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A BILL FOR AN ACT

RELATING TO CERTAIN FUNDS UNDER THE DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS.

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

1           SECTION 1. Section 383-121, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§383-121 Unemployment compensation fund; establishment**  
4 **and control.** There is established in the treasury of the State  
5 as a [~~special~~] trust fund, separate and apart from all public  
6 moneys or funds of the State, an unemployment compensation fund,  
7 which shall be administered by the department of labor and  
8 industrial relations exclusively for the purposes of this  
9 chapter. All contributions pursuant to this chapter shall be  
10 paid into the fund and all compensation and benefits payable  
11 pursuant to this chapter shall be paid from the fund. All  
12 moneys in the fund shall be mingled and undivided. The fund  
13 shall consist of:

- 14           (1) All contributions collected pursuant to this chapter;  
15           (2) Interest earned on any moneys in the fund;  
16           (3) Any property or securities acquired through the use of  
17           moneys belonging to the fund;

- 1 (4) All earnings of such property or securities;
- 2 (5) All moneys credited to this State's account in the
- 3 unemployment trust fund pursuant to section 903 of the
- 4 Social Security Act, as amended; and
- 5 (6) All other moneys received for the fund from any other
- 6 source."

7 SECTION 2. Section 386-151, Hawaii Revised Statutes, is

8 amended by amending subsection (a) to read as follows:

9 "(a) There is hereby created a trust fund to be known as

10 the special compensation fund which shall consist of payments

11 made to it as provided by law. The director of finance of the

12 State shall be custodian of the fund, and all disbursements

13 therefrom shall be paid by the director of finance upon orders

14 by the director of labor and industrial relations."

15 SECTION 3. Section 392-61, Hawaii Revised Statutes, is

16 amended to read as follows:

17 "[+]§392-61[+] **Establishment of [~~special~~] trust fund for**

18 **disability benefits.** There is established in the treasury of

19 the State, separate and apart from all public moneys or funds of

20 the State, a [~~special~~] trust fund for disability benefits which

21 shall be administered by the director exclusively for the

22 purposes of this chapter[-]; including for the automation of the

1 workers compensation, temporary disability insurance, and  
2 prepaid health care programs. All contributions pursuant to  
3 this part shall be paid into the fund and all benefits payable  
4 under this part shall be paid from the fund. The fund shall  
5 consist of (1) all contributions collected pursuant to this  
6 part, together with any interest thereon; (2) all fines and  
7 penalties for the fund pursuant to this chapter; (3) all moneys  
8 collected by way of subrogation; (4) interest earned on any  
9 moneys in the fund; (5) any property or securities acquired  
10 through the use of moneys belonging to the fund; (6) all  
11 earnings of such property and securities; and (7) all other  
12 moneys received for the fund from any source."

13 SECTION 4. Section 393-41, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "[+]393-41[+] **Establishment of [~~special~~] premium**  
16 **supplementation fund.** There is established in the treasury of  
17 the State, separate and apart from all public moneys or funds of  
18 the State, a [~~special~~] trust fund for premium supplementation  
19 which shall be administered exclusively for the purposes of this  
20 chapter. All premium supplementations payable under this part  
21 shall be paid from the fund. The fund shall consist of (1) all  
22 money appropriated by the State for the purposes of premium

1 supplementation under this part and (2) all fines and penalties  
2 collected pursuant to this chapter."

3 SECTION 5. There is appropriated out of the special fund  
4 for disability benefits available funds in the sum of  
5 \$5,000,000, or so much thereof as may be necessary for fiscal  
6 year 2008-2009, for the automation of the workers compensation,  
7 temporary disability insurance, and prepaid health care  
8 programs. The sum appropriated shall be expended by the  
9 department of labor and industrial relations for the purposes of  
10 this act.

11 SECTION 6. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13 SECTION 7. This Act shall take effect upon its approval.

14  
15 INTRODUCED BY: Calvin K. Day  
16 BY REQUEST

JAN 26 2009

**Report Title:**

Trust Funds; Automation of Disability Compensation Division.

**Description:**

Clarifies the classification of certain special funds as trust funds and appropriates \$5,000,000 from the special fund for disability benefits for automation of the disability compensation division.

JUSTIFICATION SHEET

DEPARTMENT: Labor and Industrial Relations

TITLE: A BILL FOR AN ACT RELATING TO CERTAIN FUNDS UNDER THE DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS.

PURPOSE: The purpose of this bill is to clarify the classification of the unemployment compensation fund 383-121, Hawaii Revised Statutes, (H.R.S.), the special compensation fund 386-151, H.R.S., the temporary disability insurance special fund for disability benefits, 392-61, H.R.S., and the prepaid health care special premium supplementation fund, 393-41, H.R.S., as trust funds.

