

JAN 15 2014

A BILL FOR AN ACT

RELATING TO THE HAWAII EMPLOYERS' MUTUAL INSURANCE COMPANY.

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

1 SECTION 1. The purpose of this Act is to repeal the
2 requirement for the Hawaii employers' mutual insurance company
3 oversight council.

4 SECTION 2. Section 431:14A-102, Hawaii Revised Statutes,
5 is amended by deleting the definition of "council".

6 [~~"Council" means the Hawaii employers' mutual insurance~~
7 ~~company oversight council."~~]

8 SECTION 3. Section 431:14A-107, Hawaii Revised Statutes,
9 is amended by amending subsection (b) to read as follows:

10 "(b) The board shall discharge its duties:

11 (1) In accordance with the company's purpose;

12 (2) With the care, skill, prudence, and diligence under
13 the circumstances that a prudent director, acting in a
14 like capacity and familiar with such matters would use
15 in conducting a similar enterprise and purpose;

16 (3) By diversifying the company's investments to minimize
17 the risk of losses, unless it is prudent not to do so;

18 (4) In accordance with governing legal documents;



- 1 (5) By having an annual audit of the company by an
2 independent certified public accountant;
- 3 (6) By securing a fidelity bond for the administrator and
4 in its discretion for other agents dealing with the
5 company's assets at the company's expense;
- 6 (7) By purchasing liability insurance for errors and
7 omissions for the board, each director, and any other
8 fiduciary employed or contracted by the company to
9 cover liability or losses caused by the act or
10 omission of a fiduciary;
- 11 (8) By maintaining proper books of accounts and records of
12 the company's administration;
- 13 (9) By carrying out the reporting and disclosure
14 requirements required by law; and
- 15 (10) By appointing a qualified actuary to develop and
16 recommend a responsible schedule of premium rates with
17 consideration of the company's investment income or
18 refunds, or both, and to provide actuarial
19 certification of the company's loss reserves [~~and~~
- 20 ~~(11) By cooperating with and assisting the council in its~~
21 ~~duties and responsibilities]. "~~



1 SECTION 4. Section 431:14A-109.5, Hawaii Revised Statutes,
2 is repealed.

3 ~~["~~§431:14A-109.5~~ Oversight council. (a) There is~~
4 ~~established the Hawaii employers' mutual insurance company~~
5 ~~oversight council which shall meet at least once annually. For~~
6 ~~administrative purposes only, the council shall be assigned to~~
7 ~~the department of commerce and consumer affairs. The council~~
8 ~~shall oversee the activities of the company to ensure that the~~
9 ~~company fulfills its purpose as set forth in this article.~~

10 ~~(b) The council shall consist of five members who shall~~
11 ~~include:~~

12 ~~(1) A member of the senate appointed by the president of~~
13 ~~the senate;~~

14 ~~(2) A member of the house of representatives appointed by~~
15 ~~the speaker of the house of representatives;~~

16 ~~(3) The director of the department of labor and industrial~~
17 ~~relations;~~

18 ~~(4) The director of the department of commerce and~~
19 ~~consumer affairs; and~~

20 ~~(5) An at-large member who is an owner, officer, or~~
21 ~~employee of the company policyholder appointed by the~~
22 ~~governor;~~



1 ~~provided that if any designee under paragraphs (1) to (4) does~~
2 ~~not meet the test in subsection (c), the president of the~~
3 ~~senate, speaker of the house, or governor, as applicable, shall~~
4 ~~designate an appropriate representative. Section 26-34 shall~~
5 ~~not apply to appointments under this section.~~

6 ~~(c) No person shall serve on the council who within the~~
7 ~~second degree of consanguinity or affinity has a direct and~~
8 ~~substantial interest in an insurer that competes with the~~
9 ~~company, including but not limited to:~~

10 ~~(1) A stockholder of a competing company (excluding a~~
11 ~~holder of less than one per cent of the outstanding~~
12 ~~shares in a publicly traded company);~~

13 ~~(2) An employee of a competing company;~~

14 ~~(3) An attorney who represents a competing company; or~~

15 ~~(4) A party who contracts with a competing company~~
16 ~~(excluding an independent contractor or business owner~~
17 ~~who does less than twenty five per cent of its total~~
18 ~~annual volume of business per year with competing~~
19 ~~insurers).~~

20 ~~(d) Members of the council shall serve without~~
21 ~~compensation, but shall be reimbursed for reasonable expenses~~
22 ~~necessary for the performance of their duties.~~



1 ~~(e) The administrator shall serve as liaison officer to~~
2 ~~the council. Not later than sixty days after July 20, 1998 and~~
3 ~~every June 15 thereafter, the board shall provide to the council~~
4 ~~any and all data and information the council may require,~~
5 ~~including but not limited to:~~

6 ~~(1) The company's statutorily required annual financial~~
7 ~~statement;~~

8 ~~(2) Copies of any reports issued by the insurance division~~
9 ~~in connection with the triennial examination of the~~
10 ~~company; and~~

11 ~~(3) Actuarial certification of loss reserves.~~

12 ~~(f) After receipt of the data and information required~~
13 ~~pursuant to subsection (e), the council shall review the~~
14 ~~activities of the company and determine whether the company is~~
15 ~~fulfilling its purpose as set forth in this article. The~~
16 ~~council shall promptly, but in no event later than October 15,~~
17 ~~1998, and every October 15 thereafter, submit a report to the~~
18 ~~governor with a copy to the board of directors, stating whether~~
19 ~~the company is fulfilling its purpose as set forth in this~~
20 ~~article. If the council determines that there are any~~
21 ~~deficiencies in the company's fulfillment of its purposes as set~~
22 ~~forth in this article, it shall include in its report a detailed~~



1 ~~description of any deficiencies. Within a time frame~~
 2 ~~established by the council, but in no event later than six~~
 3 ~~months after delivery of the council's report in accordance with~~
 4 ~~this section, the company shall respond in writing to any~~
 5 ~~deficiencies identified in the council's report. The Hawaii~~
 6 ~~employers' mutual insurance company shall provide staff support~~
 7 ~~to the council.~~

8 ~~(g) If the governor determines that corrective action is~~
 9 ~~appropriate after reviewing the council's report and the~~
 10 ~~company's response, the governor shall inform the legislature,~~
 11 ~~and the legislature shall consider what action is needed."]~~

12 SECTION 5. Statutory material to be repealed is bracketed
 13 and stricken. New statutory material is underscored.

14 SECTION 6. This Act shall take effect upon its approval.

15

INTRODUCED BY: *Ronald H. Beh*

Avoid Y. Lee

Travis D. D. [unclear]
4. [unclear]
[unclear]

S.B. NO. 2046

Report Title:

Hawaii Employers' Mutual Insurance Company; Oversight Council

Description:

Repeals the requirement for the Hawaii employers' mutual insurance company oversight council.

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

