

ACT 183

S. B. NO. 1178

A Bill for an Act Relating to Workmen's Compensation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 386-151, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 386-151 Special compensation fund established and maintained.

(a) There is hereby created a fund to be known as the special compensation fund which shall consist of payments made to it as provided by law. The director of finance of the State shall be custodian of the fund, and all disbursements therefrom shall be paid by him upon orders by the director of labor and industrial relations.

(b) Every employer pursuant to an order made by the director, shall pay into the fund the amounts specified in sections 386-34(5) and 386-41(d) under the conditions prescribed for such payment. Whenever such amount is paid

into the fund and it is subsequently determined by the director, the appellate board, or a court having jurisdiction that a dependent is entitled to benefits excluding or diminishing the entitlement of the fund, the director, appellate board, or court shall order the refund of the sum to which the fund is not entitled and the director of finance as custodian shall immediately make such refund upon receipt by him of a certified copy of this order. In cases where an order of the director ordering payment into the fund is reversed on appeal the employer is relieved of any duty to make payments into the fund.

(c) The director shall appoint annually a certified public accountant to examine and audit all the books and records relating to the special compensation fund and shall advise the director as to the fund's solvency, including recommendations as to levies and charges provided for in section 386-152 and the required level of funding. The certified public accountant's fees for this service shall be paid out of the special compensation fund."

SECTION 2. Section 386-152, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 386-152 Levy and charges to finance special compensation fund. When the cash balance of the special compensation fund established in section 386-151 falls below as of December 31 of any year, an amount determined by the director to be insufficient to meet the fund's current and projected obligations, then the levy on the gross premiums of insurers of employers insured under section 386-121(a)(1) provided for in section 386-153, and the charge provided in section 386-154 against each employer not insuring and keeping insured, as provided in section 386-121(a)(1), shall be levied and collected during the succeeding year and each succeeding year thereafter until the cash balance of the fund equals or exceeds as of December 31 of any year an amount determined by the director to be sufficient to meet the fund's current and projected obligations. When the cash balance of the fund equals or exceeds as of December 31 of any year an amount determined by the director to be sufficient to meet the fund's current and projected obligations, then the levy on the gross premiums of insurance companies provided for in section 386-153 and the charge provided in section 386-154 against each employer not insuring and keeping insured as provided in section 386-121(a)(1) shall not be levied and collected during the succeeding year until the cash balance of the fund falls below as of December 31 of any year an amount determined by the director to be insufficient to meet the fund's current and projected obligations.

The director shall annually furnish each insurance company provided for in section 386-153 and each employer provided for in section 386-154 with a copy of the certified public accountant's audit report and recommendations. The cost of furnishing such report shall be paid out of the special compensation fund."

SECTION 3. Section 386-153, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 386-153 Levy on insurers of employers insured under section 386-121(a)(1). For the calendar year 1974 and for each calendar year thereafter insurers of employers, as defined in section 386-1, shall pay a levy determined

by the director which shall be based on a percentage on gross premiums, as defined in section 431-318(a), derived from workmen's compensation insurance issued during the prior year in accordance with chapter 386 and chapter 431, if the levying and collecting of such a levy is required pursuant to section 386-152, which levy shall be collected in the same manner as the tax provided for in section 431-318 is collected and shall be deposited in the special compensation fund established in section 386-151. This levy shall be in addition to any tax imposed in chapter 431 on gross premiums derived from workmen's compensation insurance."

SECTION 4. Section 386-154, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 386-154 Charge against employers not insured under section 386-121(a)(1). (a) As used in this section:

- (1) 'Employing unit' means an employer who has not secured compensation to his employees under section 386-121(a)(1).
- (2) 'Average annual compensation' means the average of annual compensation payments made by an employing unit for a period consisting of two consecutive calendar years immediately preceding the year for which the charge is assessed under this section; provided that if, at the end of a calendar year, an employing unit was subject to this chapter for a period less than twelve consecutive months the total amount of compensation payments made by him during such period shall constitute his average annual compensation.
- (3) 'Employing unit's compensation ratio' means the percentage ratio derived by dividing an employing unit's average annual compensation at the end of a calendar year by the total average annual compensation paid during the same two calendar years by all employers subject to this chapter.
- (4) 'Carrier's compensation ratio' means the quotient derived by dividing the total average annual compensation paid during the two most recent calendar years by all insurance carriers on behalf of employers insured and keeping insured under section 386-121(a)(1) by the total average annual compensation paid during the same two calendar years by all employers subject to this chapter.
- (5) 'Anticipated total assessment' means the amount derived by dividing the total amount of the levy to be paid by insurance carriers in a calendar year as required by section 386-153 by the most recent carrier's compensation ratio.

(b) For the calendar year 1974 and for each calendar year thereafter an employing unit shall, except as otherwise provided in section 386-152, pay into the special compensation fund a charge in an amount which is equal to the product derived by multiplying his most recent compensation ratio by the most recent anticipated total assessment.

For each calendar year the director of regulatory agencies shall determine the amount of the charge to be paid by each employing unit, and shall give notice of such charge to each employing unit by May 1 of the year for which the charge is assessed. The amount of the charge shall be paid on or be-

ACT 183

fore June 30 following notification.

The director of finance may withhold the additional charge due from a political subdivision from any moneys due the subdivision from the State if the subdivision has not paid its charge as required by this section and shall deposit the withheld amount in the special compensation fund.”

SECTION 5. Section 386-154.5, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 386-154.5 Special assessments.** (a) For the calendar year 1972 only, insurers of employers as defined in section 386-121(a)(1) shall pay a special assessment of one and one-quarter per cent on gross premiums as defined in section 431-318(a) and in accordance with the provisions of section 386-153. For the calendar year 1973 only, such insurers shall pay a special assessment established by rule of the director not to exceed 1.6 times the 1972 special assessment.

(b) For the calendar year 1972 only, employers not insured under section 386-121(a)(1) shall pay a special assessment equal to 1.67 times the special charge as defined and in accordance with the provisions of section 386-154. For the calendar year 1973 only, such employers shall pay a special assessment established by rule of the director not to exceed 1.6 times the 1972 special assessment.

(c) The assessments under this section shall be paid within 30 days from the receipt of notification by the department of regulatory agencies.”

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 7. This Act shall take effect on July 1, 1973.

(Approved May 24, 1973.)

*Edited accordingly.