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February 2, 2017

TESTIMONY TO THE
SENATE COMMITTEE ON JUDICIARY AND LABOR
For Hearing on Tuesday, February 7, 2017
9:00 a.m., Conference Room 016

By

JAMES K. NISHIMOTO, DIRECTOR
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT

Senate Bill No. 969
Making an Emergency Appropriation to the
Department of Human Resources Development

TO CHAIRPERSON KEITH-AGARAN, VICE CHAIR RHOADS, AND MEMBERS OF THE COMMITTEE:

Thank you for the opportunity to testify in **strong support** of S.B. 969.

S.B. 969 makes an emergency appropriation of $1,700,000 to the Department of Human Resources Development ("DHRD") to pay claims as required by the Hawaii Workers' Compensation Law, Chapter 386, Hawaii Revised Statutes ("HRS").

Pursuant to Section 26-5, HRS, DHRD is responsible for administering the State's centralized, self-insured workers' compensation program, which covers all State Executive Branch agencies (except the Department of Education, University of Hawaii, and Hawaii Health Systems Corporation), the charter schools, the Hawaii Public Housing Authority, and the Legislature. Workers' compensation is a statutorily-mandated benefit which provides wage loss compensation, medical care, and other related benefits to employees who suffer a work-related injury or illness. Chapter 386, HRS, statutorily presumes that a claim for compensation is for a covered work injury unless the employer can show by substantial evidence that the injury is not work-related.

The primary driving force behind our increasing costs are medical care, services, and supplies, which have increased by 27% from FY11 to FY15, mirroring the 27% increase of DHRD's total overall workers' compensation costs in that period. DHRD's increasing costs are consistent with, and comparable to, all other employers in the State. According to the Department of Labor and Industrial Relations ("DLIR") Workers' Compensation Data Books for CY11 and CY15, medical costs for all Hawaii employers increased 21% in those five years and total workers' compensation costs increased at the exact same rate of 21%.

DHRD makes every effort to contain medical costs by carefully reviewing and auditing medical bills to ensure that we pay only for the medical care, services, and supplies that are related to the compensable work injury. We attend administrative hearings at DLIR to contest and adjudicate disputes over liability for controverted claims and/or for ongoing medical care. However, like all other employers in the State, we expect medical costs to continue to increase in light of recent administrative and court decisions, including the 2015 Hawaii Supreme Court decision, Pulawa v. Oahu Construction Co., Ltd., and Seabright Insurance Company, SCWC-11-0001019 (Hawai'i November 4, 2015) which liberalized the standard for medical treatment from "reasonable and necessary" to "reasonably needed" and allows claimants to "receive[ ] the opportunity for the greatest possible medical rehabilitation."

DHRD is also seeing increased costs for permanent partial disability ("PPD") benefits paid to our injured employees. While our PPD expenses are roughly half that of our medical costs, we also expect such costs to continue to increase because PPD benefits are statutorily calculated based on the State average weekly wage ("AWW") in the year of injury. Except for 2011, the State AWW has risen every year since 1973. Between 2000 and 2017, the AWW has increased 59.9% from $529 to $846. In terms of PPD benefits, this means that a permanent disability award for the same degree of impairment for a 2017 injury would cost employers 59.9% more than if the injury had occurred in 2000.

Without these additional funds, DHRD will not be able to pay for the medical care and other workers' compensation benefit costs incurred by our State employees who sustain injuries and illnesses while in the course and scope of their employment. If we are unable to pay these benefits, the workers' compensation law imposes penalties on employers who do not timely pay obligations, i.e., 20% penalty on unpaid TTD when due in addition to the amount owed, and 20% on compensation awarded.

Thank you for allowing DHRD to testify in **strong support** of S.B. 969.