

STAND. COM. REP. NO. 354

Honolulu, Hawaii

Feb 18, 2009

RE: H.B. No. 1288

H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Fifth State Legislature  
Regular Session of 2009  
State of Hawaii

Sir:

Your Committee on Labor & Public Employment, to which was referred H.B. No. 1288 entitled:

"A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION,"

begs leave to report as follows:

The purpose of this bill is to bring impartiality to the independent medical examination (IME) and permanent impairment rating examination (PIRE) process in the workers' compensation system by:

- (1) Requiring that mutually agreed-upon physicians be used to conduct IMEs or a PIRE; and
- (2) Establishing a process for the appointment of a physician to conduct an IME or PIRE if the parties cannot mutually agree on a physician to conduct the IME.

The Hawaii Government Employees Association, ILWU Local 142, Hawaii State AFL-CIO, Hawaii Injured Workers Alliance, Vocational Management Consultants, and several concerned individuals testified in support of this bill. The Hawaii Chapter-American Physical Therapy Association, Hawaii State Chiropractic Association, and a concerned individual supported the intent of this measure. The Department of Labor and Industrial Relations, Department of Human Resources Development, Department of Human Resources of the City and County of Honolulu, Department of Human Resources of the County of Hawaii, Retail Merchants of Hawaii,

HB1288 HD1 HSCR LAB HMS 2009-2010



General Contractors Association of Hawaii, American Insurance Association, Property Casualty Insurers Association of America, Building Industry Association of Hawaii, Hawaii Insurers Council, Chamber of Commerce of Hawaii, Hawaii Independent Insurance Agents Association, Maui Chamber of Commerce, and Hawaiian Airlines testified in opposition to this bill. A concerned individual submitted comments.

The workers' compensation law was established as a "no-fault" law to provide an injured worker medical treatment necessary to allow the worker to return to work. In return, the injured worker gave up the right to sue the employer. This system appeared to be a "win-win" situation for both the employer and employee--the employee got necessary treatment while the employer would, in time, be able to employ a productive worker. However, over the years, this process has become more adversarial in nature to the detriment of both employers and employees.

Unfortunately, these disputes often carry over into the medical examination process. IMEs, which were intended to provide a fair and impartial assessment of the medical care being given to a patient and the future medical needs of that patient, are often points of contention with both employers and employees making accusations regarding the fairness of the IME. This measure is an attempt to bring balance to the system by providing that mutually agreed-upon physicians be used for conducting IMEs and establishing a process for appointing a physician should the parties not be able to agree upon a physician.

Your Committee understands that workers' compensation is a complex issue and that concerns regarding the fairness and equity of the system proposed in this bill remain. However, this measure warrants further discussion.

Your Committee also recognizes that the 30-day timeframe currently provided by this bill for conducting an IME or PIRE may not be adequate as many doctors providing these services are currently booked beyond 30 days. Accordingly, your Committee has amended this bill by changing the timeframe to 45 days.

Technical, nonsubstantive amendments were also made for clarity, consistency, and style.



As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1288, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1288, H.D. 1, and be referred to the Committee on Finance.

Respectfully submitted on  
behalf of the members of the  
Committee on Labor & Public  
Employment,



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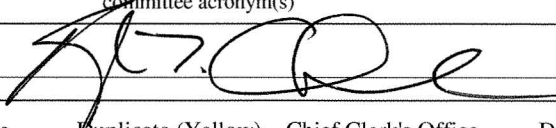
KARL RHOADS, Chair



State of Hawaii  
House of Representatives  
The Twenty-fifth Legislature

HSCR 354

Record of Votes of the Committee on Labor & Public Employment

Bill/Resolution No.: <b>HB 1209</b>	Committee Referral: <b>LAB, FIN</b>	Date: <b>2-10-09</b>		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
LAB Members	Ayes	Ayes (WR)	Nays	Excused
1. RHOADS, Karl (C)	/			
2. YAMASHITA, Kyle T. (VC)	/			
3. AQUINO, Henry J.C.	/			
4. AWANA, Karen Leinani	/			
5. HANOHANO, Faye P.	/			
6. KEITH-AGARAN, Gilbert S.C.	/			
7. LEE, Marilyn B.	AC KA			/
8. NAKASHIMA, Mark M.	/			
9. SAIKI, Scott K.				/
10. SOUKI, Joseph M.	/			
11. TAKUMI, Roy M.	/			
12. PINE, Kymberly Marcos		/		
TOTAL (12)	9	1		2
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <small>committee acronym(s)</small>				
Vice Chair's or designee's signature: 				
Distribution: Original (White) – Committee      Duplicate (Yellow) – Chief Clerk's Office      Duplicate (Pink) – HMSO				