



**STATE OF HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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February 25, 2008

To: The Honorable Marcus Oshiro, Chair  
and Members of the House Committee on Finance

Date: Tuesday, February 26, 2008

Time: 4:30 p.m.

Place: Conference Room 308, State Capitol

From: Darwin L.D. Ching, Director  
Department of Labor and Industrial Relations

**Testimony in SUPPORT  
of  
H.B. 2017 – Relating to Vocational Rehabilitation**

**I. OVERVIEW OF CURRENT PROPOSED LEGISLATION**

House Bill 2017 proposes to amend section 386-25, Hawaii Revised Statutes (“HRS”), to fix a drafting mistake made when legislature codified the Department of Labor and Industrial Relations (“Department”) administrative rules relating to vocational rehabilitation into state statute. The amendment corrects statute to the original language (found in the administrative rules) related to the four-step process a vocational rehabilitation counselor must undertake to return the injured worker to suitable gainful employment.

This amendment will allow search for suitable gainful employment with the injured worker’s current employer followed by search for suitable gainful employment with different employers.

**II. CURRENT LAW**

Act 11, passed by the Special Session of the 2005 Legislature, amended section 386-25, HRS, by codifying into statute the administrative rule section 12-14-5 relating to rehabilitation. Act 11’s amendment to section 386-25 inadvertently deleted the requirement for consideration of modified or other work with the **same** employer. The current law, section 386-25 (e)(2), HRS, only requires that consideration of modified or

other work be with a **different** employer and does not allow for consideration of the current (same) employer.

### **III. HOUSE BILL**

The Department supports H.B 2017 as it corrects a drafting error caused when the legislature codified the Department administrative rules relating to vocational rehabilitation.

This amendment clarifies the past and present practice of VR counselors that require search for suitable gainful employment with the injured worker's current (same) employer followed by search for suitable gainful employment with different employers.



**HAWAII GOVERNMENT EMPLOYEES ASSOCIATION**

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The Twenty-Fourth Legislature, State of Hawaii  
Hawaii State House of Representatives  
Committee on Finance

Testimony by  
HGEA/AFSCME Local 152, AFL-CIO  
February 26, 2008

**H.B. 2017 – RELATING TO  
VOCATIONAL REHABILITATION**

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO supports the purpose and intent of H.B. 2017. The bill appears to correct the omission of a logical step in the process to return an injured employee to work, specifically, to consider modified work with the same employer before considering work with a different employer. We believe this is a positive step to mitigate the disruptive impacts of a work-related injury and enable more injured workers to remain with the same employer.

Thank you for the opportunity to testify in support of H.B. 2017.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Nora A. Nomura', is written over the typed name.

Nora A. Nomura  
Deputy Executive Director

HOUSE OF REPRESENTATIVES  
THE TWENTY-FOURTH LEGISLATURE  
REGULAR SESSION OF 2008

COMMITTEE ON FINANCE

Rep. Marcus Oshiro, Chair  
Rep. Marilyn B. Lee, Vice Chair

Date: Tuesday, February 26, 2008

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Place: Conference Room 308, State Capitol

**TESTIMONY FRED GALDONES/ILWU LOCAL 142**

**RE: HB 2017, RELATING TO VOCATIONAL REHABILITATION**

Thank you for the opportunity to present testimony regarding HB 2017. We support this bill.

HB 2017 corrects an oversight in Section 386-25(e)(2), Hawaii Revised Statutes, which generally outlines the sequence of steps a vocational counselor takes in planning the vocational rehabilitation of an injured worker.

Our current law states that after first trying to return the employee to his or her usual and customary employment, the counselor should next determine “if modified work or other work with a different employer represents suitable and gainful employment. . . “. The Department of Labor regulation which preceded Section 386-25(e)(2) HRS, Hawaii Administrative Rule 12-14-5(a)(2), however, stated that the counselor should determine “if modified work or other work with the same employer represents suitable gainful employment.” (emphases added)

HB 2017 appears to correct the existing statute so that it conforms to the original vocational rehabilitation regulation. Under the change proposed, a counselor would first try to place an employee in their usual and customary employment after they suffer a work injury. However, if that fails, the counselor will try to find the injured worker modified work or other work with the same employer, rather than a new and different employer. Section 386-25(e)(2) HRS now omits the logical step of trying to place an injured worker back to employment with his or her existing employer by modifying the employee’s original job or identifying other jobs with the same company before looking outside the original company for gainful employment.

Assuming we have correctly interpreted the intent of HB 2017 to be what has been stated in this testimony, we support passage of the bill as a sensible amendment to an oversight in existing law.