

STATE OF HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS  
830 PUNCHBOWL STREET, ROOM 321  
HONOLULU, HAWAII 96813  
[www.hawaii.gov/labor](http://www.hawaii.gov/labor)  
Phone: (808) 586-8842 / Fax: (808) 586-9099  
Email: [dliir.director@hawaii.gov](mailto:dliir.director@hawaii.gov)

February 27, 2009

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

Date: Tuesday, March 3, 2009  
Time: 10:00 a.m.  
Place: Conference Room 309, State Capitol

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

**Testimony in OPPOSITION**

to

**S.B. 695, SD1 – Relating to WORKERS' COMPENSATION**

**I. OVERVIEW OF CURRENT PROPOSED LEGISLATION**

Senate Bill 695, SD1, proposes to amend section 386-21, HRS, by allowing uninterrupted medical care be provided to injured workers in the event of any dispute between the injured employee and the employer regarding treatment, until the director determines if medical services shall be discontinued and specifies the date after which medical services are denied.

The employer or its insurer may recover from the claimant's personal health care provider qualified pursuant to section 386-27, HRS, or from any other appropriate occupational or non-occupational insurer, all the sums paid for medical services rendered after the date designated by the director in which medical services are denied.

**II. CURRENT LAW**

Injured workers are currently allowed 15 treatments during the initial 60 calendar days. No treatment plan is required if the employee does not exceed 15 treatments in the first 60 days. If an injured worker needs more than 15 treatments and/or further treatment beyond the initial 60 days, the attending physician must submit a treatment plan in accordance with the Hawaii Administrative Rules ("HAR"), section 12-15-32 of the Workers' Compensation Medical Fee Schedule. Under this section, the attending physician must submit a treatment plan to the employer at least 7 calendar days prior to

000063

the start of treatment. Treatment plans cannot exceed 15 treatments or extend beyond 120 calendar days.

If the employer opposes the treatment plan, the employer must properly notify the injured worker of the decision to deny further treatments. The employer is responsible for all treatments up to the employer's notice of denial. The injured worker or attending physician may request a review of the employer's denial of the proposed treatment plan within 14 calendar days.

Consequently, a hearing is held and a decision is issued either denying or approving the treatment plan. The employer is required to pay the provider of service, if the treatments are determined to be reasonable and necessary, or the fees can be disallowed if unreasonable or unnecessary. Disallowed fees shall not be charged to an injured worker. Either party can appeal the decision to the Labor and Industrial Relations Appeals Board.

Currently, the time required to schedule the hearing, notice the parties, conduct the hearing and render a decision takes 3 to 4 months.

### **III. SENATE BILL**

The Department of Labor and Industrial Relations ("Department") appreciates the issue that this bill seeks to resolve through ensuring that claimants that are entitled to medical treatment receive those benefits. However, the Department opposes the bill due to the effect this measure would have on employers in those cases where a claimant was receiving unnecessary medical treatment. Specifically, the Department has the following concerns and comments:

1. This proposal allows employers or their insurers to seek reimbursement for sums that were paid for medical services after the medical cut off date from the employee's personal health care provider or from other appropriate occupational or non-occupational insurers.

However, the reimbursement from the appropriate occupational or non-occupational insurers may not be the same as allowed under workers' compensation since it may be reduced by a lower reimbursement rate or the employee's co-payment share.

2. The bill requires that the Department make a decision within thirty days of filing of a dispute. This proposal does not indicate whether a hearing must be held to address the dispute, or if a decision can be rendered without a hearing based on records in file. If a hearing is required, thirty days is insufficient time to schedule a hearing,

provide notice to the parties, hold the hearing, and render a decision. The minimum time required would be 2 to 3 months and this would result in delaying the scheduling of hearings for other issues, such as compensability, termination of temporary total disability and permanent disability determinations.

3. The number of hearings will likely increase dramatically under this proposal. The Department will require more hearings and support personnel to conduct more hearings to address treatment plans and continued medical care issues. The Department estimates that it will require an additional 6 hearings officers (2 for Honolulu and 1 each for neighbor island offices) and 5 clerk typists statewide to timely service the additional hearings and decisions resulting from the passage of this measure.

The Department estimates this cost to be approximately \$495,440 initially and \$461,340 in salaries annually thereafter.

4. This proposal will result in increasing employer insurance premiums during a period when employers will not be able to afford any increases the cost of doing business in Hawaii. This may result in increased unemployment and business closures during these difficult economic times.

LINDA LINGLE  
GOVERNOR OF HAWAII



MARIE C. LADERTA  
DIRECTOR

CINDY S. INOUE  
DEPUTY DIRECTOR

STATE OF HAWAII  
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT  
235 S. BERETANIA STREET  
HONOLULU, HAWAII 96813-2437

February 27, 2009

TESTIMONY TO THE  
HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT  
For Hearing on Tuesday, March 3, 2009  
10:00 a.m., Conference Room 309

BY

MARIE C. LADERTA, DIRECTOR

**Senate Bill No. 695, S.D. 1  
Relating to Workers' Compensation**

TO CHAIR KARL RHOADS AND MEMBERS OF THE COMMITTEE:

The purpose of S.B. No. 695, S.D. 1, is to amend Section 386-21(c), Hawaii Revised Statutes, to require the employer to continue medical services to an injured employee despite disputes over whether treatment should be continued, until the director of labor and industrial relations decides whether treatment should be continued.

The Department of Human Resources Development believes that Section 386-21, Hawaii Revised Statutes, ensures that an injured employee receives appropriate medical care promptly as it will assist the injured worker to achieve a speedy recovery and return to gainful employment when able to do so. **However, the Department of Human Resources Development opposes this bill as there are, we believe, adequate safeguards within the statute, administrative rules, and current practices to insure that an individual receives appropriate medical care for as long as the nature of the injury requires.** If the treatment being provided is no longer related to the industrial injury, then those services should be billed to the private medical carrier and not be a burden on the workers' compensation system.

000066



DEPARTMENT OF HUMAN RESOURCES  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 10<sup>TH</sup> FLOOR  
HONOLULU, HAWAII 96813

MUFI HANNEMANN  
MAYOR



KENNETH Y. NAKAMATSU  
DIRECTOR

March 3, 2009

The Honorable Karl Rhoads, Chair  
and Members of the Committee on Labor & Public Employment  
State House of Representatives  
Hawaii State Capitol  
Honolulu, Hawaii 96813

Dear Chair Rhoads and Members:

RE: SENATE BILL NO. 695, SD1 RELATING TO WORKERS' COMPENSATION

The City and County of Honolulu strongly opposes Senate Bill No. 695, SD1, amending Section 386-21 of the Hawaii Workers' Compensation Law by requiring employers to continue to pay an injured employee's medical benefits despite disputes over whether treatment should continue, until the Director of Labor and Industrial Relations issues a decision on the matter. This bill makes unnecessary changes to the current law that will increase the cost of workers' compensation and business in the State of Hawaii.

