

## ACT 71

H.B. NO. 45

A Bill for an Act Relating to Workers' Compensation.

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

SECTION 1. Section 386-35, Hawaii Revised Statutes, is amended to read as follows:

**“§386-35 Benefit adjustment.** (a) Effective [June 18, 1980,] January 1, 1992, and January 1 of every tenth year thereafter, any employee whose date of work injury is [on or] before [June 18, 1980,] January 1, 1992, and January 1 of every tenth year thereafter, and who is at any time after [said] the work injury determined to be permanently and totally disabled shall be paid, without application, a supplemental allowance by the responsible employer calculated in accordance with the following provisions:

- (1) In any case where [that] the employee is entitled to receive the maximum weekly income benefit applicable on the date of the [employee's] work injury, the supplemental allowance shall be an amount which when added to [such] the benefit will equal the maximum weekly benefit as of [June 18, 1980,] January 1, 1992, and January 1 of every tenth year thereafter; or
- (2) In any case where [that] the employee is entitled to receive less than the maximum weekly income benefit applicable on the date of the [employee's] work injury, the supplemental allowance shall be an amount equal to the maximum weekly income benefit as of [June 18, 1980,] January 1, 1992, and January 1 of every tenth year thereafter, multiplied by the ratio of [that] the employee's weekly income benefit to the maximum weekly income benefit applicable on the date of the [employee's] work injury, minus [that] the employee's current weekly income benefit.

(b) The employer shall be entitled to reimbursement from the special compensation fund for the additional amount paid under subsection (a). Requests for reimbursements shall be filed annually with the department by January 31 of the subsequent calendar year. The director shall disapprove requests that are not filed properly or not filed in a timely manner, except for good cause shown.

(c) Effective [June 18, 1980,] January 1, 1992, and January 1 of every tenth year thereafter, any employee whose date of work injury is [on or] before

[June 18, 1980,] January 1, 1992, and January 1 of every tenth year thereafter, and who is at any time after [said] the work injury determined to be permanently and totally disabled, and who is further being paid weekly income benefits for permanent total disability by the special compensation fund shall be paid, without application, a supplemental allowance in accordance with the following provisions:

- (1) In any case where [that] the employee is entitled to receive the maximum weekly income benefit applicable on the date of the work injury, the supplemental allowance shall be an amount which when added to [such] the benefit will equal the maximum weekly benefit as of [June 18, 1980,] January 1, 1992, and January 1 of every tenth year thereafter;
- (2) In any case where [that] the employee is entitled to receive less than the maximum weekly income benefit applicable on the date of the work injury, the supplemental allowance shall be an amount equal to the maximum weekly income benefit as of [June 18, 1980,] January 1, 1992, and January 1 of every tenth year thereafter, multiplied by the ratio of [that] the employee's current weekly income benefit to the maximum weekly income benefit applicable on the date of the work injury, minus [that] the employee's current weekly income benefit[.];
- (3) In any case where [that] the employee is entitled to receive weekly benefits at a fifty per cent rate, the supplemental allowance shall be an amount equal to the maximum weekly income benefit as of [June 18, 1980,] January 1, 1992, and January 1 of every tenth year thereafter, multiplied by twice the ratio of [that] the employee's current weekly income benefit to the maximum weekly income benefit applicable on the date of the work injury minus [that] the employee's current weekly income benefit[.]; or
- (4) In any case where [that] the employee is no longer receiving weekly benefits, the supplemental allowance shall be an amount equal to the maximum weekly income benefit as of [June 18, 1980,] January 1, 1992, and January 1 of every tenth year thereafter, multiplied by the ratio of [that] the employee's last weekly income benefit to the maximum weekly income benefit applicable on the date of the work injury."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall not be construed to eliminate the right to supplemental adjustment benefits preceding the effective date of this Act.

SECTION 4. This Act shall take effect on January 1, 1992.

(Approved April 30, 1991.)