

SB 1236, SD2

RELATING TO WORKERS'
COMPENSATION.

LAB, FIN

SB1236 SD2



Submit Testimony

Measure Title: RELATING TO WORKERS' COMPENSATION.

Report Title: Workers' Compensation; Closed Claims; Study; Appropriation (\$)

Description: Stipulates that the auditor will contract with a suitable entity to conduct a study of closed claims in the workers' compensation system that includes the study of processing time for closed claims. Extends the deadline for the study to 11/30/2018 and the deadline for the legislative report to twenty days prior to the regular session of 2019. Makes an appropriation for the study. Takes effect 1/7/2059. (SD1)

Companion: [HB1540](#)

Package: None

Current Referral: LAB, FIN

Introducer(s): ENGLISH, BAKER, GREEN, KEITH-AGARAN, Ihara, Shimabukuro, Wakai

| Sort by Date | | Status Text |
|------------------------------|---|--|
| 1/25/2017 | S | Introduced. |
| 1/27/2017 | S | Passed First Reading. |
| 1/27/2017 | S | Referred to JDL, WAM. |
| 2/9/2017 | S | The committee(s) on JDL has scheduled a public hearing on 02-13-17 9:30AM in conference room 016. |
| 2/13/2017 | S | The committee(s) on JDL recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in JDL were as follows: 4 Aye(s): Senator(s) Keith-Agaran, K. Rhoads, Gabbard, L. Thielen; Aye(s) with reservations: none ; 0 No(es): none; and 1 Excused: Senator(s) Kim. |
| 2/16/2017 | S | Reported from JDL (Stand. Com. Rep. No. 377) with recommendation of passage on Second Reading, as amended (SD 1) and referral to WAM. |
| 2/16/2017 | S | Report adopted; Passed Second Reading, as amended (SD 1) and referred to WAM. |

| | | |
|-----------|---|---|
| 2/17/2017 | S | The committee(s) on WAM has scheduled a public hearing on 02-22-17 9:30AM in conference room 211. |
| 2/22/2017 | S | The committee(s) on WAM recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in WAM were as follows: 11 Aye(s): Senator(s) Tokuda, Dela Cruz, English, Galuteria, Harimoto, Inouye, K. Kahele, Riviere, Shimabukuro, Taniguchi, Wakai; Aye(s) with reservations: none ; 0 No(es): none; and 0 Excused: none. |
| 3/2/2017 | S | Reported from WAM (Stand. Com. Rep. No. 569) with recommendation of passage on Third Reading, as amended (SD 2). |
| 3/2/2017 | S | 48 Hrs. Notice 03-07-17. |
| 3/7/2017 | S | Report adopted; Passed Third Reading, as amended (SD 2). Ayes, 25; Aye(s) with reservations: none . Noes, 0 (none). Excused, 0 (none). Transmitted to House. |
| 3/7/2017 | H | Received from Senate (Sen. Com. No. 367) in amended form (SD 2). |
| 3/9/2017 | H | Pass First Reading |
| 3/9/2017 | H | Referred to LAB, FIN, referral sheet 27 |
| 3/13/2017 | H | Bill scheduled to be heard by LAB on Thursday, 03-16-17 9:00AM in House conference room 309. |

A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

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

1 SECTION 1. Act 188, Session Laws of Hawaii 2016, is
2 amended by amending section 2 to read as follows:

3 "SECTION 2. (a) The auditor shall contract with [~~an~~
4 ~~actuarial firm~~] a suitable entity that has experience conducting
5 workers' compensation closed claims studies in the United States
6 to perform a study of:

7 (1) Closed claims in the private employment sector in the
8 State; [~~and~~]

9 (2) Closed claims involving state employees, including
10 those employed by the department of human resources
11 development, the department of education, and the
12 University of Hawaii system[~~-~~]; and

13 (3) The processing time for closed claims.

