

Honolulu, Hawaii

March 24, 2006

RE: S.B. No. 2643
S.D. 1
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committee on Labor & Public Employment, to which was referred S.B. No. 2643, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO VOCATIONAL REHABILITATION,"

begs leave to report as follows:

The purpose of this bill is to encourage employees who have suffered work-related injuries to return to work by allowing an employee who has been deemed unable to return to the employee's original position due to a work injury to be referred by the Director of Labor and Industrial Relations (Director) for vocational rehabilitation services.

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO, ILWU Local 142, and Hawaii State Teachers Association testified in support of this bill. The Department of Labor and Industrial Relations and Hawaii Rehabilitation Counseling Association opposed this measure. The Department of Human Resources Development and Hawaii Employers' Mutual Insurance Company, Inc. (HEMIC), submitted comments.

Your Committee notes that existing laws allow employees who have suffered a permanent disability as a result of work injuries to be referred by the Director for vocational rehabilitation services. This bill affords the same access to vocational rehabilitation services to an employee who may not have suffered a



permanent disability, but has been otherwise deemed unable to return to the employee's position as a result of a work injury.

Your Committee believes that limiting the Director's referrals for vocational rehabilitation to employees who have suffered a permanent disability is artificially restrictive. The recuperative process following a work injury should not only include healing from the physical effects of the injury itself, but also assisting the injured worker to reintegrate into the workforce in a timely manner.

However, your Committee notes the concerns raised by HEMIC that, as currently written, the bill would affect the ability for employers to offer alternative duty programs to their injured employees since injured employees who are unable to return to their "regular job" would automatically qualify for vocational rehabilitation. Alternative duty programs, also known as light duty programs, allow employers to provide injured employees with work while addressing the employees' medical needs. This is beneficial to employers, as they are able to retain a qualified workforce, and to employees, as they are able to maintain their earning power until such time that they are fully recovered and can return to their regular job.

Accordingly, your Committee has amended this measure by stipulating that in addition to workers who have suffered a permanent disability, the Director may also refer to vocational rehabilitation services injured employees who:

- (1) Are deemed unable to return to their regular jobs after the injury may have stabilized; and
- (2) Have not been offered suitable work by the employer that would restore the employee to an earnings capacity comparable to that existing at the time of the injury.

Technical, nonsubstantive amendments were also made for clarity, consistency, and style.

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 S.B. No. 2643, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2643, S.D. 1, H.D. 1, and be referred to the Committee on Finance.



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


KIRK CALDWELL, Chair



