

EXECUTIVE CHAMBERS

HONOLULU

June 29, 2005

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 1808

Honorable Members
Twenty-Third Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 1808, entitled "A Bill for an Act Relating to Workers' Compensation Law."

The purported purposes of this bill are to codify some of the existing Hawaii administrative rules pertaining to workers' compensation into chapter 386, Hawaii Revised Statutes; to temporarily restrict the Director's rulemaking authority; and to clarify various other provisions relating to workers compensation.

The bill also declares that any rule relating to workers' compensation that is adopted or amended by the Director on or after January 1, 2005, shall not have the force and effect of law, except that the Director will continue to have the authority to update the reimbursement amounts paid to medical providers under the medical fee schedule.

This bill is objectionable because it arbitrarily suspends, from January 1, 2005 until July 1, 2007, the authority of the Director of the Department of Labor and Industrial Relations from implementing rule changes to improve and streamline the administration and implementation of the workers' compensation laws. Suspension of the rulemaking process is a significant challenge to a key governing principle that has evolved through legislative actions and judicial decisions over the past century. Such a suspension would frustrate and prevent the Director from performing the statutory function of

facilitating and promoting the efficient execution of the Hawaii Workers' Compensation Law through the adoption and amendment of administrative rules.

In addition, this bill would nullify and invalidate administrative rules recently adopted by the Department of Labor and Industrial Relations relating to the administration and implementation of the workers' compensation laws.

On January 7, 2005, a notice of public hearing on proposed rule changes was published and the draft rules were made available for public review. A public hearing was held on February 7, 2005. Approximately 230 testimonies from the public were received and considered by the Director and the Governor. The final rules were signed into law by the Governor and took effect on May 13, 2005. These rules address factors driving up the cost of workers compensation insurance while ensuring that injured workers receive quality medical care and benefits. This bill would negate the improvements achieved by these rules.

Repeal of these rules and suspension of the Director of Labor and Industrial Relations' authority to improve the implementation of the workers compensation law through the rule-making process would be an abrogation of the public's right to participatory governance.

Further, under this bill, the Director of Labor and Industrial Relations would not be permitted to issue a decision without a hearing. Currently the Director issues decisions without hearings for the sake of the injured worker, such as awards for disfigurement, which are made after a review of the medical records. Prohibiting the waiver of a hearing will serve as a detriment to injured workers and exacerbate the lengthy delays that have earned Hawaii's worker compensation system a

STATEMENT OF OBJECTIONS
SENATE BILL NO. 1808
Page 3

failing grade.

For the foregoing reasons, I am returning Senate Bill
No. 1808 without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read "L. Lingle", written in a cursive style.

LINDA LINGLE
Governor of Hawaii