The 1995 Legislature enacted major reforms to the Hawaii Workers' Compensation Law resulting in hundreds of millions of dollars being saved over the last 12 years. The magnitude of the savings can be assessed using data from the State's Department of Labor and Industrial Relations Workers' Compensation Data Book, published annually (see Attachment I). In short, statewide workers' compensation costs 3 years prior to the reform averaged \$331 million annually. Workers' compensation costs for the 12 years immediately following the reform averaged \$253 million annually; a \$78 million annual savings. Put in the proper perspective, over the last 12 years the State of Hawaii has saved \$936 million in workers' compensation costs as a result of the 1995 Legislative changes.

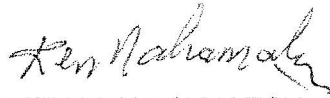
The Twenty-fifth Legislature's proposed changes to the Hawaii Workers' Compensation Law will inevitably increase the cost of workers' compensation in the State of Hawaii back to former high levels. In times of economic turmoil requiring fiscal austerity and innovative solutions, we do not believe this change is in the best interest of the people of our State and that it will further add to the already critical financial crises.

000067

The Honorable Karl Rhoads, Chair  
March 3, 2009  
Page 2

We respectfully urge your committee to file Senate Bill No. 695, SD1. This bill severely restricts the ability of self-insured employers like the City and County of Honolulu and private workers' compensation insurance carriers to administer workers' compensation claims by changing a law that already weighs heavily in favor of the claimant. Further, the proposed changes will add unnecessary hearings to the already overburdened Department of Labor and Industrial Relations.

Sincerely,



KEN Y. NAKAMATSU  
Director of Human Resources

Attachment

000068

**STATEWIDE WORKERS' COMPENSATION COSTS BY TYPE OF PAYMENT**

| Type of Payment    | 2000               | 2001               | 2002               | 2003               | 2004               | 2005               | 2006               | 2007               | Type         |
|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------|
| TTD                | 55,312,588         | 62,586,914         | 65,056,903         | 67,654,807         | 63,706,668         | 59,067,148         | 54,967,864         | 56,919,048         | TTD          |
| TPD                | 2,651,756          | 3,043,394          | 2,900,452          | 3,241,339          | 3,184,548          | 3,109,906          | 2,625,563          | 2,705,692          | TPD          |
| PTD                | 15,507,928         | 15,118,576         | 18,395,265         | 17,626,114         | 18,093,822         | 15,955,797         | 18,599,904         | 16,765,532         | PTD          |
| PPD                | 57,260,955         | 57,875,459         | 65,159,217         | 68,803,178         | 69,515,306         | 66,399,667         | 64,195,980         | 63,054,843         | PPD          |
| Death              | 1,962,684          | 2,735,802          | 2,360,809          | 2,325,041          | 2,148,014          | 2,010,782          | 2,182,528          | 3,052,391          | Death        |
| Disfigurement      | 1,309,482          | 1,357,202          | 1,562,803          | 1,625,475          | 1,524,271          | 1,314,094          | 1,480,269          | 1,263,750          | Disf         |
| Voc Rehab          | 5,629,397          | 5,802,764          | 6,325,020          | 6,432,282          | 6,114,837          | 5,063,253          | 4,868,366          | 4,561,823          | VR           |
| Medical            | 91,184,757         | 103,303,676        | 105,926,606        | 106,912,209        | 106,766,183        | 97,638,645         | 93,394,364         | 98,513,146         | Med          |
| Attendant Services | 539,633            | 217,365            | 140,180            | 301,787            | 236,375            | 219,851            | 370,655            | 457,629            | AS           |
| <b>Total</b>       | <b>231,359,180</b> | <b>252,041,152</b> | <b>267,827,255</b> | <b>274,922,232</b> | <b>271,290,024</b> | <b>250,779,143</b> | <b>242,685,493</b> | <b>247,293,854</b> | <b>Total</b> |

Workers' Compensation Reform began July 1, 1995. Major changes were Medical Fee Schedule (Medicare plus 10%), treatment limits, second injury limits on PPD and part-time workers.

| Type of Payment    | 1992               | 1993               | 1994               | 1995               | 1996               | 1997               | 1998               | 1999               | Type         |
|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------|
| TTD                | 75,124,541         | 83,443,021         | 80,281,234         | 70,875,583         | 61,054,623         | 57,366,809         | 53,356,078         | 51,550,709         | TTD          |
| TPD                | 2,335,548          | 2,769,212          | 3,072,057          | 2,774,293          | 2,829,674          | 2,825,736          | 2,878,552          | 2,743,336          | TPD          |
| PTD                | 13,600,845         | 11,232,499         | 19,763,997         | 15,497,510         | 17,618,587         | 16,716,542         | 15,714,253         | 15,830,200         | PTD          |
| PPD                | 69,506,346         | 76,270,234         | 81,865,987         | 95,125,484         | 93,619,941         | 72,453,667         | 64,909,092         | 57,124,045         | PPD          |
| Death              | 2,765,124          | 2,392,562          | 2,632,183          | 2,789,579          | 2,814,023          | 2,899,119          | 2,238,102          | 2,395,396          | Death        |
| Disfigurement      | 1,763,162          | 1,869,215          | 1,681,428          | 1,759,164          | 1,942,172          | 1,808,428          | 1,384,551          | 1,341,929          | Disf         |
| Voc Rehab          | 6,639,072          | 7,866,683          | 7,892,705          | 7,871,615          | 6,574,004          | 6,179,012          | 5,534,403          | 5,359,001          | VR           |
| Medical            | 115,960,185        | 137,740,829        | 145,500,111        | 129,125,665        | 101,664,903        | 94,424,669         | 87,019,208         | 85,513,448         | Med          |
| Attendant Services | 307,956            | 178,355            | 390,071            | 303,969            | 376,739            | 241,389            | 190,286            | 198,250            | AS           |
| <b>Total</b>       | <b>288,002,779</b> | <b>323,762,610</b> | <b>343,079,773</b> | <b>326,122,862</b> | <b>288,494,666</b> | <b>254,915,371</b> | <b>233,224,525</b> | <b>222,056,314</b> | <b>Total</b> |

Source: Workers' Compensation Data Book, State of Hawaii, Department of Industrial Relations, Research and Statistics Office (1992 – 2007)

000069



**Testimony to the House Committee on Labor & Public Employment  
Tuesday, March 3, 2009; 10:00 a.m.  
Conference Room 309**

**RE: SENATE BILL 695 SD1 RELATING TO WORKERS' COMPENSATION**

Chair Rhoads, Vice Chair Yamashita and Members of the Committee:

My name is Jim Tollefson and I am the President and CEO of The Chamber of Commerce of Hawaii ("The Chamber"). The Chamber does not support SB 695 SD1, relating to Workers' Compensation.

The Chamber is the largest business organization in Hawaii, representing more than 1,100 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

This measure requires the employer to continue medical services to an injured employee despite disputes over whether treatment should be continued, until the director of labor and industrial relations decides whether treatment should be continued.

The Chamber understands the intent of the bill and businesses recognize that an employee suffering from work-related injuries deservedly warrant proper and necessary treatment. It's important that these benefits be utilized as intended and not in such a way that benefits are activated simply because they exist.

