

EXECUTIVE CHAMBERS

HONOLULU

July 10, 2007

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 1060

Honorable Members  
Twenty-Fourth 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. 1060, entitled "A Bill for an Act Relating to Workers' Compensation Law."

The purpose of this bill is to make numerous changes to the workers' compensation statutes.

This bill is objectionable because the amendment it contains to Act 11, Special Session Laws of Hawaii 2005, would delete the sunset provision of Act 11. In 2005 the Legislature imposed a temporary moratorium on the Director of Labor and Industrial Relations' workers' compensation rule-making authority. By its terms, Act 11 envisioned the repeal of the temporary suspension of the Director's rule-making authority on July 1, 2007.

This bill proposes to make the temporary moratorium on the Director's rule-making authority permanent. Such a provision frustrates and prevents the ability of the Director to perform an important function. The bill permanently limits the Director's

STATEMENT OF OBJECTIONS  
SENATE BILL NO. 1060  
Page 2

ability to promptly respond to the changing needs of the workers' compensation program. It is critical that the Director have the ability to expeditiously make, repeal, and amend rules pertaining to workers' compensation in order to be responsive to the immediate needs of the State. To permanently prohibit the Director from adopting or amending rules having the force and effect of law would severely frustrate the State's ability to facilitate and promote the efficient execution of the workers' compensation laws.

This bill is also objectionable because it requires an employer or employer's insurer to continue to pay for medical treatments and temporary total disability benefits after the employer or employer's insurer, using a physician's determination, considers the continued treatments and/or disability to be inappropriate, excessive, or for a non-compensable condition. Requiring payment for medical services and/or temporary total disability benefits that were determined unwarranted and unnecessary will likely result in higher workers' compensation premiums because this adds to the workers' compensation risk exposure of all businesses in Hawaii.

Further, the bill would create a disincentive to return to work. More specifically, it may encourage certain employees to continue to contest returning to work because even if the

STATEMENT OF OBJECTIONS  
SENATE BILL NO. 1060  
Page 3

Director determines the employee should and could have returned to work, the employee bears no risk for failing to do so, as the benefits the employee were paid are non-recoverable by the employer.

Finally, this bill fundamentally changes the balance between employer and employee regarding the method by which medical care can be terminated. It essentially overrides the workers' compensation medical fee schedule and negates the "reasonable and necessary" language in current Hawaii workers' compensation law, thereby placing in jeopardy the integrity of the State's workers' compensation system.

For the foregoing reasons, I am returning Senate Bill No. 1060 without my approval.

Respectfully,



LINDA LINGLE  
Governor of Hawaii