14 (b) Of the total cost of the study, a portion equal to the
15 appropriation provided for in section 3 of this Act or any
16 subsequent appropriation for the same purpose shall be paid for
17 by an assessment to the workers' compensation insurers, workers'



1 compensation captive insurers, and workers' compensation self-
2 insureds in the State to be determined according to market share
3 of premiums or, in the case of workers' compensation self-
4 insureds, using the current basis to determine special
5 compensation fund assessments.

6 (c) The auditor shall require the study to be completed by
7 November 30, [~~2017~~] 2018, and the study shall be submitted to
8 the legislature no later than twenty days prior to the convening
9 of the regular session of [~~2018~~] 2019.

10 (d) Prior to contracting with [~~an actuarial firm~~] a
11 suitable entity to perform the study required by this Act, the
12 auditor shall consult and confer with two members of the
13 legislature, one member selected by the president of the senate
14 and one selected by the speaker of the house of representatives.
15 The two members shall ensure that the [~~actuarial firm~~] entity
16 selected and parameters of the study are not biased and do not
17 have an appearance of bias toward any of the numerous
18 stakeholders in the workers' compensation system, including the
19 department of labor and industrial relations, department of
20 human resources development, insurers, attorneys representing



1 employers and employees, mutual benefit societies, health
2 maintenance organizations, and health care providers."

3 SECTION 2. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$ or so much
5 thereof as may be necessary for fiscal year 2017-2018 and the
6 same sum or so much thereof as may be necessary for fiscal year
7 2018-2019 for the auditor to contract with a suitable entity to
8 produce a study of closed claims in the State's workers'
9 compensation system as provided for in this Act; provided that
10 no moneys shall be released unless matched dollar-for-dollar by
11 the fees assessed pursuant to section 2(b) of Act 188, Session
12 Laws of Hawaii 2016.

13 The sums appropriated shall be expended by the auditor for
14 the purposes of this Act.

15 SECTION 3. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 4. This Act shall take effect on January 7, 2019.



Report Title:

Workers' Compensation; Closed Claims; Study; Appropriation

Description:

Stipulates that the auditor will contract with a suitable entity to conduct a study of closed claims in the workers' compensation system that includes the study of processing time for closed claims. Extends the deadline for the study to 11/30/2018 and the deadline for the legislative report to twenty days prior to the regular session of 2019. Makes an appropriation for the study. Takes effect 1/7/2059. (SD1)

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



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March 16, 2017

To: The Honorable Aaron Ling Johanson, Chair,
The Honorable Daniel Holt, Vice Chair, and
Members of the House Committee on Labor and Public Employment

Date: Thursday, March 16, 2017
Time: 9:00 a.m.
Place: Conference Room 309, State Capitol

From: Linda Chu Takayama, Director
Department of Labor and Industrial Relations (DLIR)

Re: Amended Testimony for SB No. 1236 SD2 Relating to Workers' Compensation

I. OVERVIEW OF PROPOSED LEGISLATION

SB1236 SD2 will require the State Auditor to contract with a suitable entity with experience conducting workers' compensation closed claims studies in the United States to perform a study of workers' compensation closed claims and the processing time for closed claims in the State. The study is to be completed by November 30, 2018, with a report submitted to the legislature no later than twenty days prior to the regular session of the 2019 Legislature. The appropriation amount is unspecified.

After further discussion with the State Auditor, the Department suggests that perhaps this measure may be unnecessary. The HD1 of the budget bill released this week includes one (1) IT position and \$3,326,158 for the Disability Compensation Division Modernization Project. DLIR believes that with the installation of an automated claims system and other aspects of the modernization project that the Department will be able to collect the data sought by policy makers via this proposal, thereby rendering the need for this proposal as moot .

II. CURRENT STATUS

There have been no recent closed claims studies on workers' compensation in Hawaii since the 1993 "Hawaii Workers' Compensation Closed Claim Study" by

Tillinghast.