However, passage of this bill may lead to abuse and cause unreasonable and unnecessary treatment for non-related work injuries, and prolong time off the job, even if the employee is deemed able to return to his or her work.

Because of the bill's mandate to require continued medical treatment, this measure may hurt employers including small businesses. Colleagues of the absent employee will unfairly shoulder additional responsibilities, which could have a rippled effect, such as a stressful work environment, lower morale among the employees, and lost productivity. Furthermore, businesses will have to expend additional resources, money, and time to effectuate the reimbursement rights contained in this bill as well as on other issues that may result out of this situation. As a result, the negative consequences of this measure may hinder than promote progress.

000070

Many of our local establishments operate on limited resources, and struggle on a daily basis to keep up with costly regulations. We ask that in these difficult economic times further costs not be imposed on Hawaii's businesses, particularly those affected by the proposed legislation. Implementing laws that will inflict further regulatory requirements will undermine efforts to keep businesses viable or even open during this volatile economic period. We should be promoting incentives rather than mandates so that jobs can be retained and the economy revitalized.

In summary, SB 695, while well-intended, will have a negative impact and may lead to a rise in workers' compensation insurance costs and the overall cost of doing business. We believe further evaluation should be conducted on some of the concerns arising out of this bill versus the purpose before passing legislation that could lead to significant unintended consequences.

Thus, The Chamber respectfully requests this measure be held. Thank you for the opportunity to testify.

000071

HB855 LAB, FIN



**KAUAI**

*Chamber  
of  
Commerce*

To: Fax: 1-800-535-3859      Testimony to the House Labor & Public Employment Committee --  
Tuesday, March 3, 10:00 a.m. in Room 309

Chair Rhoads, Vice Chair Yamashita and members of the committee:  
RE: SB 62, SD1 and SB 695, SD1 regarding Workers' Compensation

**Aloha!** My name is Randall Francisco and I am President of the Kauai Chamber of Commerce which represents 460 Kauai business members and, consists of approximately, 87% small businesses who reflect the island's business community. Of the chamber's membership, approximately, 8000 individuals are employees who are from the construction and tourism sectors, to agriculture, retail and defense industries, to name a few. On behalf of the Kauai Chamber of Commerce, I am writing to express the members **opposition of these bills for the following reasons:**

**SB 62 SD1** requires independent medical examinations and Permanent Impairment Rating Examinations to be performed by mutually agreed upon physicians. In this free market system, it is unfair to allow one party to choose both the treating physician and the IME physician who will review the treating physician's plan. In order to balance the equation, the employer should have the right to select a physician to conduct the IME. Furthermore, it is the employer who pays for 100% of the cost of the IME physician and, it is part of the employers' discovery process to ensure that proper treatment and costs are justified.

**SB 695 SD1** requires the employer to continue medical services to an injured employee despite disputes over whether treatment should be continued. This measure may lead to abuse and cause unreasonable and unnecessary treatment for unrelated work injuries, prolong time off the job, even if the employee is deemed able to return to his or her work. There are adequate safeguards within the statute and current practices to make sure that injured employees receive appropriate medical care. Businesses make every effort and go above and beyond to ensure a safe working environment for our employees, especially, on Kauai where we pride ourselves on our sense of community and taking care of each other.

It is unfair to pass legislation that is heavily in favor of one party over another. Furthermore, this is not the time to pass legislation that will further increase costs. Businesses are already hurting, jobs are being evaluated and scrutinized and, even lost, and the economy continues its downward spiral.

These measures will further increase the cost of workers' compensation premiums and the overall cost of doing business. **I respectfully ask that you hold this measure.**

Thank you for the opportunity to submit testimony and your consideration on behalf of the Kauai Chamber of Commerce membership. Should I be of any assistance, please do not hesitate to contact me directly at 245-7363 or email at [randall@kauaichamber.org](mailto:randall@kauaichamber.org). Aloha.

Sincerely yours,

Randall Francisco  
President

The mission of the Kauai Chamber of Commerce founded in 1913 is:

"To promote, develop and improve commerce, quality growth, and economic stability in the County of Kauai"

000072

THE HOUSE OF REPRESENTATIVES  
THE TWENTY-FIFTH LEGISLATURE  
REGULAR SESSION OF 2009

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Rep. Karl Rhoads, Chair  
Rep. Kyle T. Yamashita, Vice Chair

Date: Tuesday, March 3, 2009  
Time: 10:00 a.m.  
Place: Conference Room 309, State Capitol

TESTIMONY OF ILWU LOCAL 142

RE: SB 695, SD 1, RELATING TO WORKERS' COMPENSATION

Thank you for the opportunity to present testimony regarding SB 695, SD 1. We support this modest but constructive bill.

Where disputes arise about the approval of medical care, S.B. 695, SD 1 mandates the continuation of essential medical care until there is a ruling from the department of labor and industrial relations. The bill also requires that a decision be made within 30 days of the filing of a dispute, which will go far toward assuring that needed care is not denied and that medical progress is not obstructed by legal disputes over coverage.

Disruption of medical care is a major impediment to returning injured workers to gainful employment promptly and efficiently, and SB 695, SD 1 addresses this problem in a balanced and equitable fashion.

In conjunction with these protections for the injured worker, SB 695, SD 1 carefully provides that if medical services are terminated under workers' compensation insurance, the employer and insurer may recover the costs they have expended from the claimant's individual health care provider. This is a workable remedy, because workers' compensation medical fees are uniformly lower than fees under regular pre-paid health insurance so such reimbursements will be financially feasible. Employers will also benefit because medical care was continuous, thus enhancing the likelihood of a prompt return to gainful employment, which in turn will lower expenditures for temporary disability benefit payments and vocational rehabilitation costs.

SB 695, SD 1 is thus a proposal which helps to fulfill the rehabilitative potential of the workers' compensation statute and confers benefits to employees, employers, insurers, and the system itself. It is therefore eminently worthy of adoption, and we urge its passage.

000073





**HAWAII GOVERNMENT EMPLOYEES ASSOCIATION**

AFSCME Local 152, AFL-CIO

**RANDY PERREIRA**  
*Executive Director*  
Tel: 808.543.0011  
Fax: 808.528.0922

**NORA A. NOMURA**  
*Deputy Executive Director*  
Tel: 808.543.0003  
Fax: 808.528.0922

**DEREK M. MIZUNO**  
*Deputy Executive Director*  
Tel: 808.543.0055  
Fax: 808.523.6879

The Twenty-Fifth Legislature, State of Hawaii  
Hawaii State Senate  
Committee on Labor & Public Employment

Testimony by  
Hawaii Government Employees Association  
March 3, 2009

**S.B. 695, S.D. 1 – RELATING TO**  
**WORKERS' COMPENSATION**

The Hawaii Government Employees Association strongly supports the purpose and intent of S.B. 695, S.D. 1. An injured employee's medical care in workers' compensation-related cases is vital to help the injured worker return to work. Such medical care should not be disrupted when there is an unresolved dispute between the injured employee and their employer or their employer's insurer.

