



**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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March 18, 2013

To: The Honorable Clayton Hee, Chair,
The Honorable Maile Shimabukuro, Vice Chair, and
Members of the Senate Committee on Judiciary and Labor

Date: Monday, March 18, 2013

Time: 10:00 a.m.

Place: Conference Room 016, State Capitol

From: Dwight Y. Takamine, Director
Department of Labor and Industrial Relations (DLIR)

**Re: HB 928 H.D.1 Relating to Certain Funds under the
Department of Labor and Industrial Relations**

I. OVERVIEW OF PROPOSED LEGISLATION

House Bill 928 H.D.1 is an Administration proposal that proposes to clarify the classification of the following four funds as trust funds in sections of the Hawaii Revised Statutes (HRS):

- ◆ Unemployment Compensation Fund (383-121, HRS);
- ◆ Workers' Compensation Special Compensation Fund (386-151, HRS);
- ◆ Temporary Disability Insurance Special Fund for Disability Benefits (392-61, HRS); and
- ◆ Prepaid Health Care Special Premium Supplementation Fund (393-41, H.R.S).

The department strongly supports this Administration measure needed to comply with the Legislative Auditor's recommendation that the Department of Labor and Industrial Relations should clarify the classification of these special funds as trust funds. The department requests that Line 12 of Section 1 of the bill be amended to correct the number of funds the bill is addressing.

II. CURRENT LAW

The Unemployment Compensation Fund was established in 1937 to provide temporary income to eligible 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 moneys can only be used for benefit payments and employer refunds.

The Workers' Compensation (WC) Special Compensation Fund was established in 1937 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.

The Special Fund for Disability Benefits was established in 1969 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. Currently, the TDI Law limits the administration of the Special Fund exclusively for the purposes of Chapter 392, HRS.

The Prepaid Health Care (PHC) Premium Supplementation Fund was established in 1974 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.

III. COMMENTS ON THE HOUSE BILL

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 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:

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

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.

The department requests that the number of funds identified in line 12 on page 1 of the bill be changed from "five" to "four". Line 12 is requested to be amended to:

"~~five~~ four of the department of labor and industrial relation's funds"



**TESTIMONY OF JAN K. YAMANE, ACTING STATE AUDITOR,
ON HOUSE BILL NO. 928, HOUSE DRAFT 1, RELATING TO CERTAIN FUNDS
UNDER THE DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

**Senate Committee on Judiciary and Labor
March 18, 2013**

Chair Hee and Members of the Committee:

I am Jan Yamane, Acting State Auditor. Thank you for this opportunity to testify in support of this bill that would amend Sections 383-121, Hawai'i Revised Statutes (HRS); 386-151, HRS; 392-61, HRS; and 393-41, HRS, within *Title 21 Labor and Industrial Relations*, by substituting the words "trust fund" wherever the words "special fund" appear.

Impetus for this bill came from a recommendation in our Report No. 12-10, *Review of Revolving Funds, Trust Funds, and Trust Accounts of the Departments of Human Resources Development, Labor and Industrial Relations, Public Safety, and Taxation*, in which we found, among other things, that the five funds administered by the Department of Labor and Industrial Relations are classified and operating incongruently from their statutory designations. We recommended, among other things, that the department clarify the funds' classification and propose legislation, if necessary.

We offer an amendment to this bill as we note that it addresses only four of five funds in our recommendation although the bill in Section 1 (page 1, line 12) refers to “five.” We also recommended that the department clarify the classification of the Employment and Training Special Fund, Section 383-128, HRS and would ask that this fund be inserted in the bill.

We support passage of HB 928, HD 1, with the suggested amendment. I am available to answer any questions you may have.

hee2 - Kathleen

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 17, 2013 3:55 PM
To: JDLTestimony
Cc: tabraham08@gmail.com
Subject: Submitted testimony for HB928 on Mar 18, 2013 10:00AM

HB928

Submitted on: 3/17/2013

Testimony for JDL on Mar 18, 2013 10:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Troy Abraham	Individual	Support	No

Comments: i support immediate passage of bill to allow on job training for any job and help job growth in hawaii

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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