

Honolulu, Hawaii
February 10, 2015

RE: H.B. No. 679
H.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawaii

Sir:

Your Committee on Labor & Public Employment, to which was referred H.B. No. 679 entitled:

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

begs leave to report as follows:

The purpose of this measure is to facilitate the workers' compensation in temporary total disability and temporary partial disability claims by:

- (1) Creating a late payment penalty applicable to an employer or insurance carrier who fails to pay temporary partial disability benefits within fourteen days after the end of the employee's work week;
- (2) Basing an employee's eligibility for temporary total or temporary partial disability benefits on certification from the attending physician every thirty days or by examination of the employee's medical records by another physician if the attending physician is unavailable; and
- (3) Allowing for contemporaneous and retroactive certification of an employee's disability status if the employee's condition has not reached medical stabilization or the employee is enrolled in vocational rehabilitation.



The ILWU Local 52 and two individuals testified in support of this measure. The Department of Human Resources, City and County of Honolulu; The Chamber of Commerce Hawaii; Hawaii Insurers Council; and Property Casualty Insurers Association of America testified in opposition to this measure. The Department of Labor and Industrial Relations, Department of Human Resources Development, National Association of Mutual Insurance Companies, and an individual commented on this measure.

Your Committee notes the Department of Labor and Industrial Relations' concerns regarding the requirement that an employee's eligibility for temporary total disability benefits or temporary partial disability benefits be determined by disability certifications from the employee's attending physician. This may result in the denial of an employee's statutorily-entitled temporary total disability or temporary partial disability benefits because of the attending physician's failure to timely certify dates of disability or other innocuous technicalities. This is inconsistent with the underlying policy of the workers' compensation statute to pay benefits on time. This intent was recently underscored by the Intermediate Court of Appeals in a December 31, 2014 opinion, Alayon v. Urban Mgmt. Corp., 134 Haw. 305, 339 P.3d 1106 (Haw. Ct. App. 2014).

Accordingly, your Committee has amended this measure by:

- (1) Removing the late payment penalty on the employer or insurance carrier who fails to pay temporary partial disability benefits within fourteen days after the end of the employee's work week; and
- (2) Making technical, nonsubstantive amendments for 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. 679, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 679, 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-eighth Legislature

HSCR 93

Record of Votes of the Committee on Labor & Public Employment

Bill/Resolution No.: HB 679	Committee Referral: LAB, CPC, FIN	Date: 2/6/15		
<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. KEOHOKALOLE, Jarrett (VC)	/			
3. AQUINO, Henry J.C.				/
4. HAR, Sharon E.		/		
5. ICHIYAMA, Linda	/			
6. JOHANSON, Aaron Ling	/			
7. LOPRESTI, Matthew S.	/			
8. SAN BUENAVENTURA, Joy A.	/			
9. TAKAYAMA, Gregg	/			
10. TAKUMI, Roy M.	/			
11. YAMASHITA, Kyle T.	/			
12. TUPOLA, Andria P.L.		/		
TOTAL (12)	9	2		1
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <div style="text-align: center; font-size: small;">committee acronym(s)</div>				
Vice Chair's or designee's signature: _____ 				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				