The HGEA believes that an employer should not be able to deny further medical treatment until a final decision on the workers' compensation claim is rendered by the Director of Labor and Industrial Relations.

Thank you for the opportunity to testify in support of S.B. 695, S.D. 1.

Respectfully submitted,

Nora A. Nomura  
Deputy Executive Director



## IRON WORKERS STABILIZATION FUND

---

Fax No. 586-6331

March 3, 2009

Hon. Karl Rhoads, Chair  
House Committee on Labor & Public Employment  
State Capitol – Room 326  
Honolulu, Hawai'i 96813

Iron Worker Stabilization Fund – T. George Paris, Managing Director

Hearing Date – March 3, 2009, 10:00 a.m., Room 309

Support of SB 695, SD 1, Relating to Workers' Compensation

The purpose of this bill is to require an employer to continue medical services to an injured employee despite disputes over whether the treatment should be continued. The disputes are to be resolved by the Director of Labor and Industrial Relations.

Under this measure, the director must make a decision as to whether said services are to be continued, within 30 days of the filing of the dispute. If the director determines that said services should have been denied as of a certain date, the employer or its insurer may recover from the employee's personal health provider. The bill further provides that under no circumstances shall the employee be charged for the disallowed services, unless said services were obtained in violation of section 386-98.

The Iron Workers Stabilization Fund supports this measure.

TESTIMONY BEFORE THE HOUSE OF REPRESENTATIVES COMMITTEE ON  
LABOR & PUBLIC EMPLOYMENT

Tuesday, March 3, 2009  
10:00 a.m.

SB 695, SD1  
RELATING TO WORKERS' COMPENSATION

By Marleen Silva  
Director, Workers' Compensation  
Hawaiian Electric Company, Inc.

Chair Rhoads, Vice Chair Yamashita, and Members of the Committee:

Hawaiian Electric Co. Inc., its subsidiaries, Maui Electric Company, LTD., and Hawaii Electric Light Company, Inc. **respectfully oppose S.B. 695, SD1.** Our companies represent over 2,000 employees.

This bill requires employers to continue paying for medical treatment, despite disputes over whether treatment should be continued, until the Director of the Department of Labor and Industrial Relations (DLIR) can decide on the matter.

We can appreciate the intent of the bill and recognize the importance of insuring that injured employees receive proper and necessary medical care. However, we feel this bill changes the intent of the workers' compensation system. It forces employers to pay for inappropriate and unnecessary treatment, and for care that may be unrelated to a work injury. Such treatment should be appropriately billed to the employee's private medical insurance plan.

We are also concerned the DLIR may not be adequately staffed to review and issue decisions on a timely basis. If the Director subsequently rules in the employers favor, the bill provides no assurances that employers will be equally reimbursed for all fees paid upfront.

We believe the existing workers' compensation statutes, administrative rules and regulations have adequate safeguards to insure that an employee receives appropriate medical care for as long as the nature of the work injury requires.

Passage of this bill will create potential for employee abuse, increase workers' compensation costs, and the overall cost of doing business in Hawaii.

For these reasons, we respectfully oppose S.B. 695, SD1 and request that this measure be held.

Thank you for this opportunity to submit testimony.

000076



Chair, Representative Karl Rhoads  
Vice-chair, Representative Kyle Yamashita  
Committee: Labor & Public Employment  
Society for Human Resource Management (SHRM) Hawaii  
Testimony date: Tuesday, March 3, 2009

Opposition to SB695 SD1

SHRM Hawaii is the local chapter of a National professional organization of Human Resource professionals. Our 1,200+ Hawaii membership includes those from small and large companies, local, mainland or internationally owned - tasked with meeting the needs of employees and employers in a balanced manner, and ensuring compliance with laws affecting the workplace. We (HR Professionals) are the people that implement the legislation you pass, on a day-to-day front line level.

SHRM Hawaii strongly opposes Senate Bill 695 SD1, which would require the employer to continue medical services to an injured employee despite disputes over whether treatment should be continued. We are concerned about the additional administrative burden this will put on our members.

SHRM Hawaii respectfully urges the committee to kill Senate Bill 695 SD1.

Thank you for the opportunity to testify. SHRM Hawaii offers the assistance of the Legislative Committee in discussing this matter further.



## **Before the House Committee on Labor & Public Employment**

DATE: March 3, 2009

TIME: 10:00 a.m.

PLACE: Conference Room 309

### **Re: SB695 SD1 Relating to Workers' Compensation Testimony of Melissa Pavlicek for NFIB Hawaii**

Thank you for the opportunity to testify. On behalf of the business owners who make up the membership of the National Federation of Independent Businesses in Hawaii, we ask that you reject SB 695 SD1. NFIB opposes this measure in its current form.

The National Federation of Independent Business is the largest advocacy organization representing small and independent businesses in Washington, D.C., and all 50 state capitals. In Hawaii, NFIB represents more than 1,000 members. NFIB's purpose is to impact public policy at the state and federal level and be a key business resource for small and independent business in America. NFIB also provides timely information designed to help small businesses succeed.

We are concerned about the possible unintended consequences of mandating employers to continue medical services to an injured employee despite disputes over whether treatment is necessary, especially during such challenging economic times. We believe that such legislation will add costs to business which ultimately hurts employees and the economy as a whole.

841 Bishop Street, Suite 2100, Honolulu, Hawaii 96813 (808) 447-1840

000073



Representative Karl Rhoads, Chair  
Senator Kyle Yamashita, Vice Chair  
Committee on Labor

HEARING      Tuesday, March 03, 2009  
                  10:00 am  
                  Conference Room 309  
                  State Capitol, Honolulu, Hawaii 96813

**RE:    SB695, SD1, Relating to Workers' Compensation**

Chair Rhoads, Vice Chair Yamashita, and Members of the Committee:

Retail Merchants of Hawaii (RMH) is a not-for-profit trade organization representing 200 members and over 2,000 storefronts, and is committed to support the retail industry and business in general in Hawaii.

**RMH opposes SB695, SD1**, which requires the employer to continue medical services to an injured employee despite disputes over whether treatment should be continued, until the director of labor and industrial relations decides whether treatment should be continued.

We do not dispute that an injured worker should receive quality and appropriate medical care as long as required. However, this measure could lead to unnecessary abuse and unwarranted extension of time away from the workplace.

More importantly, there is no recourse to the employer to recover the costs of the disputed medical treatment from the employee should the director of labor and industrial relations render a ruling in the employer's favor. Whether these additional costs are covered by an employer's workers' compensation insurer or by his personal health care provider, the resulting increased premium costs will be borne by the employer.

The members of the Retail Merchants of Hawaii respectfully request that you hold SB695, SD1. Thank you for your consideration and for the opportunity to comment on this measure.

