

STAND. COM. REP. NO. 137 -12

Honolulu, Hawaii

Feb 7, 2012

RE: H.B. No. 2099

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Sixth State Legislature  
Regular Session of 2012  
State of Hawaii

Sir:

Your Committee on Labor & Public Employment, to which was referred H.B. No. 2099 entitled:

"A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION,"

begs leave to report as follows:

The purpose of this measure is to improve the efficiency of the workers' compensation system by allowing attorney's fees to be included in costs that may be assessed against a party who brings, prosecutes, or defends a workers' compensation claim without reasonable ground.

The Department of Labor and Industrial Relations, ILWU Local 142, and several concerned individuals testified in support of this measure. The Hawaii Insurers Council provided comments.

Hawaii's workers' compensation law was established as a "no fault" type of system where injured workers were provided with medical insurance and wage loss coverage for work-related injuries while employers were protected from civil liability resulting from these injuries. Unfortunately, due to the, at times, contentious nature of workers' compensation cases, claims and appeals proceedings are begun without reasonable grounds. Under current law, if the Director of Labor and Industrial Relations, the Labor and Industrial Relations Appeals Board, or any court finds that the proceedings have been brought without reasonable grounds, the whole costs of the proceedings can be assessed against the party that initiated the proceedings. However, a recent Hawaii Intermediate Court of Appeals ruling found that whole costs did

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not include attorney's fees. Your Committee finds that allowing reasonable attorney's fees to be assessed against a party who initiates baseless proceedings will help deter frivolous claims and appeals from being filed under Hawaii's workers' compensation system.

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. 2099 and recommends that it pass Second Reading and be referred to the Committee on Economic Revitalization & Business.

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



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KARL RHOADS, Chair



State of Hawaii  
House of Representatives  
The Twenty-sixth Legislature

HSCR 137-12

**Record of Votes of the Committee on Labor & Public Employment**

Bill/Resolution No.: <b>HB 2099</b>	Committee Referral: <b>LAB, ERB, FIN</b>	Date: <b>1-31-12</b>		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input checked="" type="checkbox"/> Pass, unamended (as is) <input 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. CULLEN, Ty	/			
5. ICHIYAMA, Linda	/			
6. LEE, Marilyn B.	/			
7. LUKE, Sylvia	/			
8. OKAMURA, Tom				/
9. SAIKI, Scott K.	/			
10. SOUKI, Joseph M.	/			
11. TAKUMI, Roy M.	/			
12. FONTAINE, George R.	/			
13. JOHANSON, Aaron Ling	/			
<b>TOTAL (13)</b>	<b>12</b>	<b>-</b>	<b>-</b>	<b>1</b>
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <small style="margin-left: 150px;">committee acronym(s)</small>				
Vice Chair's or designee's signature: _____				
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