

Honolulu, Hawaii
Feb 15, 2008

RE: H.B. No. 2386

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

Sir:

Your Committee on Labor & Public Employment, to which was referred H.B. No. 2386 entitled:

"A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION,"

begs leave to report as follows:

The purpose of this bill is to make adjustments to the workers' compensation statute to ensure efficiency and fairness in the claims and dispute processes, including but not limited to:

- (1) Requiring an employer to pay temporary total disability (TTD) benefits without waiting for a decision from the Director of Labor and Industrial Relations (Director) regardless of whether the employer controverts the right to those benefits;
- (2) Specifying that the provision of TTD benefits shall continue until the employee's treating physician determines that the employee is able to resume work and a bona fide offer of suitable work within the employee's medical restrictions has been made;
- (3) Requiring the Director, after conducting a hearing, to indicate whether TTD benefits should have been discontinued, and if so, designate a date after which TTD benefits should have been discontinued;
- (4) Allowing an employer to make a written request to the Director for the issuance of a credit for the amount of



TTD benefits paid by the employer after the date which the Director determined TTD benefits should have been discontinued;

- (5) Requiring an employer or insurer to pay for attorney's fees and costs to the employee if the employer or insurer is found to be noncompliant with the TTD law; and
- (6) Entitling an injured employee to receive a weekly benefit amount equal to 70 percent of the injured employee's average weekly wage, or a maximum weekly income benefit based upon the state average weekly wage applicable, under certain conditions.

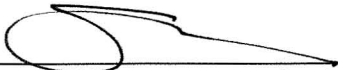
The Hawaii State AFL-CIO and Hawaii Chapter - American Physical Therapy Association supported this bill. ILWU Local 142 supported the intent of this measure. The Department of Human Resources Development, Department of Labor and Industrial Relations, Hawaii Insurers Council, Property Casualty Insurers Association of America, National Federation of Independent Business, Building Industry Association of Hawaii, American Insurance Association, Hidano Construction, Inc., and the Chamber of Commerce of Hawaii opposed this bill.

While the workers' compensation law was established as a "no-fault" law where an injured worker received the medical treatment necessary to allow the worker to return to work in exchange for an injured worker giving up the right to sue the employer, the process has become very adversarial. This has resulted in claims and counterclaims being filed and appealed regarding a worker's injury and often results in delaying the provision of TTD benefits. This delay ultimately causes delays in the receipt of treatment by the injured employee, thus hindering the recovery of an injured worker. Allowing a worker to continue to receive TTD benefits until the Director renders a decision in the matter while affording the employer the opportunity to obtain a credit for the amount of overpayment in TTD benefits appears to be a fair balance that addresses this problem.

As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2386 and recommends that it pass Second Reading and be referred to the Committee on Finance.



Respectfully submitted on
behalf of the members of the
Committee on Labor & Public
Employment,



ALEX M. SONSON, Chair



524-08

State of Hawaii
House of Representatives
The Twenty-fourth Legislature

Record of Votes of the Committee on Labor & Public Employment

Bill/Resolution No.: HB 2386	Committee Referral: LAB, FIN	Date: 02/12/08		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input checked="" type="checkbox"/> Pass, unamended (as is) <input type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
LAB Members	Ayes	Ayes (WR)	Nays	Excused
1. SONSON, Alex M. (C)	X			
2. NAKASONE, Bob (VC)				X
3. EVANS, Cindy		X		
4. HAR, Sharon E.		X		
5. LEE, Marilyn B.	X			
6. LUKE, Sylvia	X			
7. McKELVEY, Angus L.K.		X		
8. NISHIMOTO, Scott Y.	X			
9. SOUKI, Joseph M.	X			
10. TAKAMINE, Dwight Y.	X			
11. TAKUMI, Roy M.	X			
12. MEYER, Colleen Rose		X		
13. PINE, Kymberly Marcos		X		
TOTAL (13)	7	5	0	1
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. _____ committee acronym(s)				
Vice Chair's or designee's signature: _____				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office				