



**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 Taking No Position
on
H.B. 2387, HD1– Relating to Workers’ Compensation**

I. OVERVIEW OF CURRENT PROPOSED LEGISLATION

House Bill 2387, H.D. 1, proposes to amend Section 386-80, Hawaii Revised Statutes (“HRS”) by allowing the director to appoint a qualified physician to conduct an impartial examination and pay for the examination from the Special Compensation Fund (“SCF”) or other funds.

II. CURRENT LAW

Currently, Section 386-80 indicates that the Director may appoint a physician, and the fees to pay for the examination would be from funds appropriated by the legislature for the use of the department.

III. HOUSE BILL

The Department of Labor and Industrial Relations (“Department”) takes no position on this bill. The Department would like to have an opportunity to hear from the proponents as to what this proposal would improve or issue it would resolve within Hawaii’s workers’ compensation system.

LINDA LINGLE
GOVERNOR



MARIE C. LADERTA
DIRECTOR

CINDY S. INOUE
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
HONOLULU, HAWAII 96813

February 26, 2008

TESTIMONY TO THE
HOUSE COMMITTEE ON FINANCE
For Hearing on Tuesday, February 26, 2008
4:30 p.m., Conference Room 308

BY

MARIE C. LADERTA, DIRECTOR

House Bill No. 2387
Relating to Workers' Compensation

TO CHAIR MARCUS R. OSHIRO AND MEMBERS OF THE COMMITTEE:

The purpose of H.B. No. 2387, H.D. 1 is to amend Section 386-80, Hawaii Revised Statutes, to pay for examinations authorized by this section from the special compensation fund.

The Department of Human Resources Development opposes this bill. The Special Compensation Fund was created in 1963 for specific purposes. This would divert money away from the original intent of the statute and may result in increased assessments to employers and insurance carriers.

Respectfully submitted,

A handwritten signature in cursive script that reads "Marie C. Laderta".

MARIE C. LADERTA



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME LOCAL 152, AFL-CIO

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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. 2387, H.D. 1 – RELATING
TO WORKERS' COMPENSATION**

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly supports the purpose and intent of H.B. 2387, H.D.1. As drafted, the bill enables the Department of Labor and Industrial Relations to appoint impartial physicians to examine injured employees. We believe that employees deserve to be evaluated by an impartial physician instead of someone who may have a bias in favor of employers. Thank you for the opportunity to testify in support of H.B. 2387, H.D. 1.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Nora A. Nomura', written over a horizontal line.

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

Time: 4:30 p.m.

Place: Conference Room 308, State Capitol

TESTIMONY FRED GALDONES/ILWU LOCAL 142

RE: HB 2387, HD 1, RELATING TO WORKERS' COMPENSATION

Thank you for the opportunity to present testimony regarding HB 2387, HD 1.

This intelligent bill simply provides funding for examinations by an impartial physician pursuant to Section 386-80 HRS. Funds would be appropriated from the Special Compensation Fund, an entity within the Department of Labor and Industrial Relations, for this purpose.

The Special Compensation Fund exists as the insurer of last resort when employers and insurers default on their workers' compensation insurance obligations. It also promotes the hiring of handicapped employees by paying for the pre-existing portion of permanent injuries when an employee suffers multiple work injuries to the same body part. The fund receives income from annual assessments levied on all insurers.

At certain times during the adjudication of work injury claims, an added impartial medical examination may be extremely useful in illuminating complex medical questions of causation and disability. At times, the adjudicators of claims themselves would benefit from having access to medical expert opinion, and examinations by impartial physicians could assist them, as well as the parties to such cases. Injured workers rarely can afford such examinations, however, which generally require at least two thousand dollars for a single examination, review of medical records, and drafting of a written report. Section 386-80 HRS has historically never been utilized by the Department of Labor and Industrial Relations, presumably because funding has never been available. However, this provision could be a valuable tool to secure objective neutral expert opinion in the resolution of complex claims, that could assist in reducing unnecessary litigation and conflict.

We therefore support the passage of HB 2387, HD 1 with sufficient funding to make Section 386-80 HRS viable and to cover any operational costs the Special Compensation Fund would incur.



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Alison Powers
Executive Director

TESTIMONY OF ALISON POWERS

HOUSE COMMITTEE ON FINANCE
Representative Marcus R. Oshiro, Chair
Representative Marilyn B. Lee, Vice Chair

Tuesday, February 26, 2008
4:30 p.m.

HB 2387, HD1

Chair Oshiro, Vice Chair Lee, and members of the committee, my name is Alison Powers, Executive Director of Hawaii Insurers Council. Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately 60% of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **opposes** HB 2387, HD1. This bill requires payment for IMEs to come out of the special compensation fund or other funds. This means that expenses of insurers for IMEs would come out of a fund whose expenses are assessed back to the insurance industry in market share proportion. The result is that although some insurers may require more IMEs than others, their assessment from the special compensation fund will not be proportional. The same theory applies to more expensive and less expensive IMEs.

This bill allows payment for IMEs to also come from other funds appropriated by the Legislature for use of the Department of Labor and Industrial Relations. This would further change the purposes of other funds to include expenses of insurers and those funds may or may not have any nexus to the workers' compensation system.

This bill also changes the purpose of the special compensation fund, which is to pay benefits to injured workers for a prior disability and in the event an employer does not have workers' compensation insurance or goes insolvent. This bill requires insurer expenses to be included in the purpose of the special compensation fund.

We respectfully request that HB 2387, HD1 be held.

Thank you for the opportunity to testify.

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

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February 25, 2008

TO: Representative Marcus Oshiro
Chair, Committee on Finance
Hawaii State Capitol, Room 306
FINtestimony@Capitol.hawaii.gov

FROM: Anne T. Horiuchi, Esq.
H.B. 2387, HD1 Relating to Workers' Compensation
Hearing Date: Tuesday, February 26, 2008 at 4:30 p.m., Agenda #7

Dear Chair Oshiro and Members of the Committee on Finance:

I am Anne Horiuchi, testifying on behalf of the American Insurance Association (AIA). AIA represents approximately 350 major insurance companies that provide all lines of property and casualty insurance and write more than \$123 billion annually in premiums. AIA members supply 23 percent of the property/casualty insurance sold in Hawaii. The association is headquartered in Washington, D.C., and has representatives in every state.

H.B. 2387, HD1 authorizes payment of examinations by impartial physicians from the special compensation fund and appropriates funds for departmentally-ordered examinations by impartial physicians under the workers' compensation law.

AIA is concerned that payment for these examinations from the special compensation fund may increase costs to insurers and may affect insurers disproportionately. AIA opposes H.B. 2387, HD1 and respectfully requests that it be held.

Thank you very much for this opportunity to submit testimony.