Carol Pregill, President

RETAIL MERCHANTS OF HAWAII  
1240 Ala Moana Boulevard, Suite 215  
Honolulu, HI 96814  
ph: 808-592-4200 / fax: 808-592-4202

000079

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

GOVERNMENT RELATIONS TEAM:

GARY M. SLOVIN  
CHRISTOPHER G. PABLO  
ANNE T. HORIUCHI  
MIHOKO E. ITO

ALII PLACE, SUITE 1800 • 1099 ALAKEA STREET  
HONOLULU, HAWAII 96813

MAIL ADDRESS: P.O. BOX 3196  
HONOLULU, HAWAII 96801

TELEPHONE (808) 547-5600 • FAX (808) 547-5880  
info@goodsill.com • www.goodsill.com

INTERNET:  
gslovin@goodsill.com  
cpablo@goodsill.com  
ahoriuchi@goodsill.com  
meito@goodsill.com

**MEMORANDUM**

**TO:** Representative Karl Rhoads  
Chair, Committee on Labor & Public Employment  
Via: [LABtestimony@Capitol.hawaii.gov](mailto:LABtestimony@Capitol.hawaii.gov)

**FROM:** Anne Horiuchi

**DATE:** March 2, 2009

**RE:** **S.B. 695, SD1 - Relating to Workers' Compensation**  
**Hearing: March 3, 2009 at 10:00 a.m., Room 309**

---

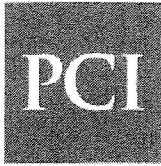
Dear Chair Rhoads and Members of the Committee on Labor & Public Employment:

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. All AIA news releases are available at [www.aiadc.org](http://www.aiadc.org).

S.B. 695, SD1 requires the employer to continue medical services to an injured employee despite disputes over whether treatment should be continued, until the Director of the Department of Labor & Industrial Relations decides whether treatment should be continued.

AIA submits that this measure creates the potential for abuse and will result in increased costs. AIA opposes S.B. 695, SD1 and respectfully requests that the measure be held in committee.

Thank you very much for the opportunity to submit testimony on this measure.



**Property Casualty Insurers  
Association of America**

Shaping the Future of American Insurance

1415 L Street, Suite 670, Sacramento, CA 95814-3972

To: The Honorable Karl Rhoads, Chair  
House Labor and Public Employment Committee

From: Samuel Sorich, Vice President

Re: **SB 695 SD1– Relating to Workers’ Compensation**  
**PCI Position: OPPOSE**

Date: Tuesday, March 3, 2009  
10:00 a.m., Conference Room 309

Aloha Chair Rhoads and Members of the Committee:

The Property Casualty Insurers Association of America (PCI) is opposed to SB 695 SD1 because the bill is unnecessary, costly and impractical.

SB 695 SD1 would require an employer who disputes an employee’s medical treatment to continue to pay for the treatment until the director of the department of labor and industrial relations makes a decision that the treatment should be discontinued. The bill would displace the existing system which gives the employee’s attending physician the right to administrative review of an employer’s dispute of medical treatment. In place of the existing system, SB 695 SD1 would establish a system that would require an employer to continue to pay for disputed treatment and seek an administrative ruling in order to terminate payments. There is no evidence to justify the bill’s proposed change.

SB 695 SD1 would increase workers compensation costs for Hawaii employers. The bill would require an employer to pay for treatments that may not be related to workplace injuries and may not be effective in helping an employee to return to work. The reimbursement rights that the bill provides to employers are inadequate and costly to effectuate. The resulting unreimbursed costs would unjustly burden employers.

SB 695 SD1 calls for the director to make decision within 30 days. However, the 30-day time frame appears to be impractical, and the bill provides no consequences for missing the 30-day deadline. The reality is that SB 695 SD1 would require the payment for disputed medical treatment for extended periods of time.

PCI requests that the Committee hold the bill.

000081



# Hawaii State Chiropractic Association

P.O. Box 22668 Honolulu, HI 96823-2668

ph: (808) 926-8883 fx: (808) 926-8884

March 1, 2009

HOUSE OF REPRESENTATIVES  
Committee on Labor & Public Employment  
Chair Rep. Karl Rhoads  
Vice Chair Rep. Kyle Yamashita

Date: Tuesday, March 3, 2009

Time: 10:00 am

Place: Conference Room 309

Dear Chair Rhoads, Vice Chair Yamashita and members of the committee:

My name is Dr. Gary Saito. I represent the Hawaii State Chiropractic Association as its President and Executive Director. We stand in support of SB 695, SD1.

While we are in support of the intent of the bill because it attempts to assure that injured workers receive timely treatments, we wish to make the following comments regarding the implementation of the measure if it becomes law.

First, we agree that injured workers deserve prompt and appropriate treatments. Delay of treatments can result in a worsening of the injured worker's condition, complications due to lack of treatment, and additional injuries if the worker remains at work while injured because he is waiting for treatment authorization. However, the bill as written gives the Director of DLIR the discretion of determining when the treatments should have been terminated. We are not clear about how the Director will make this determination. Will it be an independent determination? Will it be by hearing? How do the parties present their positions on the question of reasonable treatment?

Second, if the Director determines that the treatments should have been terminated at an earlier date, the insurer can recover payments already made after that date. This is problematic in that the provider of care will not know during the course of treatments if the Director will one day decide the treatments should have terminated at an earlier date. If the provider is convinced that the injured worker required that treatment and convinced that the Director's decision is wrong, what recourse does the provider and injured worker have to reconcile this difference of opinion.

000082



We don't feel this bill goes far enough to answer these questions. Without the answers, providers may be reluctant to begin treatments with some kind of assurance their services will be reimbursed. The bill as written will not change the situation we have today in principle or practice. Injured workers could still face delay of treatments in the absence of treatment authorizations.

We recommend that the bill be modified to say that the Director may determine that the treatments should be terminated, but such termination is effective from the date of the Director's written decision. All treatments up to that date should be reimbursed.

Thank you for the opportunity to testify. We support the intent of SB 695, SD1, with consideration of our recommendations for language change.

Sincerely,



Dr. Cary Saito, DC  
President, Executive Director, HSCA

Testimony by:  
Derrick Ishihara, PT



SB 695sd1, Relating to Workers' Compensation  
House LAB, March 3, 2009  
Room 309, 10:00 am

**Position: Support Intent, With Recommendation**

Chair Rhoads and Members of the House LAB Committee:

I am Derrick Ishihara, P.T., a small business owner/physical therapist and member of HAPTA's Legislative Committee. The Hawaii Chapter – American Physical Therapy Association (HAPTA) is comprised of 300 member physical therapists and physical therapist assistants employed in hospitals and health care facilities, the Department of Education and Department of Health systems, and private practice. Our members represent Hawaii at the national American Physical Therapy Association and are delegates for Pediatrics, Women's Health, Parkinson's Disease and other issue sections. We are part of the spectrum of care for Hawaii, and provide rehabilitative services for infants and children, youth, adults and the elderly. Rehabilitative services are a vital part of restoring optimum function from neuromusculoskeletal injuries and impairments.

HAPTA agrees with the intent of this measure that seeks to ensure that the injured employee shall continue to receive essential medical services by the treating physician necessary to prevent deterioration of the injured employee's condition or further injury.

