

ACT 3

H.B. NO. 442

A Bill for an Act Relating to the Labor and Industrial Relations Appeals Board.

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

SECTION 1. The purpose of this Act is to authorize the labor and industrial relations appeals board (appeal board) to utilize a hearings officer. Utilizing a hearings officer would allow the appeal board to expedite hearings on workers' compensation matters, including treatment plan issues, vocational rehabilitation issues, and temporary total disability issues. The hearings officer would hear these issues and propose a decision and order for review and approval by the full appeal board. This would afford expedited resolution of time-sensitive matters appealed from decisions of the director of labor and industrial relations to the appeal board.

SECTION 2. Section 371-4, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) The chairperson of the appeal board shall be responsible for the administrative functions of the appeal board. The appeal board may:

- (1) Appoint an executive officer and hearings officer, and employ other employees as it deems necessary in the performance of its functions;
- (2) Set the duties and compensation of the executive officer, hearings officer, and employees; and
- (3) Provide for the reimbursement of actual and necessary expenses incurred by the executive officer, hearings officer, and employees in the performance of their duties, within the amounts made available by appropriations therefor.

Members of the appeal board and employees other than clerical and stenographic employees shall be exempt from chapters 76 and 89. Clerical and stenographic employees shall be employed in accordance with chapter 76.”

SECTION 3. Section 371-6, Hawaii Revised Statutes, is amended to read as follows:

“§371-6 Powers respecting oaths, subpoenas, etc.; witness fees, expenses, immunities. In all hearings or investigations conducted by the director of labor and industrial relations, or any of the director's duly authorized subordinates, including a hearings officer appointed by the appeal board under section 371-4,

or the [~~labor and industrial relations~~] appeal board, with respect to any matters cognizable by any of them, each of the officers, and each member of the board, shall have the same powers respecting the administering of oaths, compelling the attendance of witnesses, the production of documentary evidence, and examining or causing to be examined witnesses, as are possessed by a circuit court and may take depositions and certify to official acts. The circuit court of any circuit upon application by any of them shall have power to enforce by proper proceedings the attendance and testimony of any witness so subpoenaed. Subpoena and witness fees and mileage in such cases shall be the same as in criminal cases in the circuit courts. Necessary expenses of or in connection with any such hearings or investigations shall be payable from the funds appropriated for expenses of administration for the department of labor and industrial relations.

No person shall be excused from attending or testifying or producing material, books, papers, correspondence, memoranda, and other records, before the director, the director's duly authorized subordinate, including a hearings officer appointed by the appeal board under section 371-4, or the appeal board, or in obedience to the subpoena of any of them, in any cause or proceeding before them, on the grounds that the testimony and evidence, documentary or otherwise, required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which the individual is compelled, after having claimed the individual's privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that [~~sueh~~] the individuals so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 9, 2009.)