

STAND. COM. REP. NO. 523-08

Honolulu, Hawaii
Feb 4/15, 2008

RE: H.B. No. 2387
H.D. 1

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. 2387 entitled:

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

begs leave to report as follows:

The purpose of this bill is to improve the workers' compensation system by:

- (1) Requiring instead of allowing the Director of Labor and Industrial Relations (Director) to appoint an impartial physician to examine an injured employee and to report on the injured employee's medical condition; and
- (2) Allowing payment for these impartial examinations to be from the Special Compensation Fund (SCF).

ILWU Local 142 and Hawaii State AFL-CIO testified in support of this bill. The Department of Human Resources Development (DHRD), Department of Labor and Industrial Relations (DLIR), Hawaii Insurers Council, and American Insurance Association opposed this measure. The Attorney General submitted comments.

Under the current workers' compensation system, independent medical examinations (IMEs) usually are performed by an agreed-upon physician and the employer or insurance carrier is responsible for the payment of the examination. Unfortunately, since the physician is paid for by the employer or insurer, the

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impartiality of the medical examination is called into question. Requiring the Director to appoint an impartial physician to conduct an IME and allowing the Director to pay for this examination using moneys from the SCF would bring a fairer balance to these examinations.

However, your Committee does understand the concerns raised by DHRD and DLIR regarding the overly broad language in this measure that may be interpreted to require the Director to appoint an impartial physician to examine every workers compensation case. Nevertheless, this measure deserves further consideration. Your Committee has amended this measure by:

- (1) Deleting the provision requiring instead of allowing the Director to appoint an impartial physician to examine an injured employee and to report on the injured employee's medical condition;
- (2) Changing its effective date to July 1, 2059, to encourage further discussion; and
- (3) Making technical, nonsubstantive amendments 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 H.B. No. 2387, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2387, 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,



ALEX M. SONSON, Chair



State of Hawaii
House of Representatives
The Twenty-fourth Legislature

Record of Votes of the Committee on Labor & Public Employment

Bill/Resolution No.: HB 2387	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 type="checkbox"/> Pass, unamended (as is) <input checked="" 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)	Y			
2. NAKASONE, Bob (VC)				X
3. EVANS, Cindy		Y		
4. HAR, Sharon E.	Y			
5. LEE, Marilyn B.	Y			
6. LUKE, Sylvia		Y		
7. McKELVEY, Angus L.K.	Y			
8. NISHIMOTO, Scott Y.		Y		
9. SOUKI, Joseph M.		Y		
10. TAKAMINE, Dwight Y.	Y			
11. TAKUMI, Roy M.	Y			
12. MEYER, Colleen Rose	Y			
13. PINE, Kymberly Marcos	Y			
TOTAL (13)	8	4	0	1
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral _____ committee acronym(s) _____ did not support recommendation.				
Vice Chair's or designee's signature: _____				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office				