



**STATE OF HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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February 14, 2013

To: The Honorable Sylvia Luke, Chair,  
The Honorable Scott Nishimoto, Vice Chair,  
The Honorable Aaron Ling Johanson, Vice Chair, and  
Members of the House Committee on Finance

Date: Thursday, February 14, 2013  
Time: 2:45 p.m.  
Place: Conference Room 308, State Capitol

From: Dwight Y. Takamine, Director  
Department of Labor and Industrial Relations (DLIR)

**Re: HB 928 Relating to Certain Funds under the  
Department of Labor and Industrial Relations**

**I. OVERVIEW OF PROPOSED LEGISLATION**

House Bill 928 is an Administration proposal that proposes to clarify the classification of several funds in sections of the Hawaii Revised Statutes (HRS):

- ◆ Unemployment Compensation Fund (383-121)
- ◆ Workers' Compensation Special Compensation Fund (386-151)
- ◆ Temporary Disability Insurance Special Fund for Disability Benefits (392-61)
- ◆ Prepaid Health Care Special Premium Supplementation Fund, 393-41, H.R.S., as trust funds.

The department strongly supports this Administration measure needed to comply with the Legislative Auditor's recommendation that the Department of Labor and Industrial Relations should clarify the classification of these special funds as trust funds.

**II. CURRENT LAW**

The Unemployment Compensation Fund was established in 1937 to provide temporary income to eligible unemployed individuals as required by state and federal laws. The program pays benefits to eligible unemployed individuals and is financed primarily through payroll taxes assessed on employers and interest earned

on the fund balance. Federal law specifies that the Unemployment Compensation Fund moneys can only be used for benefit payments and employer refunds.

The Workers' Compensation (WC) Special Compensation Fund was established in 1937 to enhance the employability of persons with pre-existing injuries, reduce discrimination against persons with dependents, and require employers to pay compensation for employees' losses sustained while in their employment. The fund provides compensation benefits to qualifying employees in certain circumstances including permanent total disability benefit adjustments, permanent disability benefits involving pre-existing conditions, defaulting employers, total disability under previous laws, concurrent employment, and benefit adjustments for services of attendants. Revenues are from levies on workers' compensation carriers and self-insured employers, interest income, reimbursements from defaulting employers, unpaid benefits in certain cases, and fines for noncompliance with the WC law.

The Special Fund for Disability Benefits was established in 1969 to pay benefits to individuals who become temporarily disabled while unemployed and are ineligible for unemployment insurance benefits. The fund also pays temporary disability benefits to employees who are entitled to benefits, but cannot receive them because of employer bankruptcy or employer noncompliance with the TDI law. In 1969, a one-time assessment on employers was used to establish the fund. Since then, revenues are primarily from interest income and receipts from fines and penalties enforced through the TDI law. Currently, the TDI Law limits the administration of the Special Fund exclusively for the purposes of Chapter 392, HRS.

The Prepaid Health Care (PHC) Premium Supplementation Fund was established in 1974 to supplement health care insurance premium payments for certain employers with fewer than eight employees. In 1978, prepaid health care benefits coverage was added for employees who are entitled to receive benefits but whose employers are bankrupt or noncompliant with the state's PHC Act. The fund was established by an initial appropriation from the State's general fund. Since then, revenues have been primarily from interest income and receipts from fines and penalties collected under the PHC Act.

### **III. COMMENTS ON THE HOUSE BILL**

This amendment is needed to comply with the Legislative Auditor's recommendation that the Department of Labor and Industrial Relations should clarify the classification of these special funds as trust funds. These funds were established as special funds and thus were classified accordingly by the Department of Accounting and General Services (DAGS). However, the funds meet the review criteria for a trust fund as established by the State Auditor's Office based on the following criteria:

- The fund continues to serve the purpose for which it was originally created;
- The fund provides the benefits or services originally intended to the beneficiaries;
- The fund does not require general fund appropriations; and
- The fund meets the definition of a trust fund.

The Attorney General has also concluded that these special funds fall within the definition of a trust fund or functions as a trust fund and has recommended that the discrepancy be addressed through legislative action.

**TESTIMONY OF JAN K. YAMANE, ACTING STATE AUDITOR,  
ON HOUSE BILL NO. 928, RELATING TO CERTAIN FUNDS UNDER THE  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

**House Committee on Finance  
February 14, 2013**

Chair Luke and Members of the Committee:

Thank you for this opportunity to testify in support of this bill that would amend Sections 383-121, Hawai‘i Revised Statutes (HRS); 386-151, HRS; 392-61, HRS; and 393-41, HRS, within *Title 21 Labor and Industrial Relations*, by substituting the words “trust fund” wherever the words “special fund” appear.

Impetus for this bill came from a recommendation in our Report No. 12-10, *Review of Revolving Funds, Trust Funds, and Trust Accounts of the Departments of Human Resources Development, Labor and Industrial Relations, Public Safety, and Taxation*, in which we found, among other things, that the five funds administered by the Department of Labor and Industrial Relations are classified and operating incongruently from their statutory designations. We recommended, among other things, that the department clarify the funds’ classification and propose legislation, if necessary.

We offer an amendment to this bill as we note that it addresses only four of five funds in our recommendation although the bill in Section 1 refers to “five.” We also recommended that the

department clarify the classification of the Employment and Training Special Fund, Section 383-128, HRS and would ask that this fund be inserted in the bill.

We support passage of HB 928, with the suggested amendment. I am available to answer any questions you may have.

**HB928**

Submitted on: 2/12/2013

Testimony for FIN on Feb 14, 2013 14:45PM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Troy Abraham	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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