Additionally, the purpose of this bill is to increase efficiency and reduce the long term administrative costs of the Department of Labor and Industrial Relations by automating the Disability Compensation Division's workers' compensation, temporary disability insurance, and prepaid health care programs.

MEANS: Amend sections 383-121, 386-151, 392-61, 393-41, Hawaii Revised Statutes (HRS), and appropriate \$5,000,000 out of the special fund for disability benefits, for the automation of the workers compensation, temporary disability insurance, and prepaid health care programs.

JUSTIFICATION: This amendment is needed to comply with the Legislative Auditor's recommendation that the Department of Labor and Industrial Relations should clarify the classification of these four special funds as trust funds. These funds were established as special funds and thus were classified accordingly by the Department of Accounting and General Services (DAGS). However, the funds meet the review criteria for a trust fund as

established by the State Auditor's Office based on the following criteria:

1. The fund continues to serve the purpose for which it was originally created;
2. The fund provides the benefits or services originally intended to the beneficiaries;
3. The fund does not require general fund appropriations; and
4. The fund meets the definition of a trust fund.

The Unemployment Compensation fund was established in 1937 under section 383-121 to provide temporary income to involuntarily unemployed individuals as required by state and federal laws. The program pays benefits to eligible unemployed individuals and is financed primarily through payroll taxes assessed on employers and interest earned on the fund balance. Federal law specifies that the unemployment compensation fund monies can only be used for benefit payments and employer refunds.

The Special Compensation Fund was established in 1937 under section 386-151 to enhance the employability of persons with pre-existing injuries, reduce discrimination against persons with dependents, and require employers to pay compensation for employees' losses sustained while in their employment. The fund provides compensation benefits to qualifying employees in certain circumstances including permanent total disability benefit adjustments, permanent disability benefits involving pre-existing conditions, defaulting employers, total disability under previous laws, concurrent employment, and benefit adjustments for services of attendants. Revenues are from levies on workers' compensation carriers and self-insured employers, interest income, reimbursements from defaulting employers, unpaid benefits in certain cases, and fines for noncompliance with the WC law.

HB1125

The Special Fund for Disability Benefits was established in 1969 under section 392-61 to pay benefits to individuals who become temporarily disabled while unemployed and are ineligible for unemployment insurance benefits. The fund also pays temporary disability benefits to employees who are entitled to benefits but cannot receive them because of employer bankruptcy or employer noncompliance with the TDI law. In 1969, a one-time assessment on employers was used to establish the fund. Since then, revenues are primarily from interest income and receipts from fines and penalties enforced through the TDI law.

The Prepaid Health Care (PHC) Premium Supplementation Fund was established in 1974 under section 393-41 to supplement health care insurance premium payments for certain employers with fewer than eight employees. In 1978, prepaid health care benefits coverage was added for employees who are entitled to receive benefits but whose employers are bankrupt or noncompliant with the state's PHC Act. The fund was established by an initial appropriation from the State's general fund. Since then, revenues have been primarily from interest income and receipts from fines and penalties collected under the PHC Act.

The Attorney General has also concluded that these special funds fall within the definition of a trust fund or functions as a trust fund and has recommended that the discrepancy be addressed through legislative action.

Finally, this bill will increase government efficiency while reducing the administrative costs of the workers compensation, temporary disability insurance, and prepaid health care programs. This efficiency will be realized through faster retrieval and storage of programs information and will be



achieved in part through: the digitization of files and records in these programs which will promote electronic transfer and filing of reports and insurance coverage information; the total migration from the legacy-based system to the client-server Lotus Notes system; and the conversion of paper files to electronic records. The Department of Labor and Industrial Relations currently stores eight years of workers' compensation cases in addition to all active cases on its premises. The Department also maintains twenty-two years of closed workers' compensation cases in the Department of Accounting and General Services' State Records Center. This bill will allow the state to reduce the costs for storing and retrieving of these records.

Impact on the public: Employers, insurance carriers, lawyers, employees, and doctors will enjoy greater convenience and save postage and transportation costs, by being able to submit Department of Labor and Industrial Relations Disability Compensation Division forms via the internet after automation is completed.

Impact on the department and other agencies: The Department of Labor and Industrial Relations will save considerable costs associated with the storage, retrieval, and maintenance of hardcopy files relating to the workers compensation, temporary disability insurance, and prepaid health care programs over time.

GENERAL FUND: None.

OTHER FUNDS: Federal.

PPBS PROGRAM DESIGNATION: LBR-171, LBR-183

OTHER AFFECTED AGENCIES: Department of Accounting and General Services.

HB 1175

EFFECTIVE DATE: Upon approval.