

STAND. COM. REP. NO. 3406

Honolulu, Hawaii

APR 04 2008

RE: H.B. No. 2929  
H.D. 1  
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. 2929, 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 provide for an independent  
medical examination or a permanent impairment rating examination  
of an injured employee in workers' compensation cases, and to make  
a report to the employer accordingly.

Your Committee received testimony in support of this measure  
from the Hawaii Chapter, American Physical Therapy Association;  
Hawaii State AFL-CIO; Hawaii Chiropractic Association; Hawaii  
State Teachers Association; International Association of  
Rehabilitation Professionals; ILWU Local 142; Spada Builders Inc.;  
Vocational Management Consultants; and fifteen individuals.  
Testimony in opposition was received from the Department of Human  
Resources Development; Department of Labor and Industrial  
Relations; American Insurance Association; Building Industry  
Association - Hawaii; Hawaii Employers' Mutual Insurance Company,  
Inc.; Hawaii Insurers Council; Hawaii Medical Association;  
Outrigger Hotels; Hawaiian Electric Co. Inc.; Maui Electric  
Company, Ltd.; Hawaii Electric Light Company, Inc.; The Chamber of  
Commerce of Hawaii; Kaua'i Chamber of Commerce; National Federation  
of Independent Businesses; Property Casualty Insurers Association  
of America; Retail Merchants of Hawaii; and two individuals.



Under this measure, after an injury and after a claim is filed by the injured employee, the employer, upon mutual agreement of the parties, may appoint a qualified physician, paid by the employer, to conduct the independent medical examination or permanent impairment rating. If the parties cannot agree on a physician, procedures are set out for the Director of Labor and Industrial Relations to appoint a qualified physician. When an injured employee has attained medical stability as determined by the injured employee's attending physician, the employer may appoint a physician, paid by the employer and selected by agreement of the parties, who shall conduct a permanent impairment rating examination of the injured employee. This measure defines "medical stability" to mean that the injured employee's medical condition is static and well stabilized that no further improvement in the injured employee's work-related condition can be expected from further medical treatment and that continued medical care will only prevent deterioration of the condition.

This measure also repeals current law giving the right to an employer who is dissatisfied with the progress of the case or where major elective surgery is contemplated, to appoint a physician or surgeon of the employer's choice to examine the injured employee and make a report to the employer accordingly. The employer may then forward the report to the Director of Labor and Industrial Relations if the employer remains dissatisfied.

The intent of this measure is to assure impartiality in the conduct of independent medical examinations and permanent impairment rating examinations, by providing for mutual cooperation between the parties in the selection of the examining physician. Your Committee believes that the mutual selection of a physician is worth an attempt on a trial basis to evaluate whether processing of workers' compensation claims can be expedited and whether expenses can be reduced.

Your Committee has amended this measure by:

- (1) Changing the effective date to July 1, 2008, and a sunset date of July 1, 2011; and
- (2) 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. 2929, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2929, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

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



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BRIAN T. TANIGUCHI, Chair

The Senate  
 Twenty-Fourth Legislature  
 State of Hawaii

**Record of Votes**  
**Committee on Judiciary and Labor**  
**JDL**

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 2929 HD1	JDL	3/19/08		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <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	Aye	Aye (WR)	Nay	Excused
TANIGUCHI, BRIAN T. (C)	/			
HEE, Clayton (VC)				/
GABBARD, Mike	/			
KOKUBUN, Russell S.	/			
NISHIHARA, Clarence K.				/
SLOM, Sam			/	
<b>TOTAL</b>	<b>3</b>		<b>1</b>	<b>2</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align:center; font-family: cursive; font-size: 1.2em;">Russell Kohl</div>				
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\*Only one measure per Record of Votes