

ACT 52

S.B. NO. 2597

A Bill for an Act Relating to the Hawaii Employers' Mutual Insurance Company.

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

SECTION 1. Section 431:14A-101, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~**§431:14A-101**~~]]~~ **Purpose.** The Hawaii employers' mutual insurance company is established to provide workers' compensation coverage to employers of the ~~[State]~~ state at the highest level of service with the lowest possible cost, consistent with reasonable and applicable actuarial standards and the sound fi-

nancial integrity of the company. The purposes of the company are to provide the highest standard of workplace safety and loss prevention, to encourage employer involvement, and to be responsive to each policyholder's experience, practice, and operating effectiveness. Nothing in this article shall create any implied third-party duty or impose additional legal liability for the company toward its members or beneficiaries beyond that explicitly created by this chapter, chapter 386, or common law, and generally applicable to all issuers of workers' compensation insurance in this state.

SECTION 2. Section 431:14A-102, Hawaii Revised Statutes, is amended by amending the definition of "administrator" to read as follows:

"Administrator" means the ~~[president and]~~ chief executive officer of the Hawaii employers' mutual insurance company."

SECTION 3. Section 431:14A-105, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The initial eight division directors shall be appointed by the governor within sixty days of June 19, 1996, and shall serve for terms of one year each. The governor shall ensure adequate representation from the major sectors of the economy and workforce in the ~~[State]~~ state.<sup>1</sup>

The public, at-large member initially elected by the board shall serve for a term of one year.

The initial board of directors shall determine the staggering and length of future directors' terms; provided that no term shall exceed three years. Upon the expiration of the terms of the initial division directors, the company's policyholders in the division represented by the director shall elect the directors. Each director shall serve for terms as specified by the board unless sooner removed for cause pursuant to rules adopted by the board. Each director shall hold office until a successor is elected as provided in this section. No person shall serve more than two consecutive full terms as director. Any other law to the contrary notwithstanding, the election and composition of the board of directors as provided in this section shall be deemed adequate to qualify the company as a mutual insurer under chapter 431."

SECTION 4. Section 431:14A-108, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The board shall hire an administrator~~[,]~~ who shall serve at the pleasure of the board. The administrator shall be ~~[the president of the company and]~~ the chief executive officer~~[-who]~~ and shall be responsible for the day-to-day operations and management of the company."

SECTION 5. Section 431:14A-117, Hawaii Revised Statutes, is amended to read as follows:

**["§431:14A-117"] Workplace safety and health programs.** (a) The company shall work with policyholders, health care providers, and employees to develop, implement, and monitor workplace safety and health and return to work programs. The programs shall include the development of a workplace accident and injury reduction plan that promotes safe working conditions.

(b) The company shall promote safety programs to policyholders ~~[by:]~~ through programs and activities which may include:

- (1) Analyzing reports of industrial accidents of members to help determine the cause of those accidents;

- (2) Conducting studies for risk and hazard identification and assessments by safety and medical professionals;
- (3) Conducting educational programs designed to prevent frequently recurring industrial accidents; and
- (4) Inspecting work sites and investigating unsafe working conditions to promote job safety and eliminate hazards.

(c) Company representatives shall have reasonable access to the premises of any policyholder or applicant during regular working hours to carry out workplace evaluations.

(d) ~~Upon~~ Where the company finds, upon the completion of a detailed inspection ~~and recognition of a~~ that an insured has policies and practices in place that demonstrate a high regard for employee work safety, ~~a deviation may be applied~~ the company may apply a deviation to the insured's rate structure ~~of that insured~~, noting special recognition of those efforts.

(e) The company shall not incur additional legal liability toward its members or beneficiaries as a result of any action taken or not taken pursuant to this chapter beyond that explicitly created by this chapter, chapter 386, or common law, and generally applicable to the acts or omissions of all issuers of workers' compensation insurance in this state."

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 2010.

(Approved April 23, 2010.)

**Note**

- 1. Period should not be underscored.