

Honolulu, Hawaii
Feb 11, 2010

RE: H.B. No. 2493
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fifth State Legislature
Regular Session of 2010
State of Hawaii

Sir:

Your Committee on Labor & Public Employment, to which was referred H.B. No. 2493 entitled:

"A BILL FOR AN ACT RELATING TO VOCATIONAL REHABILITATION,"

begs leave to report as follows:

The purpose of this bill is to improve the vocational rehabilitation system by returning injured workers to the active labor force as quickly as possible while maintaining protections for them. Specifically, this bill, among other things:

- (1) Requires that an injured worker who is not permanently disabled but suffers from permanent work restrictions receive only direct placement services;
- (2) Expands the duties of the Vocational Rehabilitation Unit of the Department of Labor and Industrial Relations (DLIR) to enforce prompt compliance with the requirements of the vocational rehabilitation system;
- (3) Requires the initial evaluation report of an employee to contain an assessment of an employee's work capabilities;
- (4) Stipulates that if the information required in an initial evaluation report is not provided by the treating physician within 30 days of the injured



worker's selection of a provider, information from another physician shall be accepted;

- (5) Establishes time limitations for the provision of vocational rehabilitation services;
- (6) Suspends vocational rehabilitation services if an injured worker suffers an intervening medical condition that renders the injured worker totally disabled until the injured worker is cleared to return to work;
- (7) Allows employers to terminate temporary total disability benefits when the employee is able to return to usual and customary work and is enrolled in a vocational rehabilitation plan that has not been approved by the Director of DLIR; and
- (8) Allows any party to request a review of the vocational rehabilitation program if it is determined that no progress is being made to establish a viable vocational rehabilitation plan and requires the vocational rehabilitation unit to respond to the request within 30 days.

Hawaiian Airlines, Kessner Umabayashi Bain & Matsunaga, and several concerned individuals testified in support of this bill. The Hawaii Insurers Council, John Mullen & Co., Inc., and a concerned individual supported this bill with amendments. DLIR; ILWU Local 142; Hawaii Injured Workers Alliance; Vocational Management Consultants, Inc.; International Association of Rehabilitation Professionals-Hawaii Chapter; and numerous concerned individuals opposed this measure.

The purpose of vocational rehabilitation is to provide timely and efficient vocational rehabilitation services to facilitate an injured employee's return to meaningful and gainful employment. However, claims have been made that instances exist where vocational rehabilitation plans are taking an extraordinary amount of time to develop, delaying the process of returning an injured worker to gainful employment. This measure attempts to address this issue.

However, your Committee notes the many concerns raised by opponents of the measure that establishing regimented and arbitrary timelines that determine when an injured employee should return to work only serve as a detriment to an injured worker's



recovery. Nevertheless, this measure deserves further consideration.

Accordingly, your Committee has amended this bill by deleting its contents and replacing it with language that simply allows the Director of DLIR, at the Director's discretion, to issue a directive to the vocational rehabilitation provider if the director determines that no progress is being made to establish a viable vocational rehabilitation plan based upon the available file documentation and provided that the case remains pending before the director.

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. 2493, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2493, 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,



KARL RHOADS, Chair



State of Hawaii
House of Representatives
The Twenty-fifth Legislature

HSCR 310-10

Record of Votes of the Committee on Labor & Public Employment

Bill/Resolution No.: HB 2493	Committee Referral: LAB, FIN	Date: 2-5-2010		
<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.				/
8. NAKASHIMA, Mark M.	/			
9. SAIKI, Scott K.	/			
10. SOUKI, Joseph M.		/		
11. TAKUMI, Roy M.				/
12. PINE, Kymberly Marcos				/
TOTAL (12)	6	3	-	3
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature: _____ 				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				