

STAND. COM. REP. NO. 1162

Honolulu, Hawaii

March, 2007

RE: H.B. No. 763  
H.D. 2

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Fourth State Legislature  
Regular Session of 2007  
State of Hawaii

Sir:

Your Committee on Finance, to which was referred H.B. No. 763, H.D. 1, entitled:

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

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. Among other things, this bill:

- (1) Exempts individuals holding ownership of at least 50 percent in an employing unit, including corporations, partnerships, limited liability partnerships, and sole proprietorships from workers' compensation requirements if the individual chooses to be excluded, provided that the exclusion shall be irrevocable for five years;
- (2) Exempts service performed by a partner for the partnership, a partner of a limited liability partnership, and sole proprietor for the sole proprietorship from workers' compensation requirements;
- (3) Prevents essential medical services from being discontinued in the event of a dispute, until the Director of Labor (Director) renders a decision on whether medical treatment should be continued;



- (4) Allows for the recovery of costs from a claimant's personal health care provider or other appropriate occupational or non-occupational insurer by an employer or employer's insurer in the event unwarranted medical treatment was provided;
- (5) Allows injured workers to be referred for vocational rehabilitation where the employee has achieved maximum medical improvement and the employer has made no offer of permanent suitable work;
- (6) Establishes criteria for the use of optional evidence-based guidelines for treatment and for the denial and dispute processes;
- (7) Provides for reimbursement of medical treatment expenses which should have been denied;
- (8) Allows for requests for hearings by employees and employers;
- (9) Limits the rulemaking powers of the Director;
- (10) Establishes requirements and standards for independent medical examiners to perform independent medical exams;
- (11) Clarifies authorization for claims for attorney's services;
- (12) Requires the submission of annual reports by workers' compensation insurers to the Director of the Department of Commerce and Consumer Affairs and the Insurance Commissioner; and
- (13) Allows for alternative dispute resolution for workers' compensation claims.

UNITE HERE! Local 5 Hawaii testified in support of this bill. The Judiciary, Hawaii State AFL-CIO, and Hawaii Government Employees Association supported this measure in part. The Department of Human Resources Development, ILWU Local 142, Hawaii Insurers Council, The Academy of Independent Medical Examiners of Hawaii, and numerous individuals testified in opposition to this bill. The Department of Labor and Industrial Relations, American Physical Therapy Association-Hawaii Chapter, Hawaii Rehabilitation



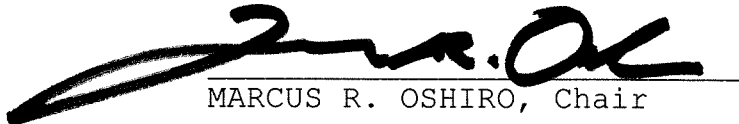
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Counseling Association, Occupational Therapy Association of Hawaii, Hawaii State Chiropractic Association, American Chiropractic Association, Hawaii Employers' Mutual Insurance Company, Retail Merchants of Hawaii, and The Chamber of Commerce of Hawaii submitted comments on this measure.

Your Committee has amended this bill by making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 763, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 763, H.D. 2.

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

  
MARCUS R. OSHIRO, Chair



