

STAND. COM. REP. NO. 859-10

Honolulu, Hawaii

March 19, 2010

RE: S.B. No. 2597
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 S.B. No. 2597 entitled:

"A BILL FOR AN ACT RELATING TO THE HAWAII EMPLOYERS' MUTUAL INSURANCE COMPANY,"

begs leave to report as follows:

The purpose of this bill is to ensure the efficient functioning of the Hawaii Employers' Mutual Insurance Company (HEMIC) by, among other things:

- (1) Allowing members of HEMIC's Board of Directors to serve more than two nonconsecutive terms;
- (2) Separating the titles and functions of President and Chief Executive Officer of HEMIC; and
- (3) Ensuring that HEMIC is subject to the same liability standards as all other workers' compensation insurers.

HEMIC testified in support of this bill. Several concerned individuals testified in opposition to this measure. The Hawaii Injured Worker's Alliance provided comments.

HEMIC is expected to experience a leadership change in the very near future with the retirement of its current executive who serves as both the Chief Executive Officer and President. Changes may also occur within HEMIC's Board of Directors due to term

SB2597 HD1 HSCR LAB HMS 2010-2755



limitations. Having an inexperienced Board of Directors in place at the same time HEMIC is going through an executive transition period would not appear to be in the best interest of HEMIC or its members. By separating the titles and functions of the President and Chief Executive Officer, HEMIC will be able to reallocate the duties of its executive management and allow for a smoother transition of executive leadership without creating any new positions. Allowing members of HEMIC's Board of Directors to serve more than two nonconsecutive terms will allow HEMIC to retain qualified and experienced Board leadership, which will also assist in ensuring continuity of management during executive transitions.

HEMIC has also noted that, when HEMIC was established, the Legislature intended HEMIC to provide the highest level of workers' compensation insurance for the lowest cost, and provide the highest standard of workplace safety and loss prevention. However, in recent court proceedings, it has been found that the statutory purpose of HEMIC could be construed as establishing a higher legal standard for HEMIC than that applying to other insurance providers that offer workers' compensation insurance. This measure ensures that HEMIC is able to operate on the same terms as other workers' compensation insurers.

However, your Committee understands the concerns raised that this bill may provide HEMIC with insulation from lawsuits. Nevertheless, this measure deserves further consideration.

Your Committee has amended this bill by:

- (1) Explicitly stating that HEMIC is subject to the same liability standards, including common law liability standards, as all other workers' compensation insurers; and
- (2) Making technical, nonsubstantive amendments 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 S.B. No. 2597, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2597, H.D. 1, and be referred to the Committees on Consumer Protection & Commerce and Judiciary.



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

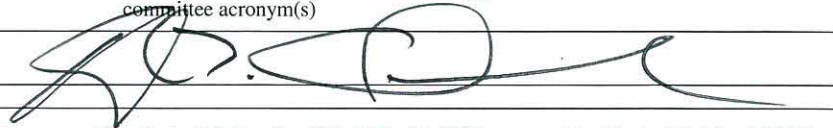
Karl Rhoads

KARL RHOADS, Chair



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Record of Votes of the Committee on Labor & Public Employment

Bill/Resolution No.: SB 2597	Committee Referral: LAB, CPC/JUD	Date: 3-16-10		
<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				1
TOTAL (12)	11	—	—	1
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				