpose of this bill is to ensure injured workers receive the quality medical care that they are entitled to when they are injured on the job by repealing Act 11, Special Session 2005.

MEANS: Repeal Act 11, Special Session Laws of Hawaii 2005, provided that sections 386-1, 371-7, 371-8, 386-25, 386-26, 386-31(b), 386-72, 386-86, 386-94, 386-96(a), 386-98(e), and 386-121(a), Hawaii Revised Statutes, are reenacted in the form they read on July 11, 2005.

JUSTIFICATION: This bill is meant to ensure that injured employees receive quality medical treatment they are entitled to when they become injured on the job.

Studies show that Hawaii has a high percentage of injured workers who miss work due to their injury. Studies also show that year after year it takes longer for injured employees to return to work. These occurrences are due to over-utilization of medical care that only serve to further harm the injured employee physically, mentally, and financially. This proposal would repeal the changes made by the state legislature to the state's workers' compensation law, including the limiting of the Director's authority to amend administrative rules which would allow the Director to implement evidence-based, clinically tested, medical treatment guidelines.

Hawaii is ranked as one of the highest states in the nation in the average cost

employers pay in workers' compensation premiums. Over-utilization and needless care are some of the main cost drivers and needs to be better addressed and controlled.

Act 11, Special Session Laws of Hawaii 2005, arbitrarily suspended the authority of the Director to implement rule changes to improve and streamline the administration and implementation of the state's workers' compensation laws.

Suspension of the rulemaking process frustrates the Director from performing the statutory function of facilitating and promoting the efficient execution of the state's workers' compensation law through the adoption and amendment of administrative rules.

Further, this bill also repeals several amendments within Act 11 that codified several administrative rules into state law. These amendments should be repealed and placed back into the jurisdiction of administrative rulemaking to allow the director the flexibility to adjust these administrative rules.

The present workers' compensation system is frustrating, costly and creates unnecessary delays. The director must be given back his authority to effectuate change in order to reform this system.

Impact on public: None.

Impact on the department and other agencies:
None.

GENERAL FUND: None.

OTHER FUNDS: None.

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PPBS PROGRAM
DESIGNATION: LBR-183.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.