

STAND. COM. REP. NO.

2946

Honolulu, Hawaii

MAR 16 2006

RE: H.B. No. 1867
H.D. 1
S.D. 1

Honorable Robert Bunda
President of the Senate
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committee on Labor, to which was referred H.B. No. 1867,
H.D. 1, entitled:

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

begs leave to report as follows:

The purpose of this measure is to ensure that, in the event of a dispute between an injured employee and the employer or the employer's insurer, the injured employee continues to receive medical treatment under the last approved treatment plan until the Director of Labor and Industrial Relations renders a decision on whether medical treatment should be continued.

Testimony in support of this measure was submitted by the Hawaii State AFL-CIO; the Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO; the ILWU Local 142; the Hawaii Injured Workers Alliance, the International Brotherhood of Electrical Workers, the Hawaii State Teachers Association, the Hawaii Medical Service Association, the Hawaii Chapter, American Physical Therapy Association, the Hawaii State Chiropractic Association, Work Star Occupational Health Systems, and twelve individuals.

Testimony in opposition to this measure was submitted by the Department of Labor and Industrial Relations (DLIR), the Department of Human Resources Development, the Department of Civil Service for the County of Hawaii, the Chamber of Commerce of Hawaii, the Hawaii Insurers Council, the Society for Human Resource Management, the National Federation of Independent

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Business in Hawaii, and the Hawaii Independent Insurance Agents Association. Comments on this measure were also submitted by the Hawaii Employers' Mutual Insurance Company, Inc.

Your Committee finds that the current workers' compensation laws allow an injured employee's medical treatment to be prematurely and improperly terminated if the employer denies further treatment. In this situation, if the injured employee disputes the termination of medical treatment, the matter must be resolved through a hearing and determination made by the director of DLIR within sixty days after the date of the hearing. Although DLIR makes efforts to expedite the process, the cessation of medical treatment during the interim can be severely detrimental to the injured employee's health and recovery. In many cases, the cessation of medical treatment can result in the deterioration of an injured employee's condition, thereby extending the duration of the need for medical services and the injured employee's continued absence from work. Your Committee believes that in balancing all of the interests involved, an injured employee merits protection through the provision of uninterrupted medical services until the director of DLIR makes a formal determination that the services are no longer warranted.

Your Committee further finds that the current law also allows an employer to unilaterally terminate an injured employee's temporary total disability (TTD) benefits upon the belief that the injured employee is able to return to work. This termination of benefits can occur irrespective of whether the injured employee has actually resumed work. Once benefits are terminated, the injured employee must make a written request to the director of DLIR if the termination is contested. Currently, an injured employee who has disputed the termination of TTD benefits must wait three to nine months for a hearing and resolution on the matter. Your Committee believes that the workers' compensation system attempts to balance the interests of employers and employees by guaranteeing that workers injured on the job receive medical treatment and replacement of lost wages, while employees relinquish their right to sue under most circumstances. Therefore, the termination of medical treatment and payment of TTD benefits should not be capricious. Your Committee determines that the termination of TTD benefits under the current law creates an undue hardship on the injured employee when the injured employee is not working and likely has no other means of income.

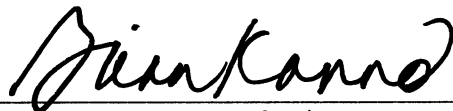
Accordingly, your Committee has amended this measure by:



- (1) Including the contents of S.B. No. 3035, S.D. 1, which amends subsection 386-31(b), Hawaii Revised Statutes, to prevent an employer who believes that an injured employee is able to return to work, but who has yet to return to work, from terminating the employee's TTD benefits until a decision is rendered by the director of DLIR;
- (2) Changing the effective date of the Act to be effective upon its approval; and
- (3) Making technical, nonsubstantive changes for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1867, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1867, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Labor,



BRIAN KANNO, Chair



**The Senate
Twenty-Third Legislature
State of Hawaii**

**Record of Votes of the
Committee on Labor
(Bills and Resolutions)**

| | | | | |
|---|--|-------------------------|------|---------|
| Measure:* HB 1867 HDI | Committee Referral: LBR, WAM | Date: 3-13-06 | | |
| <input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____ | | | | |
| The Recommendation is to: <input type="checkbox"/> Pass, unamended (2312) <input checked="" type="checkbox"/> Pass, with amendments (2311) <input type="checkbox"/> Hold (2310) <input type="checkbox"/> Recommit (2313) | | | | |
| Members | Ayes | Ayes(WR) | Nays | Excused |
| KANNO, Brian (C) | ✓ | | | |
| IHARA, Jr., Les (VC) | | | | ✓ |
| TANIGUCHI, Brian T. | ✓ | | | |
| SLOM, Sam | | | ✓ | |
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| TOTAL | 2 | | 1 | 1 |
| Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted | | | | |
| Chair's or Designee's Signature: | | | | |
| Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy | | | | |

*Do not list more than one measure per Record of Votes.