

Honolulu, Hawaii  
February 14, 2014

RE: H.B. No. 1961  
H.D. 2

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

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred H.B. No. 1961, H.D. 1, entitled:

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

begs leave to report as follows:

The purpose of this measure is to ensure impartiality in medical examinations for workers' compensation claims.

More specifically, this measure:

- (1) Requires independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees; and
- (2) Allows for the use of an out-of-state physician under certain conditions.

The Hawaii Government Employees Association, ILWU Local 142, Work Injury Medical Association of Hawaii, and two individuals testified in support of this measure. The Department of Human Resources Development, Department of Human Resources of the City and County of Honolulu, Air Central Inc., Building Industry Association of Hawaii, General Contractors Association of Hawaii, Healy Tibbitts Builders, Inc., Heide & Cook LLC, King & Neel, Inc., Mechanical Contractors Workers' Compensation Self-Insurance Group, the National Federation of Independent Business Hawaii,



PDCA of Hawaii Workers' Compensation Self-Insurance Group, Society for Human Resource Management - Hawaii Chapter, Times Supermarkets, and Tomco Corp. testified in opposition to this measure. The Department of Labor and Industrial Relations, Hawaii Injured Worker Association, and the National Association of Mutual Insurance Companies submitted comments on the measure.

Your Committee finds that independent medical examinations for workers' compensation claims are conducted by physicians who are designated and paid by the employer. Because they are selected and paid by the employer, these physicians are often viewed as suspect by employees making workers' compensation claims. Your Committee also finds that this measure attempts to counter perceptions of bias by requiring 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.

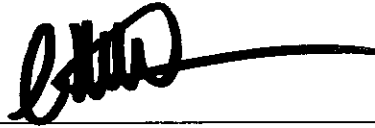
Your Committee finds that despite whatever solution is proposed, both sides decry favoritism toward the other. Your Committee respectfully requests that subsequent Committees to which this measure is referred consider amending the measure to establish a procedure to be followed when the parties cannot mutually agree upon a physician, whereby the name of a physician is randomly drawn from a hat.

Your Committee has amended this measure by changing the effective date to July 1, 2112, to facilitate further discussion on the measure.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1961, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 1961, H.D. 2.



Respectfully submitted on  
behalf of the members of the  
Committee on Consumer  
Protection & Commerce,



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ANGUS L.K. MCKELVEY, Chair



