H.B. NO. 3164

A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION NEGOTIATION FOR BENEFIT COVERAGE.

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

SECTION 1. The purpose of this bill is to provide public unions and employers the same ability as private unions and their signatory employers to collectively design and enter into an alternative workers' compensation system. Hawaii currently allows private unions and their signatory employers to enter into collectively bargained workers' compensation agreements. To date, several private unions have successfully designed and implemented these agreements. The Hawaii Carpenters Union, the International Brotherhood of Electrical Workers, Hawaii Laborers and Operators, as well as others have established alternative workers' compensations systems to facilitate treatment and resolve disputes outside of the normal workers' compensation system run by the department.

Allowing public unions and public employers the ability to bargain with one another to design and implement a separate, stand-alone bargained agreement between labor and management

solely covering workers' compensation, will allow public unions and management to create a system that meets their specific needs.

SECTION 2. Section 386-3.5, Hawaii Revised Statutes, is amended to read as follows:

"[~~[~~]**§386-3.5**[~~]~~] **Negotiation for benefit coverage.** (a) Notwithstanding any provision of law to the contrary, any employer may determine the benefits and coverage of a policy required under this chapter through collective bargaining with an appropriate bargaining unit; provided that the bargained agreement shall be reviewed by the director to ensure that the agreement does not provide benefits and coverage less than those provided in this chapter. The director shall approve the agreement within ninety days after submittal upon a finding that the agreement provides the benefits and coverage required. [~~This section shall not apply to collective bargaining contracts negotiated pursuant to chapter 89~~.] Agreement for benefit coverage shall not be subject to arbitration. The director may adopt rules pursuant to chapter 91 to implement this section.

(b) This section shall apply only to collective bargaining agreements negotiated subsequent to June 29, 1995."

SECTION 3. Statutory material to be repealed is bracketed and stricken.

SECTION 4. This Act shall take effect upon its approval.

INTRODUCED BY: Calvin K Y Say

BY REQUEST

JAN 22 2008

H.B. NO. 3164

Report Title:
Collectively Bargained Workers' Compensation Agreements; Public Unions

Description:
Provides public unions and employers the same ability as private unions and their signatory employers to collectively design and enter into an alternative workers' compensation systems.

HB 3164

JUSTIFICATION SHEET

DEPARTMENT: Labor and Industrial Relations

TITLE: A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION NEGOTIATION FOR BENEFIT COVERAGE.

PURPOSE: To provide public unions and employers the same ability as private unions and their signatory employers to collectively design and enter into an alternative workers' compensation system.

MEANS: Amend section 386-3.5, Hawaii Revised Statutes.

JUSTIFICATION: Hawaii currently allows private unions and their signatory employers to enter into collectively bargained workers' compensation agreements. To date, several private unions have successfully designed and implemented these agreements. The Hawaii Carpenters Union, the International Brotherhood of Electrical Workers, Hawaii Laborers and Operators, as well as others have established alternative workers' compensation systems to facilitate treatment and resolve disputes outside of the normal workers' compensation system run by the department.

Allowing public unions and public employers the ability to bargain with one another to design and implement a separate, stand-alone bargained agreement between labor and management solely covering workers' compensation, will allow public unions and management to create a system that meets their specific needs.

Allowing public unions and employers to establish an alternative system will lead to public employees receiving quality medical care in an efficient and expedient manner.

Additionally, and most importantly, these agreements would allow employers and unions

to utilize alternative dispute resolution as an effective and economical tool for resolving conflicts arising from claims. In establishing a separate resolution process, it would effectively remove claims from the current workers' compensation system, which is lengthy and costly, and resolve the majority of claims efficiently and with less cost.

Finally, Hawaii's taxpayers should realize cost savings as medical claims become resolved faster and the adversarial nature of workers' compensation becomes reduced resulting in less claims that need to be resolved by the department of labor.

Impact on the public: For employees and employers who opt for an alternative workers' compensation system, it would mean a less adversarial process and faster resolution of claims. Less claims being processed by the department would mean faster adjudication of those existing claims.

Impact on the department and other agencies: None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: LBR-183.

OTHER AFFECTED AGENCIES: Judiciary, University of Hawaii, Department of Education, Department of Human Resources, City and County of Honolulu, County of Maui, County of Hawaii, and County of Kauai.

EFFECTIVE DATE: Upon approval.