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# 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 upon any moneys in the fund.

11 (b) The fund shall be administered by the disability  
12 compensation division of the department.

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



1       (d) The disability compensation division shall submit a  
2 report to the legislature detailing all funds deposited into and  
3 all moneys disbursed out of the fund in the prior fiscal year  
4 twenty days prior to the convening of each 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



1 burden of persuasion. The party or parties who bear these  
2 burdens shall be determined by law consistent with the purposes  
3 of this section.

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

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



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

20           (g) The disability compensation division may establish  
21 reasonable fees for filing applications for hearings as



1 described in subsections (a) and (b), and for issuing subpoenas  
2 as described in subsection (f).

3 Effective from July 1, 2013, to June 30, 2016, or until  
4 such time as a different amount is established by rules adopted  
5 by the director, the amount to be charged for each filing or  
6 subpoena shall be \$10.

7 The fees prescribed under this subsection shall be paid to  
8 the disability compensation division in advance by the party  
9 applying for a hearing or requesting the subpoena. The fees  
10 shall be deposited with the director of finance to the credit of  
11 the disability compensation division special fund established  
12 under 386- .

13 The disability compensation division administrator may  
14 waive the payment of fees for good cause shown. Neither the  
15 State, nor any county, or any political subdivision shall be  
16 required to pay any fees prescribed under this subsection."

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

19 **"§386-95 Reports of injuries, other reports, penalty.**

20 Every employer shall keep a record of all injuries, fatal or  
21 otherwise, received by the employer's employees in the course of



1 their employment, when known to the employer or brought to the  
2 employer's attention.

3       Within seven working days after the employer has knowledge  
4 of such injury causing absence from work for one day or more or  
5 requiring medical treatment beyond ordinary first aid, the  
6 employer shall make a report thereon to the director. The  
7 report shall set forth the name, address, and nature of the  
8 employer's business and the name, age, sex, wages, and  
9 occupation of the injured employee and shall state the date and  
10 hour of the accident, if the injury is produced thereby, the  
11 nature and cause of the injury, and such other information as  
12 the director may require.

13       By January 31 of each year, the employer shall file with  
14 the director a report with respect to each injury on which the  
15 employer is continuing to pay compensation, showing all amounts  
16 paid by the employer on account of the injury.

17       The reports required by this section shall be made on forms  
18 to be obtained from the director pursuant to section 386-71 and  
19 deposit of reports in the United States mail, addressed to the  
20 director, within the time specified shall be deemed compliance  
21 with the requirements of this section.



1           When an injury results in immediate death, the employer  
2 shall within forty-eight hours notify personally or by telephone  
3 a representative of the department in the county where the  
4 injury occurred.

5           Within thirty days after final payment of compensation for  
6 an injury, the employer shall file a final report with the  
7 director showing the total payments made, the date of  
8 termination of temporary total disability, and such other  
9 information as the director may require.

10          Any employer who wilfully refuses or neglects to file any  
11 of the reports or give any notice required by this section shall  
12 be fined by the director not more than \$5,000.

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

16          The disability compensation division may establish  
17 reasonable fees for the filing of the "WC-1 Employer's Report of  
18 Industrial Injury" and the "WC-5 Employee's Claim for Workers'  
19 Compensation Benefits". Effective from July 1, 2013, to June  
20 30, 2016, or until such time a different amount is established  
21 by rule adopted by the director, the amount to be charged for  
22 each filing shall be \$10.



1       The fees prescribed under this section shall be paid in  
2 advance to the disability compensation division and deposited  
3 with the director of finance to the credit of the disability  
4 compensation division special fund established under section  
5 386- . The disability compensation division administrator may  
6 waive the payment of fees for good cause shown. Neither the  
7 State, nor any county, or any political subdivision shall be  
8 required to pay any fees or costs prescribed under this  
9 subsection."

10       SECTION 4. The director of labor and industrial relations  
11 may establish two full-time equivalent permanent additional  
12 positions, subject to chapters 76 and 89, Hawaii Revised  
13 Statutes, to carry out the purposes of this Act. The positions  
14 shall include a workers' compensation hearings officer and an  
15 office assistant.

16       SECTION 5. There is appropriated out of the disability  
17 compensation division special fund the sum of \$200,000, or so  
18 much thereof as may be necessary, for fiscal year 2013-2014 to  
19 carry out the purposes of this Act, including the hiring of two  
20 full-time equivalent permanent positions pursuant to section 4  
21 of this Act and for operating costs incurred in the  
22 administration of chapter 386, Hawaii Revised Statutes.





1           The sum appropriated shall be expended by the department of  
2 labor and industrial relations for the purposes of this Act.

3           SECTION 6. New statutory material is underscored

4           SECTION 7. This Act, upon its approval, shall take effect  
5 on July 1, 2013, and shall be repealed on June 30, 2016;  
6 provided that upon such repeal sections 386-86 and 386-95,  
7 Hawaii Revised Statutes, shall be reenacted in the form in which  
8 they read on the day before the effective date of this Act.



**Report Title:**

Disability Compensation Division Special Fund; Fees

**Description:**

Establishes a Disability Compensation Division Special Fund and authorizes the Disability Compensation Division to establish fees for subpoenas, injury reports, and hearings applications; establishes and funds two full-time positions. Effective July 1, 2013. Repealed June 30, 2016. (HB923 HD1)

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

