

Honolulu, Hawaii
February 5, 2014

RE: H.B. No. 1961
H.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawaii

Sir:

Your Committee on Labor & Public Employment, to which was referred H.B. No. 1961 entitled:

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

begs leave to report as follows:

The purpose of this measure is to require independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians who are mutually agreed upon by employers and employees. This measure also permits the use of an out-of-state physician under certain circumstances.

The Department of Labor and Industrial Relations; ILWU Local 142; Hawaii State AFL-CIO; Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO; Hawaii Injured Worker Association; Work Injury Medical Association of Hawaii; and two individuals provided testimony in support of this measure. The Department of Human Resources Development; The Chamber of Commerce of Hawaii; Property Casualty Insurers Association of America; Hawaiian Electric Company, Inc.; Maui Electric Company, Ltd; Hawaii Electric Light Company, Inc.; King & Neel, Inc.; dck pacific construction, LLC; Hawaii Insurers Council; Healy Tibbitts Builders, Inc.; Royal Contracting Co., Ltd.; JADE PAINTING, INC.; Allied Machinery Corp.; Hawthorne Pacific Corporation; Ralph S. Inouye Co., Ltd; PDCA of Hawaii Workers' Compensation Self-Insurance Group; S & M Sakamoto, Inc.; LYZ, Inc.; Atlas Insurance Agency; General Contractors Association of Hawaii; TOMCO CORP.;

HB1961 HD1 HSCR LAB HMS 2014-1540-1



Society for Human Resource Management, Hawaii Chapter; Building Industry Association of Hawaii; Hawaii Independent Insurance Agents Association; FOREST CITY HAWAII; JR Construction; and an individual provided testimony in opposition to this measure. The National Association of Mutual Insurance Companies provided comments on this measure.

While a majority of independent medical examinations for workers' compensation claims are performed by physicians who are mutually agreed upon by employers and employees, the percentage of these examinations that are not performed by physicians who are mutually agreed upon become increasingly problematic and require a disproportionate amount of time and resources. This results in increased costs of workers' compensation and diminishes a participant's level of care and satisfaction due to unnecessary delays in service. This measure seeks to provide a level playing field in the instance when a mutual agreement is not possible between the employer and employee.

Your Committee has amended this measure by:

- (1) Specifying that if the parties are unable to reach a mutual agreement regarding the selection of a physician to conduct an independent medical examination or permanent impairment rating examination within five working days, the employee and employer shall jointly prepare a list of five physicians, and that within the five-working-day period:
 - (A) The employee shall appoint the first physician and the employer shall appoint the second physician, and the process shall continue until there is a list of five physicians; and
 - (B) The employer shall strike the first physician and the employee shall strike the second physician and the process shall continue until only one physician remains, who shall conduct the examination;
- (2) Requiring that when an employee is requested or ordered to undergo an independent medical examination, the employer provide notice approved by the Director of Labor and Industrial Relations that:



- (A) Informs the employee of the employee's rights and obligations with regard to independent medical examinations; and
 - (B) Provides the employee with instructions on how to participate in the process for independent medical examinations; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

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. 1961, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1961, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

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

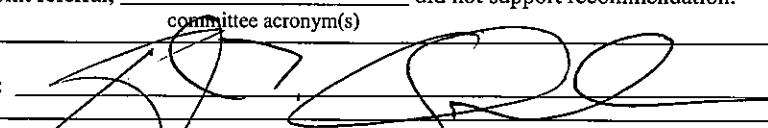


MARK M. NAKASHIMA, Chair



State of Hawaii
House of Representatives
The Twenty-seventh Legislature

Record of Votes of the Committee on Labor & Public Employment

Bill/Resolution No.: HB 1961	Committee Referral: LAB, CPC, F10	Date: 1-31-14		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" 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. NAKASHIMA, Mark M. (C)	/			
2. YAMASHITA, Kyle T. (VC)		/		
3. AQUINO, Henry J.C.	/			
4. HAR, Sharon E.				/
5. ICHIYAMA, Linda	/			
6. TAKAYAMA, Gregg	/			
7. ING, Kaniela		/		
8. TAKUMI, Roy M.	/			
9. YAMANE, Ryan I.				/
10. JOHANSON, Aaron Ling		/		
TOTAL (10)	5	3	-	2
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <small>committee acronym(s)</small>				
Vice Chair's or designee's signature: _____ 				
Distribution: Original (White) - Committee Duplicate (Yellow) - Chief Clerk's Office Duplicate (Pink) - HMSO				