

DAVID Y. IGE  
GOVERNOR



JAMES K. NISHIMOTO  
DIRECTOR

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DEPUTY DIRECTOR

**STATE OF HAWAII**  
**DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT**  
235 S. BERETANIA STREET  
HONOLULU, HAWAII 96813-2437

February 13, 2017

**TESTIMONY TO THE  
SENATE COMMITTEE ON JUDICIARY AND LABOR**

For Hearing on Tuesday, February 14, 2017  
9:00 a.m., Conference Room 016

BY

JAMES K. NISHIMOTO  
DIRECTOR

**Senate Bill No. 116**  
**Relating to Workers' Compensation**

(WRITTEN TESTIMONY ONLY)

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. 116.

The purpose of S.B. 116, is to appropriate funds for two full-time equivalent positions in the Disability Compensation Division ("DCD") of the Department of Labor and Industrial Relations ("DLIR").

The Department of Human Resources Development ("DHRD") has a fiduciary duty to administer the State's self-insured workers' compensation program and its expenditure of public funds.

DHRD believes that an additional hearings officer, with appropriation medical and legal training, and an office assistant for the DCD would markedly improve the DLIR's administration of workers' compensation claims in this State. DHRD believes that such additional positions would benefit all stakeholders in the workers' compensation system by allowing the DCD to expedite hearings, decisions, and resolutions of contested issues of compensability, medical treatment, vocational rehabilitation, and myriad other issues that arise in workers' compensation claims.

DAVID Y. IGE  
GOVERNOR

SHAN S. TSUTSUI  
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA  
DIRECTOR

LEONARD HOSHIJO  
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February 14, 2017

To: The Honorable Gilbert S.C. Keith-Agaran, Chair,  
The Honorable Karl Rhoads, Vice Chair, and  
Members of the Senate Committee on Judiciary & Labor

Date: Tuesday, February 14, 2017  
Time: 9:00 a.m.  
Place: Conference Room 016, State Capitol

From: Linda Chu Takayama, Director  
Department of Labor and Industrial Relations (DLIR)

**Re: S.B. No. 116 Relating to Workers' Compensation**

**I. OVERVIEW OF PROPOSED LEGISLATION**

This proposal seeks to appropriate for FY 2017-2018 one hearings officer III position in the Kona office of DLIR and one office assistant IV position in the Department's Disability Compensation Division's (DCD) Honolulu office.

The Department supports this measure that will help restore the capacity to conduct workers' compensation (WC) hearings in a timely manner in the Kona office and will further increase the ability of DCD to service claims processing in a timely manner. However, DLIR's support is contingent upon whether its passage negatively affects the priorities identified in the Governor's Executive Budget request.

**II. CURRENT LAW**

DCD is responsible for providing economic security and stability for Hawaii's workforce through education, enforcement, and adjudication of the WC, TDI, and PHC laws. To this end, the division's hearings branch is tasked with conducting necessary hearings to ensure parties are provided with the statutory and necessary benefits in compliance with the WC laws and ensuring the decisions are issued to the parties in a timely manner and in accordance with statutory guidelines.

The Kona office lost one of its two hearings officer positions during the Reduction-in- Force (RIF) in 2009, leaving that office with only one hearings officer to adjudicate the claim disputes in West Hawaii. Consequently, the Kona office is suffering delays in scheduling hearings causing inconvenience to all parties involved, delays in processing decisions within the 60 days mandated by section 386-86, HRS, and delays in processing and reviewing stipulations and settlement agreements.

### **III. COMMENTS ON THE SENATE BILL**

The Department supports this measure that will help restore the capacity to conduct timely workers' compensation (WC) hearings in the Kona office, and will further increase the ability of the Division to effectively service WC claims processing in Honolulu as long as its passage does not adversely affect the priorities identified in the Governor's Executive Budget request.

The estimated cost to fund the two positions is \$90,646. The cost differential from the amount cited in the bill (\$79,644) results from bargaining unit increases effective January 1, 2017, and the startup office costs that are necessary with newly created positions. The cost breakdown is as follows:

- Salary
  - Hearings Officer III     \$50,772
  - Office Assistant IV     \$29,340
- Current Expenses     \$1,034
- Equipment     \$9,500

DEPARTMENT OF HUMAN RESOURCES  
**CITY AND COUNTY OF HONOLULU**  
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KIRK CALDWELL  
MAYOR



CAROLEE C. KUBO  
DIRECTOR

NOEL T. ONO  
ASSISTANT DIRECTOR

February 14, 2017

The Honorable Gilbert S.C. Keith-Agaran, Chair  
The Honorable Karl Rhoads, Vice Chair  
and Members of the Committee  
on Judiciary and Labor  
The Senate  
State Capitol, Room 016  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Keith-Agaran, Vice-Chair Rhoads and Members of the Committee:

**SUBJECT: Senate Bill No. 116  
Relating to Workers' Compensation**

S.B. 116 appropriates funds for the hiring of two full-time positions within the State of Hawaii, Department of Labor and Industrial Relations, Disability Compensation Division (DCD), a Hearings Officer III for the division's Kona office and an Office Assistant IV for its Honolulu office. The funding provided by S.B. 116 will enable the DCD to carry out its mission in a more efficient and effective manner. The City and County of Honolulu, Department of Human Resources, fully supports the measure.

