

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

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January 23, 2008

To: The Honorable Alex Sonson, Chair
and Members of the House Committee on Labor and Public Employment

Date: January 25, 2008

Time: 8:15 a.m.

Place: Conference Room 309, 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.



Randy Perreira
President

HAWAII STATE AFL-CIO

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The Twenty-Fourth Legislature, State of Hawaii
Hawaii State House of Representatives
Committee on Labor and Public Employment


Testimony by
Hawaii State AFL-CIO
January 22, 2008

H.B. 2017 – RELATING TO VOCATIONAL
REHABILITATION

The Hawaii State AFL-CIO supports the positive changes to the existing workers' compensation statute contained in H.B. 2017. As drafted, the bill will allow more employees who are injured on-the-job to remain with their current employer.

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

Respectfully submitted,


for
Randy Perreira
President



Working Together for Hawaii

The Twenty-Fourth Legislature, State of Hawaii
Hawaii State House of Representatives
Committee on Labor and Public Employment

Testimony by
Hawaii Government Employees Association
January 22, 2008

H.B. 2017 – RELATING TO VOCATIONAL REHABILITATION

The Hawaii Government Employees Association supports the purpose and intent of H.B. 2017. We believe this is a favorable change in the statute and will enable more employees, if injured at work, 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 that reads "Kevin Mulligan". The signature is written in a cursive style.

for
Nora A. Nomura
Deputy Executive Director

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

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Rep. Alex M. Sonson, Chair
Rep. Bob Nakasone, Vice Chair

Date: Friday, January 25, 2008
Time: 8:15 a.m.
Place: Conference Room 309, 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.

TESTIMONY on HB 2017
International Association of Rehabilitation Professionals

January 23, 2008

Support of H.B. No. 2017
Relating to Vocational Rehabilitation

The Honorable Representative Alex M. Sonson, Chair
The Honorable Representative Bob Nakasone, Vice Chair
And Members of the Committee:

My name is Alan S. Ogawa and I have been providing Vocational Rehabilitation Services for 31 years assisting injured and disabled individuals/workers of Hawaii. As the current President of the International Association of Rehabilitation Professionals-Hawaii Chapter and on behalf of our members, **we support HB2017**.

“The International Association of Rehabilitation Professionals (IARP) brings together rehabilitation professionals in Hawaii and across North America to promote the availability of effective, interdisciplinary services for persons with disabilities.”

The International Association of Rehabilitation Professionals (IARP) supports the change of this statute to bring the law in line with the Statement of Workers Rights and the Administrative Rules. We support the change as proposed for level 2.

(2) Next determining if modified work or other work with [~~a different~~] the same employer represents suitable gainful employment

We encourage you to pass the proposed bill **HB 2017**.

Thank you for the opportunity of addressing this committee.

Alan S. Ogawa, M.Ed. CRC
President-International Association of Rehabilitation Professionals
Hawaii Chapter
1834 Nu'uanu Ave, Suite 205
Honolulu, Hawaii 96817
Phone: 523-7755

Date: 1/25/08 Time: 8:15 am

Place: Conference Room 309, State Capital, 415 South Beretania Street

LABtestimony@Capitol.hawaii.gov

January 23, 2008

House of Representatives
The Twenty-fourth Legislature

Committee on Labor and Public Employment
Representative Alex Sonson and
Representative Bob Nakasone Vice Chair and Committee members

Testimony in support of HB 2017.

My name is Laurie Hamano and we at Vocational Management Consultants are here to represent ourselves as vocational rehabilitation counselors in the community for the past many years working with injured workers as well as HIWA members and International Association of Rehabilitation Specialists or Rehabilitation Counselors. Our company's name is Vocational Management Consultants, Inc. We support HB 2017 as this bill corrects the law as there was an error in the Level 2 of the rehabilitation process.

Thank you for this opportunity to provide our testimony to the committee.

Our address and phone number is:

715 S. King Street Suite 410

Honolulu, HI 96813 #538-8733

Laurie H. Hamano M. Ed. CRC, MHC

Kirsten Harada, M. Ed. CRC, MHC

Patti Inoue, M. Ed. CRC, MHC

Marcia Berkowitz, CRC, MHC

Beverly Tokumine, M. Ed. CRC, MHC

Hawaii Injured Workers Alliance Members

And

Vocational Management Consultants, Inc.

And

International Association of Rehabilitation Providers