We are concerned that if the Director can retroactively deny care that has already been delivered, and an insurer can recover from the health care provider "...all the sums paid for medical services from that treatment plan rendered after the date designated by the director..." it would effectively terminate the medical care. No provider of service, medical or otherwise, would perform services without assurances that those services would be reimbursed. As written, SB 695 does not provide guidelines to providers as to how the director will evaluate these utilization issues.

**Recommendation:** To achieve the purposes of this bill, HAPTA recommends the bill be amended to ensure payment for medical services rendered in good faith at least until the date of the Director's decision.

I may be reached at 593-2610 if there are any questions. Thank you for the opportunity to present testimony.

---

1360 S. Beretania Street, #301 \* Honolulu, HI 96814-1541 \* [www.hapta.org](http://www.hapta.org)

000084

February 28, 2009

Committee on Labor and Public Employment  
Chairman Rep. Karl Rhoads  
Vice Chairman Rep. Kyle Yamashita

RE: Testimony in Support of the intent of SB695, SD1, Relating to Workers' Compensation  
Hearing, Tuesday, March 03, 2009 10:00 AM  
Conference Room 309

FROM: James A. Pleiss, DC  
2045 Main Street, Wailuku, Maui, Hawaii 96793  
808-244-0312

Dear Chairman Rhoads, Vice Chair Yamashita, and Members of the Committee:

Thank you for the opportunity to testify in support of the intent of SB695, SD1 which requires the employer to continue medical services to an injured employee despite disputes over whether treatment should be continued, until the director of labor and industrial relations decides whether treatment should be continued.

This bill goes a long way in protecting the injured workers right to continued treatment during the process of a denial by the insurance company. Once a denial of treatment is received by the provider and patient, it often takes in excess of 6 months or longer to resolve with. During this time, providers are hesitant to continue to treat the patient as they do not know if they will be paid for their services. These patients often worsen due to lack of treatment, referrals to specialists, and diagnostic tests. Furthermore, if there is no treatment rendered during the period in question, then the patient does not have any basis for their fight to overturn the denial. This is a "catch-22" of the workers' compensation system that SB695, SD1 will rectify.

I can not support the language of SB695, SD1 that states the director will pick a date that treatment should be cut off. Furthermore, I can not support the language that states the provider of services pay back the insurance company. **This language will only further discourage the healthcare providers from participating in the workers' compensation system.**

**SB695, SD1 should be amended to remove this language and instead insert language that states: "If the treatment is to be denied, the effective date of the denial will be the date of the decision by the director."** Monies paid to the providers of service during the denial period and up to the date of the decision do not get paid back.

I also support the testimony of the Hawaii State Chiropractic Association.

Thank you for the opportunity to testify before your committee in support of the intent of SB695, SD1.

Sincerely

James A. Pleiss, DC

000085

**yamashita1- Kathy**

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 27, 2009 7:06 AM  
**To:** LABtestimony  
**Cc:** egreenia@hhsc.org  
**Subject:** Testimony for SB695 on 3/3/2009 10:00:00 AM

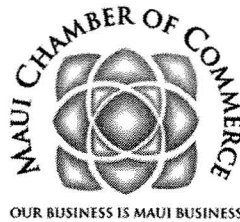
Testimony for LAB 3/3/2009 10:00:00 AM SB695

Conference room: 309  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Earl Greenia  
Organization: Kona Community Hospital  
Address: 79-1019 Haukapila St Kealahou HI  
Phone: 808-322-4433  
E-mail: [egreenia@hhsc.org](mailto:egreenia@hhsc.org)  
Submitted on: 2/27/2009

**Comments:**

If passed, this bill will increase the cost of workers' compensation rates and the overall cost of doing business.

LATE



Testimony for the Labor & Public Employment Committee  
Conference Room 309, State Capitol  
Tuesday, March 3, 2009 at 10am

**Re: SB 62 SD1 and SB 695 SD 1**

Dear Chair Rhoads, Vice Chair Yamashita and Members of the Committee:

The Maui Chamber of Commerce, a business organization whose mission it is to advance and promote a healthy economic environment for business, advocating for responsive government and quality education, while preserving Maui's unique community characteristics, opposes SB 62 SD1 and SB 695 SD 1 as they will increase the cost of doing business.

We are a membership driven organization comprised of over 900 members, 88% of which are small businesses with fewer than 25 employees, representing nearly 21,000 employees. Over the past couple of days, we surveyed our members to see how they felt about these two bills. As you can see from the attached survey, of the 101 members who took our survey, 98 oppose SB 62 SD 1 and all oppose SB 695 SD 1. Additionally, over 90 members chose to add their names to our testimony and share their opposition of these bills with you.

SB 62 SD1 is a measure that requires independent medical examinations and Permanent Impairment Rating Examinations to be performed by mutually agreed upon physicians.

We believe it is inherently unfair to allow one party to choose both the treating physician and the IME physician who will review the treating physician's plan. Therefore, to balance the equation, the employer should have the right to select a physician to conduct the IME. Furthermore, it is the employer who pays for 100% of the cost of the IME physician and it is part of our discovery process to ensure proper treatment and that the costs are justified.

SB 695 SD1 requires the employer to continue medical services to an injured employee despite disputes over whether treatment should be continued. This measure may lead to abuse and cause unreasonable and unnecessary treatment for non-related work injuries, and prolong time off the job, even if the employee is deemed able to return to his or her work. We believe there are adequate safeguards within the statute and current practices to make sure that injured employees receive appropriate medical care. Businesses make every effort and go above and beyond to ensure a safe working environment for their employees.

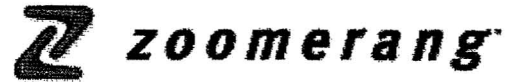
It is unfair to pass legislation that heavily tips in favor for one party and not the other. Furthermore, this is not the time to pass legislation that will further increase business costs. If businesses hurt, jobs will be lost, and the economy will continue to spiral down.

These measures, if passed, will increase the cost of workers' compensation premiums and the overall cost of doing business. Therefore we ask you hold this measure so that it does not move forward.

Sincerely,  
Pamela Tumpap  
President

000087

**Legislative Action - Oposing Work Comp Bills That Increase Costs**  
**Results Overview**



Date: 3/2/2009 4:55 PM PST  
 Responses: Completes  
 Filter: No filter applied

**1.** The House will review two Workers Compensation bills, SB 62 and SB 695, on Tuesday that will increase the cost of doing business. Do you **OPPOSE** Work Comp bills that increase the cost of doing business?

|       |  |    |      |
|-------|--|----|------|
| Yes   |  | 96 | 97%  |
| No    |  | 3  | 3%   |
| Total |  | 99 | 100% |

**2.** The Maui Chamber of Commerce **OPPOSES** SB 62 SD1 as it requires independent medical examinations and Permanent Impairment Rating Examinations to be performed by mutually agreed upon physicians. We believe it is inherently unfair to allow one party to choose both the treating physician and the IME physician who will review the treating physician's plan. Therefore, to balance the equation, the employer should have the right to select a physician to conduct the IME. Furthermore, it is the employer who pays for 100% of the cost of the IME physician and it is part of our discovery process to ensure proper treatment and that the costs are justified. Do you agree with our position and **OPPOSE** this bill?

