

STAND. COM. REP. NO.

2456

Honolulu, Hawaii

MAR 01 2012

RE: S.B. No. 2845
S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 2845 entitled:

"A BILL FOR AN ACT RELATING TO MEDICAL BENEFITS UNDER THE
WORKERS' COMPENSATION LAW,"

begs leave to report as follows:

The purpose and intent of this measure is to require the
Director of Labor and Industrial Relations to make a decision,
without a hearing, within thirty days of the filing of a workers'
compensation dispute between an employee and the employer or the
employer's insurer regarding a proposed treatment plan or whether
medical services should continue.

Your Committee received testimony in support of this measure
from the Department of Labor and Industrial Relations; the United
Public Workers, AFSCME Local 646, AFL-CIO; the Hawaii Laborers'
Union; and two private individuals. Testimony in opposition to
this measure was submitted by the Property Casualty Insurers
Association of America; the Society for Human Resource Management,
Hawaii Chapter; and two private individuals. The International
Longshore and Warehouse Union Local 142 submitted comments.

Your Committee finds that when a workers' compensation
dispute is filed regarding a proposed treatment plan or whether
medical services should be continued, the Director of Labor and
Industrial Relations is required to make a decision within thirty
days of the filing of the dispute. Due to the reduction of staff,
the Department of Labor and Industrial Relations currently takes

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three to four months to schedule a hearing, provide notice to the parties, conduct the hearing, and render a decision. This measure allows injured workers, insurance carriers, and employers to obtain more prompt decisions and reduces the number of hearings scheduled. Moreover, this measure provides the Director greater ability to meet the thirty day deadline to render a decision.

Your Committee recognizes the testimony submitted by the Property Casualty Insurers Association of America that suggests this measure presents barriers because employers will have insufficient time to solicit a supporting medical opinion to counter unreasonable and unnecessary medical treatment requests. Furthermore, Property Casualty Insurers indicated that eliminating the hearing requirement deprives the Director of a complete record on which to render a decision on whether the proposed treatment plan or medical service is appropriate and effective for the injured worker. Instead, Property Casualty Insurers suggested language that would allow a hearing to be waived only upon the mutual consent of both parties. Your Committee believes this matter merits further discussion and encourages Property Casualty Insurers Association of America, the Department of Labor and Industrial Relations, and the Hawaii Insurers Council to discuss this matter as this measure moves through the legislative process.

Your Committee has amended this measure by:

- (1) Amending the language to allow rather than require the Director of Labor and Industrial Relations to make a decision on disputes regarding treatment plans and continued medical services without a hearing;
- (2) Inserting an effective date of July 1, 2050, to ensure further discussion; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2845, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2845, S.D. 1, and be placed on the calendar for Third Reading.



Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,



CLAYTON HEE, Chair



The Senate
 Twenty-Sixth Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:*	Committee Referral:	Date:		
SB2845	JDL	2/17/12		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile (VC)	✓			
GABBARD, Mike	✓			
IHARA, Jr., Les				✓
SLOM, Sam		✓		
TOTAL	3	1	0	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes