



**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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March 29, 2010

To: The Honorable Marcus R. Oshiro, Chair
and Members of the House Committee on Finance

Date: Monday, March 29, 2010

Time: 4:00 p.m.

Place: Conference Room 308, State Capitol

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

Testimony in SUPPORT of S.B. 2050

I. DEPARTMENT POSITION

The Department supports S.B. 2050 as it corrects a drafting error caused when the legislature codified the Department administrative rules relating to vocational rehabilitation.

II. OVERVIEW OF CURRENT PROPOSED LEGISLATION

This amendment will allow search for suitable gainful employment with the injured worker's current employer followed by search for suitable gainful employment with different employers.

III. CURRENT LAW

Act 11, passed by the Special Session of the 2005 Legislature, amended section 386-25, HRS, by codifying into statute the administrative rule section 12-14-5 relating to rehabilitation. Act 11's amendment to section 386-25 inadvertently deleted the requirement for consideration of modified or other work with the **same** employer. The current law, section 386-25 (e)(2), HRS, only requires that consideration of modified or other work be with a **different** employer and does not allow for consideration of the current (same) employer.

This amendment clarifies the past and present practice of VR counselors that require search for suitable gainful employment with the injured worker's current (same) employer followed by search for suitable gainful employment with different employers.

HOUSE OF REPRESENTATIVES
TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2010

COMMITTEE ON FINACE
Rep. Marcus Oshiro, Chair
Rep. Marilyn B. Lee, Vice Chair

Hearing: Monday, March 29, 2010

Time: 4:00 p.m.

Place: Conference Room 308, State Capitol

TESTIMONY OF ILWU LOCAL 142
RE: SB 2050, RELATING TO VOCATIONAL REHABILITATION
IN WORKERS' COMPENSATION LAW

Chair Oshiro, Vice Chair Lee, Members of the Committee:

Thank you for the opportunity to present testimony regarding S.B. 2050. We support this modest but constructive bill.

SB 2050 fine tunes the vocational rehabilitation provisions of Hawaii's workers' compensation law by directing vocational counselors to seek "modified or other work with the same employer" rather than "a different employer", as now stated in Section 386-25(e) HRS. The mandate that counselors strive to maintain an injured workers' employment with the same Employer is a logical and common sense approach that should be embodied into law. Employees obviously can be returned to work most rapidly by retaining them with their original employers in new or modified jobs that are consistent with their physical or mental limitations.

Such action is not only sound rehabilitation policy and a cost effective strategy in reducing the financial losses incurred due to industrial accidents, but it is generally an action that is consonant with the broad purposes of the Americans with Disabilities Act and the Hawaii Civil Rights Law, which both emphasize that handicapped individuals are entitled to "reasonable accommodation" for their handicaps. Maintaining employment with the same employer also permits the injured employee to continue to accrue seniority and pension credit.

Given these advantages, we urge that SB 2050 be enacted.



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March 29, 2010

The Twenty-Fifth Legislature, State of Hawaii
House of Representatives
Committee on Finance

S.B. 2050 requires a provider in its rehabilitation plan to determine if modified or other work with the same employer represents suitable gainful employment.

The Hawaii Injured Workers Alliance strongly supports this measure.

We believe this bill will be 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