A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

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

SECTION 1. Section 386-51, Hawaii Revised Statutes, is amended to read as follows:

"§386-51 Computation of average weekly wages. Average weekly wages shall be computed in a manner that the resulting amount represents most fairly, in the light of the employee's employment pattern and the duration of the employee's disability, the injured employee's average weekly wages from all covered employment [at the time of the personal injury]. In no event, however, shall an employee's average weekly wages be computed to be less than the employee's hourly rate of pay multiplied by thirty-five; provided that where the employee holds part-time employment of fewer than thirty-five hours per week, the employee's average weekly wages shall be the hourly rate at the place of employment where the injury occurred multiplied by the average hours worked in the fifty-two weeks (or portions thereof) preceding the week in which the injury occurred, for the calculation of temporary partial disability..."
and temporary total disability benefits only. Other benefits including permanent partial disability, permanent total disability, and death shall be calculated as if the employee had been a full-time employee.

(1) Where appropriate and feasible, computation shall be made on the basis of the injured employee's earnings from covered employment during the twelve months preceding the employee's personal injury; but if during that period, the employee, because of sickness or similar personal circumstances was unable to engage in employment for one or more weeks then the number of those weeks shall not be included in the computation of the average weekly wage.

(2) Where an employee at the time of the injury was employed at higher wages than during any other period of the preceding twelve months then the employee's average weekly wages shall be computed exclusively on the basis of the higher wages.

(3) Where, by reason of the shortness of the time during which the employee has been in the employment or the casual nature or terms of the employment, it is not
feasible to compute the average weekly wages on the basis of the injured employee's own earnings from that employment, regard may be had to the average weekly wages which during the twelve months preceding the injury was being earned by an employee in comparable employment.

(4) Except as otherwise provided, the total average weekly wages of any employee shall be computed at a lower amount than the average weekly wages earned at the time of the injury by an employee in comparable employment engaged as a full-time employee on an annual basis in the type of employment in which the injury occurred.

(5) If an employee, while under twenty-five years of age, sustains a work injury causing permanent disability or death, the employee's average weekly wages shall be computed on the basis of the wages which the employee would have earned in the employee's employment had the employee been twenty-five years of age.

(6) The director may issue rules for the determination of the average weekly wages in particular classes of
cases, consistent with the principles laid down in the first paragraph of this section."

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

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

SECTION 4. This Act shall take effect on July 1, 2051.
Report Title:
Workers' Compensation; Average Weekly Wages; Computation

Description:
Adjusts the method of calculating average weekly wages for workers' compensation claims. Effective 7/1/51. (SD1)

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