III. COMMENTS ON THE SENATE BILL

The modernization of the Disability Compensation Division will provide DLIR and policy makers the ability to effect improvements to the Workers' Compensation Program based on verified data. Once the first phase is implemented in about two years, it is anticipated that there will be sufficient data and information on how to improve the Workers' Compensation Program moving forward without the necessity and expense of a closed claims study.



HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
The Honorable Aaron Ling Johanson, Chair
The Honorable Daniel Holt, Vice Chair

S.B. No. 1236, S.D. 2, Relating to Workers' Compensation

Hearing: Thursday, March 16, 2017, 9:00 a.m.

The Office of the Auditor **supports the general intent of S.B. No. 1236, S.D. 2, Relating to Workers' Compensation**, which, among other things, amends the scope of a study on closed claims in the state's workers' compensation system that we are required to perform and the requirement that we contract with an actuarial firm to perform the study. **However, we recommend that the bill be amended to more clearly define the scope of the study.**

Act 188, Session Laws of Hawai'i 2016, requires us to study workers' compensation closed claims: (1) in the state's private employment sector; and (2) involving state employees. The bill amends the scope of the study to include "the processing time for closed claims."

We understand that the legislature is interested in understanding *the reason or reasons* for the lag in processing workers' compensation claims, if any. However, the closed claim study required by Act 188 will not examine the causes of any delays in processing workers' compensation claims. Although the bill amends the scope of the study to include "the processing time for closed claims," we do not understand the study described in the bill to include examination of *the cause* of any delays in closing workers' compensation claims.

Based on our communication with the Department of Labor and Industrial Relations ("DLIR") about the closed case study, we understand that the department has convened a working group and retained a consultant to examine, among other things, the cause or causes of any lag in the processing of workers' compensation claims. For that reason, DLIR believes that it is unnecessary for the study to examine the processing lag concern. DLIR advised us that the consultant recently completed a study that identifies the department's IT capabilities as an area that should be upgraded to improve the processing of workers' compensation claims. According to DLIR, the department's biennium budget includes funds to upgrade its IT system, and once upgraded, information from the closed case study likely will be moot.

We request that the legislature amend S.B. 1236, S.D. 2, to clearly define the scope of the closed case study to insure that it assesses concerns and reports information that the legislature intends. If the legislature believes that its impetus for the closed case study required by Act 188 has been adequately addressed by the department and its consultant, we suggest that the legislature consider amending the bill to repeal Act 188.

Thank you for considering our testimony relating to S.B. No. 1236, S.D. 2.

The Twenty-Ninth Legislature
Regular Session of 2017

HOUSE OF REPRESENTATIVES
Committee on Labor and Public Employment
Representative Aaron Ling Johanson, Chair
Representative Daniel Holt, Vice Chair
State Capitol, Conference Room 309
Thursday, March 16, 2017; 9:00 a.m.

**STATEMENT OF THE ILWU LOCAL 142 IN SUPPORT OF S.B. 1236 SD 2
RELATING TO WORKERS' COMPENSATION**

The ILWU Local 142 supports S.B. 1236 SD 2, which provides that the Auditor will contract with a suitable entity to conduct a study of closed claims in the workers' compensation system, that includes the study of processing time for closed claims. The bill also extends the deadline for the study to 11/30/18 and the deadline for the legislative report to twenty days prior to the regular session of 2019. An appropriation is made for the study.

The ILWU supports S.B. 1236 SD 2, so that the study can be completed and used as a guide for future changes that could improve the workers' compensation system for all parties. Upon further review of the current language that guides the study, we would suggest the Committee possibly consider additional language to identify areas that the study could focus on. For example, compensability, and IME's, remain challenging and contentious issues, which could become focal points of the study. By providing a sharper focus, we believe the value of the study could be maximized.

The inclusion of assessing the processing time for closed claims is helpful, however it may be of greater value to identify more specifically, current challenging concerns in workers' compensation, that the study could target.

The ILWU urges passage of S.B. 1236 SD 2, with additional language to provide a clearer focus for the study. Thank you for the opportunity to share our views on this matter.

SB 1236, SD2
Late Testimony