

JAN 25 2012

S.B. NO. 2848

A BILL FOR AN ACT

RELATING TO DISABILITY COMPENSATION DIVISION SPECIAL FUND.

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

1 SECTION 1. Chapter 386, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§386- Disability compensation division special fund.

5 (a) There is established in the state treasury the disability
6 compensation division special fund, into which shall be
7 deposited:

8 (1) All moneys collected by the disability compensation
9 division pursuant to sections 386-86 and 386-95; and

10 (2) All interest accrued by the revenues of the fund.

11 (b) The fund shall be administered by the disability
12 compensation division, department of labor and industrial
13 relations.

14 (c) Moneys in the disability compensation division special
15 fund shall be used by the disability compensation division for
16 operating costs incurred in the administration of chapter 386,
17 including but not limited to electronic document management.

1 (d) The disability compensation division shall submit a
2 report to the legislature detailing all funds received and all
3 moneys disbursed out of the fund prior to the convening of each
4 regular session."

5 SECTION 2. Section 386-86, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§386-86 Proceedings upon claim; hearings.** (a) If a
8 claim for compensation is made, the director shall make such
9 further investigation as deemed necessary and render a decision
10 within sixty days after the conclusion of the hearing awarding
11 or denying compensation, stating the findings of fact and
12 conclusions of law. The director may extend the due date for
13 decisions for good cause provided all parties agree. The
14 decision shall be filed with the record of the proceedings and a
15 copy of the decision shall be sent immediately to each party.

16 (b) The hearing shall be informal and shall afford the
17 parties a full and fair opportunity to present the facts and
18 evidence to be considered. Hearings under this section shall
19 not be subject to chapter 91. No stenographic or tape recording
20 shall be allowed.

21 (c) The order of presentation shall not alter the burden
22 of proof, including the burden of producing evidence and the
23 burden of persuasion. The party or parties who bear these

1 burdens shall be determined by law consistent with the purposes
2 of this section.

3 (d) Should the injured employee or injured employee's
4 representative, or the employer or employer's representative
5 fail to appear at the hearing, the director may issue a decision
6 based on the information on file. The decision shall be final
7 unless appealed pursuant to section 386-87. In all other
8 circumstances, a decision shall not be rendered by the director
9 without a hearing, which may not be waived by the parties.

10 (e) For the purpose of obtaining any matter, not
11 privileged, which is relevant to the subject matter involved in
12 the pending action, the director, upon application and for good
13 cause shown, may order the taking of relevant testimony by
14 deposition, upon oral examination, or written interrogatories,
15 or by other means of discovery in the manner and effect
16 prescribed by the Hawaii rules of civil procedure; provided that
17 when the claimant's deposition is taken, the employer shall pay
18 for the cost to the claimant of attending the deposition, any
19 costs associated with having the deposition transcribed and
20 copied, and any and all reasonable attorney's fees and costs
21 incurred by the claimant with respect to the deposition.

22 (f) Subpoenas requiring the attendance of witnesses at a
23 hearing before a hearings officer or for the taking of a

1 deposition or the production of documentary evidence from any
2 place within the State at any designated place of hearing may be
3 issued by the director or a duly authorized representative. The
4 employer shall serve a claimant with a copy of a medical record
5 subpoena unless the employer has previously obtained the
6 claimant's authorization to examine the claimant's medical
7 records. Should the claimant subpoena medical records, the
8 employer shall be served a copy. The party subpoenaing the
9 records shall provide these records within fifteen calendar days
10 of their receipt to the employer, claimant, and the special
11 compensation fund if a joinder has been filed, or their
12 representatives. These records shall be submitted by the party
13 requesting the subpoena to the director within seven calendar
14 days of the date of the notice of hearing or upon request by the
15 director. A party who desires to enforce the director's
16 subpoena shall seek enforcement from a court of competent
17 jurisdiction.

18 (g) The disability compensation division may establish
19 reasonable fees for the issuing of subpoenas as prescribed in
20 subsection (f).

21 The amount to be charged for each subpoena is \$10 and will
22 remain in effect from July 1, 2012, to June 30, 2015, or until

1 such time a different amount is established by rules adopted by
2 the director.

3 The fees and costs prescribed under this subsection shall
4 be paid in advance to the disability compensation division
5 special fund. Any fees and costs collected shall be deposited
6 with the director of finance to the credit of the disability
7 compensation division special fund established under section
8 386-_____.

9 The disability compensation division administrator may
10 waive the payment of fees and costs for good cause shown."

11 SECTION 3. Section 386-95, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§386-95 Reports of injuries, other reports, penalty.**

14 Every employer shall keep a record of all injuries, fatal or
15 otherwise, received by the employer's employees in the course of
16 their employment, when known to the employer or brought to the
17 employer's attention.

18 Within seven working days after the employer has knowledge
19 of such injury causing absence from work for one day or more or
20 requiring medical treatment beyond ordinary first aid, the
21 employer shall make a report thereon to the director. The
22 report shall set forth the name, address, and nature of the
23 employer's business and the name, age, sex, wages, and

1 occupation of the injured employee and shall state the date and
2 hour of the accident, if the injury is produced thereby, the
3 nature and cause of the injury, and such other information as
4 the director may require.