|       |  |     |      |
|-------|--|-----|------|
| Yes   |  | 98  | 98%  |
| No    |  | 2   | 2%   |
| Total |  | 100 | 100% |

**3.** The Maui Chamber of Commerce **OPPOSES** SB 695 SD1 which would require the employer to continue medical services to an injured employee despite disputes over whether treatment should be continued. This measure may lead to abuse and cause unreasonable and unnecessary treatment for non-related work injuries, and prolong time off the job, even if the employee is deemed able to return to his or her work. We believe there are adequate safeguards within the statute and current practices to make sure that injured employees receive appropriate medical care. Furthermore, businesses make every effort and go above and beyond to ensure a safe working environment for their employees. Do you agree with our position and **OPPOSE** this bill?

|       |  |     |      |
|-------|--|-----|------|
| Yes   |  | 100 | 99%  |
| No    |  | 1   | 1%   |
| Total |  | 101 | 100% |

**4.** We believes it is unfair to pass legislation that heavily tips in favor for one party and not the other and this is not the time to pass legislation that will further increase business costs. If businesses hurt, jobs will be lost, and the economy will continue to spiral down. Do you agree with our position that legislators should **OPPOSE** or **HOLD** these measures so that they do not move forward?

|       |  |    |      |
|-------|--|----|------|
| Yes   |  | 98 | 99%  |
| No    |  | 1  | 1%   |
| Total |  | 99 | 100% |

000088

# Legislative Action - Oposing Work Comp Bills That Increase Costs Results Overview



Date: 3/2/2009 4:54 PM PST  
 Responses: Completes  
 Filter: No filter applied

5. Please provide your company name so legislators can hear from their constituents and understand how businesses feel about these bills.

| #  | Response  |
|----|---|
| 1  | Pacific Rim Land, Inc.                            |
| 2  | Paradise Self Storage                             |
| 3  | CJ'S Deli & Diner LLC / Comfort Zone Catering LLC |
| 4  | Maui Dive Shop                                    |
| 5  | Honua 'ula Partners, LLC                          |
| 6  | Maui Global Communications Corp                   |
| 7  | Gilbert & Associates                              |
| 8  | Peter H. Fay, DMD                                 |
| 9  | Paradise Flower Farms, Inc.                       |
| 10 | Four Star Mortgage Corp.                          |
| 11 | Maui Vacation Properties / Windsurfing West Ltd.  |
| 12 | The Westin Maui Resort & Spa                      |
| 13 | scuba shack maui                                  |
| 14 | Shore to Shore Realty, Inc.                       |
| 15 | Maui Publishing Company                           |
| 16 | Haynes Publishing Group, Inc.                     |
| 17 | Kilakila Employer Services Inc.                   |
| 18 | Aloha International Employment                    |
| 19 | Paradise Sandal Co.                               |
| 20 | deBeer Realty                                     |
| 21 | The Mortgage Store, Inc                           |
| 22 | A Simply Elegant Wedding                          |
| 23 | Araki-Regan & Associates, LLC                     |
| 24 | Workforce Assurance LLC                           |
| 25 | Trading Places International                      |
| 26 | Kahana Falls Resort                               |
| 27 | Napili Kai Beach Resort                           |
| 28 | Maui Plastics                                     |
| 29 | Joanne Foxxe, Real Estate at Kapalua Realty       |
| 30 | AAAAA RENT A SPACE                                |
| 31 | Lahaina Inn                                       |

000089



|    |  |
|----|--|
| 32 | TREB Maui Inc                                      |
| 33 | Keller Williams Realty                             |
| 34 | Hawaiian Island Weddings, Inc.                     |
| 35 | Bay Realty, Inc                                    |
| 36 | L'AMOUR WEDDING / BRIDAL SALON                     |
| 37 | Myles Kawakami, President, Hawaiian Carpet/Ceramic |
| 38 | Wailea Community Association                       |
| 39 | Wailea Realty Corporation                          |
| 40 | Maui Land & Pineapple Company, Inc.                |
| 41 | The Wright Company, LLC                            |
| 42 | Michael Kern maui Chamber                          |
| 43 | Poelman & Langa                                    |
| 44 | Pollis Mexican Restaurant                          |
| 45 | Bello Realty, Inc.                                 |
| 46 | Island Essence, Inc.                               |
| 47 | The Wharf Cinema Center - Shops & Restaurants      |
| 48 | TC KOKUA   |
| 49 | Koali Ranch, Inc.                                  |
| 50 | Oxford International, Inc.                         |
| 51 | Sakamoto Properties                                |
| 52 | Warren & Annabelle's                               |
| 53 | Ruth's Chris Steak House Wailea                    |
| 54 | Horizon Financial LLC                              |
| 55 | Friends of the Children's Justice Center of Maui   |
| 56 | Maui Oma Coffee Roasting Co.                       |
| 57 | Jim Worley - Pali Kai Inc.                         |
| 58 | THE MAUI CLOSET COMPANY                            |
| 59 | west maui sports and fishing supply                |
| 60 | Aloha Recycling                                    |
| 61 | Maui Tech Guru                                     |
| 62 | Maui Tech Guru                                     |
| 63 | HAWAIIAN CLASSIC PERFUMES, INC.                    |
| 64 | Food For The Soul LLC.                             |
| 65 | Catering From Soup to Nuts, Inc./Chefg@maui.net/   |
| 66 | Gina On Maui, LLC                                  |
| 67 | maxwell design group                               |
| 68 | V.I.P. Services Inc                                |
| 69 | Surf Rents Trucks                                  |
| 70 | Construction Enterprises, Inc.                     |
| 71 | Image Station, Inc. dba Maui Giclee                |
| 72 | Cook Kwee's Maui Cookies                           |

000090



|    |  |
|----|--|
| 73 | Rosemaui Communication Ent.            |
| 74 | Haleakala Bike Co.,,                   |
| 75 | maui potato chips                      |
| 76 | aloha kia                              |
| 77 | Robert H. Dein, Centruy 21 All Islands |
| 78 | Birken & Bailey's Boutique             |
| 79 | The Pet Shop, Inc.                     |
| 80 | Maui Process Technologies LLC          |
| 81 | Maui Speed Print Inc.                  |
| 82 | Global Business Solutions, LLC         |
| 83 | Su-Su's Inc.                           |
| 84 | Watanabe Vegetable Processing LLC      |
| 85 | The Love Shack, Kihei                  |
| 86 | Bug Man Termite & Pest Control Inc.    |
| 87 | VIP Foodservice                        |
| 88 | Uncle Louie Sausage Co., Inc.          |
| 89 | Maui Ocean Center, Inc.                |
| 90 | Pacific Dive                           |
| 91 | Workforce Assurance LLC                |
| 92 | Four Seasons                           |
| 93 | JERRY GRIGORY PHOTOGRAPHY              |
| 94 | The Majestic Corporation Of Maui, Inc  |

