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February 1, 2010

TESTIMONY TO THE
HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
For Hearing on Tuesday, February 2, 2010
9:00 a.m., Conference Room 309

BY

MARIE C. LADERTA, DIRECTOR

**House Bill No. 2079
Relating to Workers' Compensation**

(WRITTEN TESTIMONY ONLY)

TO CHAIR KARL RHOADS AND MEMBERS OF THE COMMITTEE:

The purpose of H.B. No. 2079, is to repeal the possibility of the director extending the due date for written decisions on the outcome of workers' compensation claims.

The Department of Human Resources Development is **opposed** to this bill as it removes flexibility from the hearings process. The current language is permissive and takes into account that situations may arise where either one or both parties need additional time to provide information to the director which may be essential to completing the investigation required by this section. Section 386-86 (a), Hawaii Revised Statutes, already contains the necessary checks and balances in that all parties have to agree to the extension. If one party does not, then the decision is issued within 60 days after the conclusion of the hearing.

Thank you for the opportunity to testify in opposition of this bill.

HOUSE OF REPRESENTATIVES
TWENTY-FIFTH LEGISLATURE, 2010
STATE OF HAWAII

COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
Rep. Karl Rhoads, Chair
Rep. Kyle T. Yamashita, Vice Chair

TESTIMONY OF ILWU LOCAL 142 RE: HB 2079
RELATING TO WORKERS' COMPENSATION

Hearing: Tuesday February 2, 2010

Time: 9:00 a.m.

Place: Conference Room 309, State Capitol

Chairman Rhoads, Vice Chair Yamashita, and Committee Members:

Thank you for the opportunity to present testimony regarding HB 2079. We support this useful bill.

Section 386-86 HRS now provides sixty days for the director of the Department of Labor and Industrial Relations to issue a decision after a hearing is concluded unless there is good cause for extending the decision and agreement by all parties. HB 2079 simply eliminates the exception that allows decisions to be issued more than sixty days after the hearing is concluded. This is a sensible, administrative improvement which should encourage all parties, including the department, to act responsibly in moving cases toward a prompt resolution.

No impairment of flexibility should occur with the enactment of this bill. If a case unexpectedly requires additional evidence—such as when the injured worker suddenly develops a new medical condition that requires evaluation—the hearing officer may continue the hearing and secure the added information. The sixty day time period for issuance of a decision will commence only once the hearing is “concluded” with the acquisition of the needed additional medical evidence.

Because this bill and its companion SB 2339 have generated much discussion in the community, we also recognize that as drafted the bill does not address the difficulties associated with frequent extensions requested by Employers and Insurance Carriers when they maintain they do not have adequate time to investigate a claim. More commonly, the physicians retained by insurers cannot schedule injured workers promptly for evaluations, and this leads to pleas for delay.

Many of our members do experience the problems associated with these postponements. In our view, physicians who choose to perform industrial medicine evaluation should perform the evaluations in a timely fashion and the range of examiners should be expanded so that prompt evaluation, rather than postponement is the norm.

While we lack the data to quantify the exact effect of this delay, it should be self-evident that more rapid evaluation, acceptance or denial, and adjudication of claims would be cost effective for everyone involved in the workers' compensation system. ILWU Local 142 is supportive of efforts to enhance the speed and efficiency of work injury adjudication, and does support efforts to reduce the delays occasioned by the unnecessary extensions of time sought by some insurers.

In short, HB 2079 will encourage timely adjudication of claims without compromising the need for occasional flexibility. Accordingly, we therefore support its passage.



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Alison Powers
Executive Director

TESTIMONY OF ALISON POWERS

HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
Representative Karl Rhoads, Chair
Representative Kyle T. Yamashita, Vice Chair

Tuesday, February 2, 2010
9:00 a.m.

H.B. 2079

Chair Rhoads, Vice Yamashita, 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 45% of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **opposes** H.B. 2079, which would repeal the director's ability to extend the due date for written decisions on workers' compensation claims.

The ability to request an extension exists because in some instances there is not enough time to get all the information necessary in order for the director to issue a decision. Subpoenaed records may have not been received or an independent medical examination and/or report may be pending. An extension protects the claimant's best interest because the request must be supported by good cause and the claimant must consent.

Repealing this authority would result in more appeals and increase costs for both the employer and the injured worker.

We respectfully request that H.B. 2079 be held.

Thank you for the opportunity to testify.



HAWAII INJURED WORKERS ALLIANCE
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February 2, 2010

The Twenty-Fifth Legislature, State of Hawaii
Regular Session 2010
House of Representatives
Committee on Labor and Public Employment

H.B. 2079 repeals the possibility of the director extending the due date for written decisions on the outcome of worker compensation claims.

The Hawaii Injured Workers Alliance strongly supports this measure.

We believe this bill will bring the responsible parties to move claimants case forward toward a prompt resolution.

We believe this will only work if the director will not grant extensions of time to deny or defer compensation of claims pending investigation of claims.

We believe that HB 2079 will settle claims in a timely manner.

We agree this is a positive step for injured workers in the State of Hawaii.

Your passage of this bill would be greatly appreciated.

George M. Waialeale
Executive Director
Hawaii Injured Workers Alliance
383-0436

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 01, 2010 5:19 PM
To: LABtestimony
Cc: Moore4640@hawaiiantel.net
Subject: Testimony for HB2079 on 2/2/2010 9:00:00 AM

LATE

Testimony for LAB 2/2/2010 9:00:00 AM HB2079

Conference room: 309
Testifier position: support
Testifier will be present: No
Submitted by: Douglas Thomas Moore, Esq.
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Submitted on: 2/1/2010

Comments:
HB 2079 - Rep Karl Rhoads. hearing 2/2/10,
thank you very much.