5 By January 31 of each year, the employer shall file with
6 the director a report with respect to each injury on which the
7 employer is continuing to pay compensation, showing all amounts
8 paid by the employer on account of the injury.

9 The reports required by this section shall be made on forms
10 to be obtained from the director pursuant to section 386-71 and
11 deposit of reports in the United States mail, addressed to the
12 director, within the time specified shall be deemed compliance
13 with the requirements of this section.

14 When an injury results in immediate death, the employer
15 shall within forty-eight hours notify personally or by telephone
16 a representative of the department in the county where the
17 injury occurred.

18 Within thirty days after final payment of compensation for
19 an injury, the employer shall file a final report with the
20 director showing the total payments made, the date of
21 termination of temporary total disability, and such other
22 information as the director may require.

S.B. NO. 2848

1 Any employer who [~~willfully~~] wilfully refuses or neglects
2 to file any of the reports or give any notice required by this
3 section shall be fined by the director not more than \$5,000.

4 Copies of all reports, other than those of fatal injuries,
5 filed with the director as required by this section shall be
6 sent to the injured employee by the employer.

7 The disability compensation division may establish
8 reasonable fees for the filing of the "WC-1 Employer's Report of
9 Industrial Injury" report. The amount to be charged for each
10 filing is \$5 and will remain in effect from July 1, 2012, to
11 June 30, 2015, or until such time a different amount is
12 established by rule adopted by the director.

13 The fees prescribed under this section shall be paid in
14 advance to the disability compensation division special fund.
15 Any fees and costs collected shall be deposited with the
16 director of finance to the credit of the disability compensation
17 division special fund established under section 386- . The
18 disability compensation division administrator may waive the
19 payment of fees for good cause shown."

20 SECTION 4. There is appropriated out of the disability
21 compensation division special fund the sum of \$50,000, or so
22 much thereof as may be necessary, for fiscal year 2012-2013 for

S.B. NO. 2848

1 operating costs incurred in the administration of chapter 386,
2 Hawaii Revised Statutes.

3 SECTION 5. The sum appropriated shall be expended by the
4 department of labor and industrial relations for the purposes of
5 this Act.

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

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

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INTRODUCED BY:



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BY REQUEST

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Report Title:

Disability Compensation Division Special Fund; Fees

Description:

Authorizes the Disability Compensation Division to establish a Disability Compensation Division Special Fund and to establish reasonable fees for the issuing of subpoenas and filing of first injury reports.

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

JUSTIFICATION SHEET

DEPARTMENT: Labor and Industrial Relations

TITLE: A BILL FOR AN ACT RELATING TO DISABILITY COMPENSATION DIVISION SPECIAL FUND

PURPOSE: To authorize the Disability Compensation Division of the Department of Labor and Industrial Relations to establish reasonable fees for the issuing of subpoenas and the processing of first injury reports and to establish a Disability Compensation Division Special Fund into which funds collected shall be deposited for the administration of chapter 386, Hawaii Revised Statutes (HRS).

MEANS: Add a new section to chapter 386, and amend sections 386-86 and 386-95, HRS.

JUSTIFICATION: Staffing and budget reductions since 2009 have resulted in a severe backlog in the settling of hearings and reductions of service to the public. The division has had to rely heavily on its automation system to mitigate the backlogs and service reductions, and is seeking funding to improve its electronic management system of the hearings functions and to develop greater efficiency in the complex workers' compensation system. The automation system, however, also requires additional funding for maintenance and upgrades to prevent catastrophic failure to the workers' compensation system. The division's networking and computer equipment, for example, are reaching the end of their useful lives with no funding available for repair or replacement. Furthermore, the operating systems need to be upgraded to continue to operate the server programs that run the worker's compensation system.

The Division is now seeking, through this proposal, to supplement its budget for operating costs by establishing fees for filing initial reports of injury and for processing subpoena requests. Other State programs have been allowed to charge filing fees. Agencies such as the Land Use Commission and the Public Utilities Commission, for example, charge fees for the filing of certain documents. Chapter 607, HRS, allows the judiciary and courts to charge a variety of filing fees.

Allowing the Disability Compensation Division to establish fees for the issuing of subpoenas and the processing of first injury reports would supplement the Disability Compensation Division's operating budget and help defray costs associated with the development of greater efficiency of its workers' compensation automation system and with the expenses relating to the upkeep and upgrade of the division's automation system.

Impact to the public: Hearings backlogs will be reduced and workers' compensation-related services to the public will improve.

Impact on the department and other agencies: State and local departments will be expected to pay for their share of the filing fees.

GENERAL FUND:	None.
OTHER FUNDS:	A Disability Compensation Division Special Fund will be established.
PPBS PROGRAM DESIGNATION:	LRB 183/DA.

OTHER AGENCIES

AFFECTED:

Department of Human Resources
Development.

EFFECTIVE DATE:

Upon Approval.