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read "Carolee C. Kubo".

*for* Carolee C. Kubo  
Director

cc: Mayor's Office



**Testimony to the Senate Committee on Judiciary and Labor  
Tuesday, February 14, 2017 at 9:00 A.M.  
Conference Room 016, State Capitol**

**RE: SENATE BILL 116 RELATING TO WORKERS' COMPENSATION**

Chair Keith-Agaran, Vice Chair Rhoads, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **supports** SB 116, which appropriates funds for 2 FTE positions in the disability compensation division of DLIR.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,600+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

We support these resources being added to the department to increase the timeliness and efficiency of processing workers compensation related matters. These additional resources will help employees get back to work quicker which is both good for employees and employers.

Thank you for the opportunity to testify.



## HAWAII CHAPTER - AMERICAN PHYSICAL THERAPY ASSOCIATION

(800) 554-5569 x13 • [www.hapta.org](http://www.hapta.org) • [info@hapta.org](mailto:info@hapta.org)

**SB 116, Relating to Workers' Compensation**  
**Senate JDL Committee Hearing**  
**Tuesday, Feb. 14, 2017 – 9:00 am**  
**Room 016**  
**Position: Support**

Chair Keith-Agaran, and Members of the Senate JDL Committee:

I am Gregg Pacilio, PT and Board President of the Hawaii Chapter of the American Physical Therapy Association (HAPTA), a non-profit professional organization serving more than 300 member Physical Therapists and Physical Therapist Assistants. Our members are employed in hospitals and health care facilities, the Department of Education school system, and private practice. We are movement specialists and part of the spectrum of care for Hawaii. We provide rehabilitative services for infants and children, youth, adults and the elderly. Rehabilitative services are a vital part of restoring optimum functioning from neuromusculoskeletal injuries and impairments.

The Disability Compensation Division is vital in carrying out the primary purpose of the WC statute - to provide prompt and appropriate medical care to injured workers. In particular, hearings officers who decide the appropriateness of medical treatment plans can facilitate the decisions in these cases, allowing the injured claimant to "move on". Reports of long delays in scheduling hearings make it necessary to return positions that were eliminated several years ago, and we feel that priority in staffing should be with the intent to address these delays.

Your support of SB 116 is appreciated. Thank you for the opportunity to testify. Please feel free to contact Derrick Ishihara, HAPTA's Workers' Compensation Committee Chair at (808) 221-8620 for further information.

## TESTIMONY OF ALISON UEOKA

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COMMITTEE ON JUDICIARY AND LABOR  
Senator Gilbert S.C. Keith-Agaran, Chair  
Senator Karl Rhoads, Vice Chair

Tuesday, February 14, 2017  
9:00 a.m.

### **SB 116**

Chair Keith-Agaran, Vice Chair Rhoads, and members of the Committee on Judiciary and Labor, my name is Alison Ueoka, President of the Hawaii Insurers Council. The Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately forty percent of all property and casualty insurance premiums in the state.

The Hawaii Insurers Council **supports** this bill. Adequate staffing, including hearings officers, is vital to the administrative process for workers' compensation and to resolve disputes as soon as possible. We believe an appropriation for one Kona hearings officer and one Honolulu office assistant is necessary and we urge the committee to pass this bill.

Thank you for the opportunity to testify.

The Twenty-Ninth Legislature  
Regular Session of 2017

THE SENATE

Committee on Judiciary and Labor  
Senator Gilbert S. C. Keith-Agaran, Chair  
Senator Karl Rhoads, Vice Chair  
State Capitol, Room 016  
Tuesday, February 14, 2017; 9:00 a.m.

**STATEMENT OF THE ILWU LOCAL 142 ON S.B. 116  
RELATING TO WORKERS' COMPENSATION**

The ILWU Local 142 supports S.B. 116, which appropriates funds for two FTE positions in the Disability Compensation Division of the Department of Labor and Industrial Relations.

The Disability Compensation Division has been short-staffed for several years. The hiring of the additional two positions will first, ensure that hearings are held in a more timely manner on the west side of the Big Island, and second, that there will be greater clerical support to help improve the efficiency of processing workers compensation cases on Oahu.

However, the real concern is the trend by employers to challenge compensation for injured workers, resulting in injured workers left in limbo waiting for medical treatment to help them return to gainful employment or being denied monetary compensation that would allow them to survive while they are not able to work.

The workers' compensation law was intended to be a no-fault law that provides compensation to workers who are injured in the course of their employment. In exchange, workers are prohibited from filing legal action against their employers. Yet, in recent years, employers have been using the tactic of denying liability in order to conduct an "investigation" of the claim, which often means hiring so-called independent medical examiners who are paid by the employer or the employer's insurance carrier and may not be entirely "independent" or unbiased.

The workers' compensation system requires a thorough evaluation and assessment to ensure that the original intent of the law is enforced and that injured workers are provided benefits and services to allow them to return to work. Delays that ultimately result in workers injured on the job no longer being gainfully employed and thus having to rely on government assistance is a gross injustice.

By allowing the additional staff positions provided in S.B. 116, the Department of Labor will be more able to effectively address the "inequality" within the workers compensation system, and administer the law as it was originally intended.

The ILWU urges passage of S.B. 116. Thank you for the opportunity to provide testimony on this matter.