

NEIL ABERCROMBIE
GOVERNOR



BARBARA A. KRIEG
INTERIM DIRECTOR

DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
HONOLULU, HAWAII 96813-2437

January 25, 2012

TESTIMONY TO THE
SENATE COMMITTEE ON JUDICIARY AND LABOR

For Hearing on Thursday, January 26, 2012
2:30 p.m., Conference Room 229

BY

BARBARA A. KRIEG
INTERIM DIRECTOR

**Senate Bill No. 2285
Relating to Workers' Compensation**

TO CHAIRPERSON CLAYTON HEE AND MEMBERS OF THE COMMITTEE:

Thank you for the opportunity to provide testimony on SB 2285.

The purpose of SB 2285 is to clarify that telework is compensable under workers' compensation.

The Department of Human Resources Development respectfully opposes this bill.

Section 386-3, Hawaii Revised Statutes, and the cases that have interpreted this statute, already provide coverage for injuries that are sustained in the course and scope of employment. The many factors that go into determining whether an injury is compensable include where the accident occurred, what the employee was doing at the time, and the amount of control the employer had over the employee. As written, SB 2285 would automatically deem compensable any telework injury provided it occurs off the employer's premises and the work is done at the direction of the employer. Since "telework" is broadly defined to include telecommuting, remote work, virtual work, or mobile work, this bill would open up the State to more claims that may have only an

attenuated link to a claimant's employment. In lieu of setting forth this specific clarification for telework, we believe each telework injury claim--as with all other injuries--should be examined on its merits to determine whether the injury is compensable.

Based on the foregoing, we request that the Committee hold this bill.



NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

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KEALI'I S. LOPEZ
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TO THE SENATE COMMITTEE ON JUDICIARY AND LABOR

TWENTY-SIXTH LEGISLATURE
Regular Session of 2012

Thursday, January 26, 2012
2:30 p.m.

**TESTIMONY ON SENATE BILL NO. 2285 – RELATING TO WORKERS'
COMPENSATION.**

TO THE HONORABLE CLAYTON HEE, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner ("Commissioner"),
testifying on behalf of the Department of Commerce and Consumer Affairs
("Department"). The Department takes **no position on this bill.**

The purpose of this bill is to clarify that personal injuries suffered while an
employee is engaged in telework is compensable under workers' compensation.

We thank this Committee for the opportunity to present testimony on this matter.

DEPARTMENT OF HUMAN RESOURCES
CITY AND COUNTY OF HONOLULU

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PETER B. CARLISLE
MAYOR



NOEL T. ONO
DIRECTOR
ROBIN CHUN-CARMICHAEL
ASSISTANT DIRECTOR

January 26, 2012

The Honorable Clayton Hee, Chair
and Members of the Committee on
Judiciary and Labor
The Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chair Hee and Members:

Subject: Senate Bill No. 2285
Relating to Workers' Compensation

The City and County of Honolulu opposes Senate Bill No. 2285, amending Section 386-3, Hawaii Revised Statutes (HRS), to clarify that injuries sustained by employees engaged in telework under the direction of the employer are compensable. While we **support the intent** of this bill, the statute (supported by numerous decisions) already provides coverage for injuries sustained under these conditions. We believe that further clarification of the statute is redundant and unnecessary.

We respectfully urge your committee to file Senate Bill No. 2285.

Thank you for the opportunity to testify.

Yours truly,

A handwritten signature in black ink, appearing to read "Noel T. Ono".

Noel T. Ono
Director