

HAWAII EMPLOYERS COUNCIL

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2008 – Employment and Health Bills Remaining At Second Crossover

Labor Relations/Employment Practices

- HB 2520 HD3 SD2 **Family Caregiving TDI/HFLL** – House bill (HD3) provides that employees may take up to 4 weeks of Temporary Disability Insurance (“TDI”) leave to care for a family member with a “serious health condition” as defined by the Hawaii Family Leave Law. Senate draft (SD1) has converted bill to working group to study funding mechanisms to support caregivers. Likely to go to conference committee. *Effective upon approval (SD2).*
- HB 1745 HD3 SD1 **Successor Employer** – Carry over bill. Requires the purchaser of an establishment having 100 or more employees at any time in the 12 months prior to the sale of the enterprise to hire all of the seller’s non-supervisory and non-confidential employees. Provides exclusion if establishment will be “substantially dissimilar” to prior business, or if staffing needs of establishment are reduced. Provides for penalties for violations, including payment of wages and benefits to employees not hired by the purchaser. *Effective upon approval (SD1).*
- SB 3051 SD2 HD1 **Criminal Records Checks** – Authorizes the Department of Human Services or its designee to conduct criminal record checks for persons providing services to vulnerable adults and children. Headed to conference committee. *Effective July 1, 2050 (HD1).*¹
- SB 3080 SD1 HD1 **Criminal Records Checks** – Authorizes the Hawaii Health Systems Corp. to conduct FBI nationwide criminal records checks on employees, applicants, current or prospective contractors, providers, or volunteers. Headed to conference committee. *Effective July 1, 2020 (HD1).*

Workers Compensation

- HB 2386 SD2 **TTD Benefits** – House bill requires employers to pay temporary total disability (“TTD”) benefits to injured workers regardless of any controversy over compensability, and prevents termination of TTD benefits unless an order of the Director of DLIR has approved termination, or the claimant’s physician finds the claimant is able to work and the employer has made an offer of work within the claimant’s medical restrictions. Senate draft (SD2) has created a working group to study issue and make recommendations to Legislature before 2009 session. Likely to go to conference committee. *Working group provisions of SD2 effective immediately, and if working group does not reach consensus, then House version becomes effective as of July 1, 2009 (SD2).*

¹Bills are often given a “defective” effective date by a committee, to insure that the bill is not passed into law without further consideration and amendment. A proper effective date is then inserted before the bill is finally passed.

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HB 2388 HD1 SD2 **Medical Benefits** – House bill requires employers to continue to pay for medical services despite a dispute over continued treatment, and prevents termination of medical benefits without an order of the Director of DLIR. Senate draft (SD2) has created working group to study the issue further and make a report to the 2009 Legislature. May be headed to conference committee. *Working group provisions of SD2 effective immediately; remainder of bill effective July 1, 2009 (SD2).*

HB 2929 HD1 SD1 **IME Examinations** – Requires that claimant and employer mutually agree on the physician who is to conduct an independent medical examination (“IME) or a permanent impairment rating of the claimant. If parties cannot agree, Director will select qualified physician for the parties within 7 days of request by employer. Provides that physician selected by the Director must conduct the exam within 30 days of selection. If employee unreasonably refuses to submit to or obstructs exam, right to compensation shall be suspended until refusal or obstruction ceases. Cost of ordered examination limited to complex consultation charges in medical fee schedule. Senate version (SD1) added 3 year sunset provision. *Effective July 1, 2008 (SD1).*

HB 2387 HD1 SD1 **IME Examinations** – House bill (HD1) allows the Director of DLIR to appoint an impartial physician to conduct an IME of claimants, with the cost of the examination to be funded by the special compensation fund. Senate draft (SD2) converts bill to working group to study methods of funding IMEs. Likely to go to conference committee. *Effective upon approval (SD1).*

HB 2441 **Student Interns** – Provides that the state shall assume workers compensation liability for students participating in workplace learning programs approved by DOE or UH. Sent to Governor for signature. *Effective upon approval.*

Sent to Governor

Unemployment Insurance

SB 2876 HD2 **Reed Act Funds** – HB 2964 and SB 2876 appropriate Reed Act funds for fiscal year 2008-2009 to the county workforce investment boards and DLIR. Headed to conference committee. *Effective July 1, 2020 (HD2).*

Temporary Disability Insurance

HB 2520 HD3 SD2 **Family Caregiving, TDI/HFLA** – See discussion above under Labor Relations/Employment Practices.

