

Honolulu, Hawaii

MAR 20 2008

RE: H.B. No. 2386
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, 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 measure is to make amendments to the
provision of temporary total disability (TTD) benefits under the
workers' compensation law to:

- (1) Allow for the termination of TTD benefits if the
employee's treating physician determines that the
employee is able to resume work and the employer has
made a bona fide offer of suitable work within the
employee's medical restrictions, upon order of the
Director of Labor and Industrial Relations (Director)
after a full and fair hearing;
- (2) Clarify that when the employer is of the opinion that
benefits should be terminated, the Director shall hold a
hearing and render a prompt decision indicating whether
the benefits should have been discontinued, and if so,
the date of discontinuance; whereupon the employer may
request the Director to issue a credit for the amount of
benefits paid by the employer after the date that the
Director has determined should have been the last date
of payment;



- (3) Clarify that an employee is entitled to receive a weekly benefit equal to seventy per cent of the injured employee's average weekly wages, or a maximum weekly income benefit based upon the state average weekly wage applicable on the date compensation was first received, under specified conditions; and
- (4) Require the employer or insurance carrier who fails to comply with the section to pay attorney's fees and costs to the employee for enforcement of the section.

Your Committee received testimony in support of this measure from the ILWU Local 142; Hawaii State Teachers Association; Hawaii Chapter, American Physical Therapy Association; Hawaii State Chiropractic Association; and two individuals. Testimony in opposition was received from the Department of Human Resources Development; Department of Labor and Industrial Relations; Associated Builders and Contractors of Hawaii; American Insurance Association; Building Industry Association - Hawaii; The Chamber of Commerce of Hawaii; General Contractors Association of Hawaii; Hawaii Independent Insurance Agents Association; Hawaii Insurers Council; Hawaiian Electric Co. Inc.; Maui Electric Company, Ltd.; Hawaii Electric Light Company, Inc.; Kaua'i Chamber of Commerce; National Federation of Independent Businesses; Property Casualty Insurers Association of America; Retail Merchants of Hawaii; Society for Human Resource Management Hawaii; and two individuals.

Your Committee finds that injured workers need to be paid workers' compensation benefits for TTD as soon as possible, without regard to whether the employer controverts the claim. Your Committee further finds that employees receiving TTD benefits should be offered other suitable work by the employer. Your Committee notes that this measure still protects the employer's procedural rights to contest a claim. Your Committee further finds that a benefit of seventy per cent of the injured employee's average weekly wage for a permanent or total disability is reasonable and in keeping with the cost of living.

Your Committee has amended this measure by changing the effective date to July 1, 2050, to continue discussions in this matter, and by making technical, nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B.



No. 2386, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2386, S.D. 1, and be referred to the Committee on Ways and Means.

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



BRIAN T. TANIGUCHI, Chair



