



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

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February 14, 2013

To: The Honorable Sylvia Luke, Chair,
The Honorable Scott Y. Nishimoto, Vice Chair,
The Honorable Aaron Ling Johanson, Vice Chair, and
Members of the House Committee on Finance

Date: Thursday, February 14, 2013
Time: 2:45 p.m.
Place: Conference Room 308, State Capitol

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

**Re: H.B. 922 H.D. 1 Relating to Medical Benefits
Under the Workers' Compensation Law**

I. OVERVIEW OF PROPOSED LEGISLATION

H.B. 922 H.D. 1 amends Section 386-21(c), Hawaii Revised Statutes (HRS), by allowing, rather than requiring, the Director to make a decision on disputes regarding treatment plans and continued medical services without a hearing, provided that both parties consent. The Director shall make a decision within thirty days of the filing of a dispute between an employee and the employer or the employer's insurer. This bill will sunset on June 30, 2015.

The department supports this Administration measure, as it will allow the director to better meet the thirty-day deadline in issuing treatment plan and medical decisions.

II. CURRENT LAW

When a dispute is filed regarding a proposed treatment plan or whether medical services should be continued, the director is required to make a decision within thirty days of the filing of the dispute. Section 386-86, HRS, requires a hearing be held for all decisions issued. Due to the reduction of staff as a result of budget cuts and retirements, it currently takes three to four months to schedule a treatment plan or medical services hearing, notice the parties, conduct the hearing, and render a decision.

This bill will allow the director to better meet the thirty-day deadline to issue a decision with or without a hearing for treatment plans and discontinuance of medical services decisions.

III. COMMENTS ON THE HOUSE BILL

This measure will allow injured workers, insurance carriers, and employers to receive more prompt decisions as to whether medical services will continue or whether a treatment plan will be approved or denied. This measure will also reduce the number of hearings scheduled, allowing other hearings to be scheduled more quickly.

HOUSE OF REPRESENTATIVES
THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2010

COMMITTEE ON FINANCE

Rep. Sylvia Luke, Chair
Rep. Scott Y. Nishimoto, Vice Chair
Rep. Aaron Ling Johanson, Vice Chair

Hearing: Thursday, February 14, 2013

Time: 2:45 p.m.

Place: Conference Room 308

TESTIMONY OF ILWU LOCAL 142 RE:
HB 922, HD 1, RELATING TO MEDICAL BENEFITS UNDER
THE WORKERS' COMPENSATION LAW

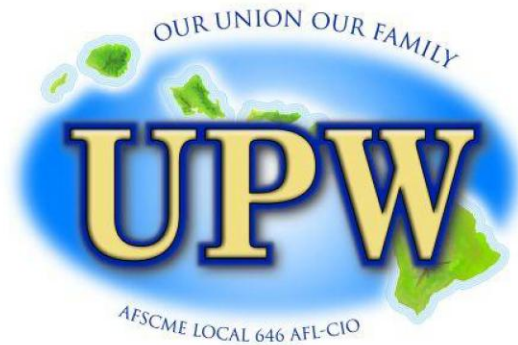
Chair Luke, Vice Chair Nishimoto, Vice Chair Johanson, Members of the Committee on Finance:

Thank you for the opportunity to present testimony regarding HB 922, H.D.1. This bill empowers the Disability Compensation Division ("DCD") of the Dept. of Labor and Industrial Relations ("DLIR") to decide disputed medical treatment issues without a hearing provided both parties consent. We support H.B. 922, H.D. 1 with its present amendments.

Very large demands have been placed upon the department in recent years to adjudicate a high caseload with less than adequate resources. It is therefore understandable that DCD should seek to adjudicate medical disputes without a hearing in an effort to expedite its decision making. However, determining whether medical care should be approved can be a complex matter which involves assessment of personal credibility, not merely a review of conflicting written physicians reports.

The right to a hearing before a person is deprived of property or liberty is an important principle of constitutional law as well as a sound administrative practice. Without attempting to engage in sophisticated or definitive legal analysis, it is apparent that employers and insurers may be constitutionally entitled to have a hearing before they are ordered to pay for medical treatment. Requiring the consent of both parties to make a decision without a hearing alleviates this constitutional concern entirely, yet will still reduce the administrative burden the department currently faces.

ILWU is pleased to support H.B. 922, H.D. 1 in its current form and urges its enactment as a sensible and constructive modification to existing law.



THE HAWAII STATE HOUSE OF REPRESENTATIVES
The Twenty-Seventh Legislature
Regular Session of 2013

COMMITTEE ON FINANCE

The Honorable Rep. Sylvia Luke, Chair
The Honorable Rep. Scott Nishimoto, Vice Chair
The Honorable Rep. Aaron Ling Johanson, Vice Chair

DATE OF HEARING: Thursday, February 14, 2013

TIME OF HEARING: 2:45 p.m.

PLACE OF HEARING: Conference Room 308

**TESTIMONY ON HB922 HD1 RELATING TO MEDICAL BENEFITS UNDER THE
WORKERS' COMPENSATION LAW**

By DAYTON M. NAKANELUA,
State Director of the United Public Workers, AFSCME Local 646, AFL-CIO

My name is Dayton M. Nakanelua and I am the State Director of the United Public Workers, AFSCME, Local 646, AFL-CIO (UPW). The UPW is the exclusive representative for approximately 11,000 public employees, which include blue collar, non-supervisory employees in Bargaining Unit 01 and institutional, health and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties. The UPW also represents about 1,500 members of the private sector.

The UPW supports HB922 HD1 that allows the Director of Labor and Industrial Relations to make a decision on disputes regarding treatment plans and continued medical services without a hearing, provided that both parties consent.

This measure will expedite the decision making process and reduce the number of hearings, allowing for more efficient scheduling and handling of disputes.

Thank you for the opportunity to testify.

TESTIMONY BEFORE THE HOUSE

COMMITTEE ON FINANCE

Thursday, February 14, 2013
2:45 p.m.

H.B. 922, HD1
RELATING TO MEDICAL BENEFITS UNDER WORKERS' COMPENSATION LAW

By Marleen Silva
Director, Workers' Compensation
Hawaiian Electric Company, Inc.

Chair Luke, Vice Chair Nishimoto, and Members of the Committee:

Hawaiian Electric Co. Inc., its subsidiaries, Maui Electric Company, LTD., and Hawaii Electric Light Company, Inc. **respectfully request an amendment of H.B. 922, HD1.** Our companies represent over 2,000 employees throughout the State.

This revised proposal amends Section 386-21(c), HRS allowing the Director of Labor and Industrial Relations to make a decision on disputes regarding proposed treatment plans or the continuation of medical services without a hearing "provided that both parties consent."

We appreciate the intent to promote collaboration to resolve disputes equitably and to eliminate unnecessary hearings when possible. We would like to suggest that this proposal be amended for clarification to allow the director to make a decision *without a hearing "upon the mutual consent of both parties."*

For these reasons, we respectfully request an amendment of H.B. 922, HD1 in committee.

Thank you for this opportunity to submit testimony.