**Concerned Citizens**

**Same Written Testimony in Opposition to: SB 62 and SB 695**

**(See attached for a sample of the written testimony. All testimony will be available online.)**

|    | <b>First Name</b> | <b>Last Name</b> | <b>Title/Position</b>       | <b>Company</b>                    |
|----|-------------------|------------------|-----------------------------|-----------------------------------|
| 1  | Traci             | Downs            | President & CCO             | Archinoetics, LLC                 |
| 2  | Kathy             | Dang             |                             | Marsh                             |
| 3  | Joshua            | Joyce            |                             | Terminix                          |
| 4  | Thomas            | Grimes           |                             | Aloha Gas                         |
| 5  | Eric              | England          |                             |                                   |
| 6  | Glenn             | Muranaka         |                             | Dean Foods                        |
| 7  | Rocco             | Sansone          |                             | Marsh                             |
| 8  | Matt              | Riel             |                             | AES                               |
| 9  | Neil              | Ishida           |                             | ABC Stores                        |
| 10 | Donn              | Takaki           |                             | Hawktree                          |
| 11 | Mike              | Sands            |                             | Resort Quest Hawaii               |
| 12 | Benjamin          | Ventura, PhD     |                             | Wal-Mart                          |
| 13 | John              | Leary            |                             | Island Demo                       |
| 14 | Stephen           | Hopkins          |                             | Hopkinsoptions, LLC               |
| 15 | Shelley           | Homecare         | President                   | Wilson Homecare                   |
| 16 | Lisa              | Daijo            |                             | Express Pros                      |
| 17 | Louis             | Darnell          | Vice President              | Makai Communications              |
| 18 | Louis             | Darnell          | President & Founder         | ComTel                            |
| 19 | Ken               |                  |                             | Kai Hawaii                        |
| 20 | Ka'eo             | Gouveia          |                             | Mokulua Contracting, LLC          |
| 21 | JoAnn             | Yee              |                             | Avalon Hawaii                     |
| 22 | Kawika            | Kane             |                             |                                   |
| 23 | Kent              | McConnell        |                             | ADP                               |
| 24 | Grace             | Ordonio          | Director of Finance         | Marriott's Ko Olina Beach Club    |
| 25 | Debbie            | Padello          |                             | Altres                            |
| 26 | Darrel            | Tajima           |                             | Dean Foods                        |
| 27 | Maile             | Romanowski       |                             | Jas. W. Glover, Ltd.              |
| 28 | L.                | Wong             |                             |                                   |
| 29 | Edgar             | Gum              |                             | Vacation Club                     |
| 30 | Henrique          | Regina           | Assist. Executive Director  | Wayland Baptist University        |
| 31 | Carol             | Furtado          | Director of Human Resources | King Auto Group, Kauai & Oahu     |
| 32 | Patrick           | Bustamante       | President                   | Pacific LightNet Communications   |
| 33 | Dennis            | Kennedy          |                             | Business Factoring Hawaii         |
| 34 | Noelle            | Condon           |                             | Consumer Service Analysis, Inc.   |
| 35 | Ruby              | Sarmiento        |                             | Water Group                       |
| 36 | Jeremiah          | Sarmiento        |                             | Water Group                       |
| 37 | Marc              | Okumura          |                             | Asipacific                        |
| 38 |                   |                  |                             | Britton Gallery                   |
| 39 | Lillian           | Sakane           |                             | HMSHost                           |
| 40 | Joanna            | Amberger         |                             | Financial Group                   |
| 41 | Brad              | Dechter          | President                   | Dependable Hawaiian Express, Inc. |
| 42 | RC                | Murphy           |                             | SOI Engagements                   |

|    |                 |          |                             |                                  |
|----|-----------------|----------|-----------------------------|----------------------------------|
| 43 | George          | Naito    |                             | Sylvan Mililani                  |
| 44 | K.              | Okamura  |                             |                                  |
| 45 | Eileen          | Caldwell | Director of Human Resources | Sheraton Maui Resort & Spa       |
| 46 | Edwin & Rebecca | Gonzales |                             | Gecko Enterprises, Inc.          |
| 47 | Chris           | Robbins  |                             | CocHawaii                        |
| 48 | Charle          |          |                             | Aloha Nursing                    |
| 49 | Melinda         | Momoki   |                             | Island Title Corporation         |
| 50 | Sai             | Chantavy |                             | Maunalani Nursing & Rehab Center |
| 51 | Kevin           | Roberts  | President and CEO           | Castle Medical Center            |
| 52 | Trina           | Sakuma   |                             | Prada                            |
| 53 | Niki            | Doyle    | General Manager             | Hard Rock Café                   |
| 54 | Michael         | Rabe     | President                   | Creations in Catering            |
| 55 | J.              | Toth     |                             | NetEnterprise Inc.               |
| 56 | Robert          | Pereira  | President                   | Midas Hawaii                     |
| 57 | H.              | Hartmann |                             | Paragon Metals                   |
| 58 | Tim             | Forkner  |                             | DHX                              |
| 59 | P.              | Sammer   |                             |                                  |

000093

yamashita1- Kathy

---

From: traci@archinoetics.com  
Sent: Friday, February 27, 2009 5:11 AM  
To: LABtestimony  
Subject: Take Action Now

Traci Downs  
700 Bishop Street, Suite 2000  
Honolulu, HI 96813-4120

Testimony to the House Labor & Public Employment Committee Tuesday, March 3 10:00 a.m. in Room 309

From: Traci H. Downs  
President & COO  
Archinoetics, LLC

RE: SB 62 and SB 695 re Workers' Compensation

Chair Rhoads, Vice Chair Yamashita and members of the committee:

I respectfully request that you do not pass SB 62 SD1 and SB 695 SD1, both relating to Workers' Compensation.

SB 62 SD1 measure requires independent medical examinations and Permanent Impairment Rating Examinations to be performed by mutually agreed upon physicians.

I believe that it is inherently unfair to allow one party to choose both the treating physician and the IME physician who will review the treating physician's plan. Therefore, to balance the equation, the employer should have the right to select a physician to conduct the IME. Furthermore, it is the employer who pays for 100% of the cost of the IME physician and it is part of our discovery process to ensure proper treatment and that the costs are justified.

SB 695 SD1 requires the employer to continue medical services to an injured employee despite disputes over whether treatment should be continued. This measure may lead to abuse and cause unreasonable and unnecessary treatment for non-related work injuries, and prolong time off the job, even if the employee is deemed able to return to his or her work. I believe there are adequate safeguards within the statute and current practices to make sure that injured employees receive appropriate medical care. Businesses such as mine make every effort and go above and beyond to ensure a safe working environment for our employees.

It is unfair to pass legislation that heavily tips in favor for one party and not the other. Furthermore, this is not the time to pass legislation that will further increase costs. If businesses hurt, jobs will be lost, and the economy will continue to spiral down.

These measures, if passed, will increase the cost of workers' compensation premiums and the overall cost of doing business. Thus, I respectfully ask that you hold this measure.

Thank you for the opportunity to submit testimony.

Sincerely,  
Traci Downs

000094