Public Contracts/Prevailing Wages

SB 2780 SD2 HD1 **Commercial Projects on State Land** – Provides that construction projects of private entities on state or county land must be subject to Little Davis Bacon prevailing wage requirements, if the project is to be used for commercial, profit-making activities. House draft (HD1) restricts coverage to construction projects of \$500,000 or more. Headed to conference committee. *Effective July 1, 2009 (HD1).*

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- SB 3087 SD1 HD1 **Contractor Suspension** – Amends Little Davis Bacon statute to require 3 year debarment for any contractor that interferes with or delays an investigation, or falsifies records, relating to prevailing wage laws. On April 8, Senate disagreed with House changes, so may go to conference committee. *Effective upon approval (HD1).*
- SB 2779 HD2 **Emergency Suspension of Prevailing Wage Law** – Clarifies emergency circumstances under which the Governor may suspend prevailing wage laws. House version (HD2) requires Governor to tie emergency proclamation to particular statute authorizing disaster relief or civil defense emergency. *Effective upon approval (HD2).*

Miscellaneous Employment-Labor

- HB 2456 HD2 SD1 **Reciprocal Beneficiaries** – Excludes from a reciprocal beneficiary or domestic partner's gross income, adjusted gross income, and taxable income the value of health insurance and other benefits provided by an employer. Allows persons to claim a tax exemption for a reciprocal beneficiary or domestic partner. *Effective January 1, 2009.*
- HB 2974 HD2 **Unions (Agricultural Workers)** – The “card check” or “employee free choice” bill. Provides that for workers covered by HRS Chapter 377 (generally agricultural workers and others not covered by federal National Labor Relations Act), a union shall be certified as the employees' bargaining representative based on the receipt of a majority of authorization cards rather than by secret ballot election, and specifies that collective bargaining must commence within 10 days after a union is certified as bargaining representative. Also provides that if parties cannot reach agreement on an initial contract, contract terms may be established by arbitration panel for a period of 2 years. **Sent to Governor for signature.** *Effective July 1, 2008.*

Health and Insurance-Related Bills

- HB 2224 HD1 SD2 **Health Coverage for Part-Time Employees** – Requires insurers offering group health care coverage to full-time employees of an employer to offer the same coverage to part-time employees working at least 15 hours per week, with insurance to be paid by employee. Senate version (SD2) provides for sunset in July 2013. *Effective July 1, 2008(SD2).*
- HB 2256 HD2 SD1 **Bundled Coverage** – Allows small insurers occupying less than 5% of the market to market different types of insurance in a single “bundled” policy, which must be purchased as an entire bundled unit by the consumer. SB 2314 SD1 provides that insurer must be a mutual benefit society with less than 5% of health insurance market wishing to bundle dental and vision with medical coverage (e.g. HMAA). SB 2314 HD2 SB 2314 HD2 is *effective upon approval, sunsets June 30, 2011 (SB 2314 HD2).* HB 2256 *effective January 1, 2010*
- HB 2255 HD2 SD2 **Employee Group Life Insurance** – Eliminates current requirement that employee group life insurance policies must cover at least 10 employees. May go to conference committee. *Effective July 1, 2011.*

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Other Bills of Interest

SB 3171 SD2 HD2 **Charities** – Requires 501(c)(3) organizations, charitable organization, and public benefit organizations which solicit funds to register and file annual reports with the Attorney General. Excludes religious corporations and societies, parent-teacher organizations, nonprofit hospitals, and charitable organizations who receive less than \$25,000 in annual contributions if the charitable organization does not pay any person to solicit funds. Authorizes Attorney General to conduct investigations of charities and non-profits; prohibits contracting with unregistered solicitors. *Effective July 1, 2008.*