

JAN 22 2007

S.B. NO. 1468

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## A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION ALTERNATIVE DISPUTE  
RESOLUTION.

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

1           SECTION 1. The purpose of this Act is to create guidelines  
2 to expedite the resolution of controversies through alternative  
3 measures in addition to the administrative hearings process for  
4 workers' compensation claims. This will allow workers'  
5 compensation claims to be resolved in a more timely manner,  
6 thereby enabling faster payments or benefits to the injured  
7 workers.

8           SECTION 2. Chapter 386, Hawaii Revised Statutes, is  
9 amended by adding a new section to be appropriately designated  
10 and to read as follows:

11           "§386- Alternative dispute resolution. (a) In lieu of a  
12 hearing before the director, at anytime after a claim for  
13 compensation is made and before the director renders a decision,  
14 the parties may agree in writing to have any controversy arising  
15 under this chapter be decided by a referee paid for by the  
16 parties.

1        (b) Appointment of referee. Before a referee can conduct  
2 a hearing, the parties shall submit the agreed upon referee's  
3 name to the director for appointment to serve as a referee. The  
4 referee shall be a neutral person. An individual who has a  
5 known, direct, and material interest in the outcome of the  
6 controversy or a known, existing, and substantial relationship  
7 with a party may not serve as a referee, unless that interest is  
8 disclosed, and any conflict is waived by the parties.

9        (c) Costs. Unless the parties otherwise agree, the costs  
10 and fees of the alternative resolution process shall be divided  
11 equally between the parties.

12       (d) Stay of proceedings before the director. If the  
13 parties agree to have any controversy referred to a referee, the  
14 director shall stay all actions or proceedings until the referee  
15 issues a recommended decision.

16       (e) Discovery and other matters. This chapter and its  
17 rules remain applicable to proceedings before the referee except  
18 that requests shall be directed to and recommended decisions  
19 shall be made by the referee instead of the director.

20       (f) Referee's recommended decision. The referee shall  
21 issue and submit the referee's recommended decision to the  
22 director no later than sixty days after the hearing, and shall

1 deliver the recommended decision to all parties personally or by  
2 registered or certified mail.

3 (g) Approval of recommended decision. The director shall  
4 review the referee's recommended decision to determine whether  
5 the recommended decision is in compliance with this chapter 386.  
6 If the recommended decision is in compliance with this chapter  
7 386, the director shall approve the recommended decision and  
8 upon the director's approval, the recommended decision has the  
9 same force and effect as a director's decision rendered under  
10 this chapter 386, and it may be enforced as if it had been  
11 rendered in an action before the director. If the recommended  
12 decision does not comply with this chapter 386, the director may  
13 modify or vacate the recommended decision. If the director  
14 vacates the recommended decision, the parties may resubmit the  
15 controversy to the referee.

16 (h) Appeals. Except when the parties have agreed that no  
17 appeal may be taken and where the director has not modified or  
18 vacated the referee's recommended decision, the parties may  
19 appeal the director's decision in accordance with section 386-87.

20 (i) Applicable law. This chapter 386 and Hawaii  
21 Administrative Rules title 12, chapters 10, 14, and 15 shall  
22 govern the proceedings before the referee.

S.B. NO. 1468

1        (j) Mediation. At anytime after a claim for compensation  
2 is made and before the director renders a decision, the parties  
3 may agree to resolve any controversy regarding this chapter  
4 through mediation by a mediator agreed upon by the parties.  
5 Unless otherwise provided in the agreement to mediate, the costs  
6 and fees of mediation shall be divided equally between the  
7 parties. Upon the successful conclusion of the mediation, the  
8 parties shall submit the settlement agreement to the director  
9 for approval. If any controversy remains unresolved after the  
10 mediation, the parties may request the director to resolve the  
11 controversy."

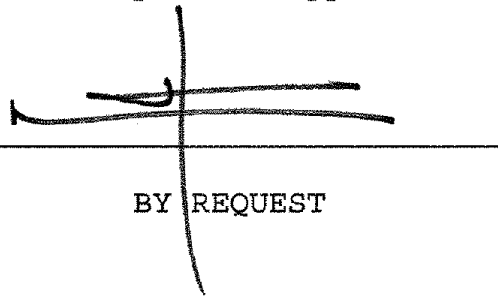
12        SECTION 3. New statutory material is underscored.

13        SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:



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BY REQUEST

SB 1468

JUSTIFICATION SHEET

DEPARTMENT: Labor and Industrial Relations

TITLE: A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION ALTERNATIVE DISPUTE RESOLUTION.

PURPOSE: To provide for alternate dispute resolution to resolve controversies arising from workers' compensation claims.

MEANS: Add a new section to chapter 386, Hawaii Revised Statutes.

JUSTIFICATION: Allow workers' compensation claims to be resolved more quickly, thereby enabling faster payment or benefits to injured workers.

Impact on the public: None.

Impact on the department and other agencies: None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: LBR-183.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval.