

LATE TESTIMONY

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January 25, 2012

SB 2285 Relating to Workers' Compensation

I am here to testify in support of SB 2285. This will clarify workers' compensation injury for people who engage in telework done off premises. With telework increasing in the State of Hawaii we need to address worker's injuries that occur off premises.

I ask for your passage of this legislation.

George Waialeale



LATE TESTIMONY

DWIGHT Y. TAKAMINE
DIRECTOR

AUDREY HIDANO
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

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COMMENTS

January 25, 2012

To: The Honorable Clayton Hee, Chair, Maile Shimabukuro, Vice Chair,
and Members of the Senate Committee on Judiciary and Labor

Date: Thursday, January 26, 2012

Time: 2:30 p.m.

Place: Conference Room 229, State Capitol

From: Dwight Y. Takamine, Director
Department of Labor and Industrial Relations

Re: S.B. No. 2285 Relating to Workers' Compensation

I. OVERVIEW OF PROPOSED LEGISLATION

- S.B. 2285 proposes to amend Section 386-3, HRS, by allowing injures while engaged in telework to be compensable under workers' compensation. This proposal is unnecessary as the current law already covers employment-related injuries occurring off the employer's premises.

II. CURRENT LAW

Currently, personal injuries, including injuries occurring off-premises, caused either by accident arising out of and in the course of employment or by disease proximately caused by or resulting from the nature of the employment, are covered by workers' compensation. Compensability of a claim is determined on a case-by-case basis.

III. COMMENTS ON SENATE BILL

- This proposal is unnecessary as the current law already covers employment-related injuries occurring off the employer's premises.
 - Workers who are injured are entitled to file a Workers' Compensation claim regardless of whether the injury occurred on or off the employer's premises.
- The compensability of each claim is based on a case-by-case basis and

THE SENATE
TWENTY-SIXTH LEGISLATURE, 2012
STATE OF HAWAII

LATE TESTIMONY

COMMITTEE ON JUDICIARY AND LABOR

Sen. Clayton Hee, Chair
Sen. Maile S.I. Shimabukuro, Vice Chair

Date: Thursday, January 26, 2012

Time: 2:30 p.m.

Place: Conference Room 229, State Capitol

TESTIMONY OF ILWU LOCAL 142
RE: SB 2285, RELATING TO WORKERS' COMPENSATION

Chair Hee, Vice Chair Shimabukuro, Members of the Committee:

Thank you for the opportunity to present testimony regarding SB 2285. ILWU supports the idea that employees engaged in bonafide telework should be fairly compensated like all other employees. We also note that under existing law, injuries that occur within the course and scope of employment are compensated whether or not they occur on the employer's premises itself.

However, we make the following comments and suggestions about SB2285:

1. The phrase "provided that the work is done at the direction of the employer" should be deleted from Section 1(a), paragraph three of the bill as it would unduly restrict existing coverage for employees. Employees who act within the course and scope of employment who do not intend to injure themselves and who are not intoxicated are now covered if an injury occurs whether or not the work they perform is explicitly at the direction of the employer, and there is no reason to limit the extent of coverage for teleworkers as SB 2285 would by the inclusion of the phrase quoted above.
2. The definition of "telework" stated at the end of Section 1 may be problematic in some respects because it does not define "telecommuting, remote work, virtual work, or mobile work." While these terms may have a commonly accepted meaning among those in "telework" that meaning is not necessarily known to others outside of that industry and should be defined.
3. It would be helpful to understand precisely what actual situations involving coverage of teleworkers prompt introduction of this bill. The mere fact of an accident occurring away from the traditional place of employment should not be an impediment to coverage of a claim for workers' compensation so long as it is clear that the injured person is an "employee" in "employment" as defined by existing law. Employees have been legitimately granted coverage for heart attacks or strokes

LATE TESTIMONY



Testimony to the Senate Committee on Judiciary and Labor
Thursday, January 26, 2012
2:30 p.m.
State Capitol - Conference Room 229

RE: SENATE BILL 2285 WORKERS' COMPENSATION

Chair Hee, Vice Chair Shimabukuro, and members of the committee:

My name is Jim Tollefson and I am the President and CEO of The Chamber of Commerce of Hawaii ("The Chamber"). I am here to provide amendments to Senate Bill No. 2285 relating to Workers' Compensation.

The Chamber is the largest business organization in Hawaii, representing more than 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber recommends that the language in the bill specify that the teleworker must meet the definition of an employee pursuant to Section 386-1, Hawaii Revised Statutes, and that the work performed was at the employer's direction.

Thank you for the opportunity to submit testimony.

Pass w/amendments

TESTIMONY BEFORE THE SENATE COMMITTEE ON

JUDICIARY AND LABOR

LATE TESTIMONY

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

SB 2285

RELATING TO WORKERS' COMPENSATION

By Marleen Silva

Director, Workers' Compensation
Hawaiian Electric Company, Inc.

Chair Hee, Vice Chair Shimabukuro, and Members of the Committee:

Hawaiian Electric Co. Inc., its subsidiaries, Maui Electric Company, LTD., and Hawaii Electric Light Company, Inc. **respectfully oppose S.B. 2285**. Our companies represent over 2,000 employees.

This bill proposes to amend Section 386-3 HRS adding new language to expand the definition of personal injuries covered to include those occurring off-premises while the employee is engaged in telework; provided that the work is done at the direction of the employer. In addition it further defines "telework" to mean work done outside of the traditional on-site work environment and includes telecommuting, remote work, virtual work, or mobile work.

We recognize that telecommuting is an increasingly popular work option, but also note that it is generally offered by employers with a conditional agreement since there may be a number of legal issues under various federal and state laws to consider before permitting this privilege in each situation.

We do not agree that there is a need to include "telework" to this subsection. The proposed language broadens the scope of personal injuries covered and raises all kinds of legal questions that will cause delays in benefits for the employee, increasing costs to employers, and place an unreasonable burden on the workers' compensation system. We believe the existing statutes have adequately defined terms and provisions in place to insure that accidents arising out of and in the course of employment are eligible for benefits and protections as intended.

For these reasons, we respectfully oppose S.B. 2285 and request that this measure be held.

Thank you for this opportunity to submit testimony.