



STATE OF HAWAII

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813

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February 28, 2009

To: The Honorable Karl Rhoads, Chair
and Members of the House Committee on Labor and Public Employment

Date: March 3, 2009
Time: 10:00 a.m.
Place: Conference Room 309, State Capitol

From: Darwin L.D. Ching, Director
Department of Labor and Industrial Relations

Testimony in OPPOSITION

to

S.B. 62 – Relating to Workers' Compensation

I. OVERVIEW OF CURRENT PROPOSED LEGISLATION

Senate Bill 62 proposes to require that independent medical examinations (“IMEs”) and permanent impairment rating examinations be subject to the following:

1. The IME and permanent impairment rating examination physician be selected by mutual agreement between the employer and employee; and
2. If no agreement can be reached, then to have the Department of Labor and Industrial Relations (“Department”) appoint a qualified physician licensed in the relevant medical specialty and willing to conduct the examination within 30 calendar days of the request

II. CURRENT LAW

Currently, section 386-79, HRS, specifies that the employee, when ordered by the director, shall submit to the examination by a qualified physician designated and paid by the employer. If an employee refuses to attend the examination, or obstructs in any way the examination, their rights to benefits will be suspended for the period during which the refusal or obstruction continues.

000014

III. SENATE BILL

The Department understands the intent of this bill is to provide an assurance of impartiality in the IME and rating examination process. However, the Department opposes this bill for the following reasons:

1. The IME process is an important part of the employers' discovery process to ensure proper treatment and that the costs they incur are justified. The employer will request an IME only when they have questions or concerns relating to the claimant's injury, or the propriety of attending physician's treatments. Requiring that the IME be chosen from a list provided by the director, if there is no mutual agreement, deprives the employers to choose their own expert witness.

The employer and insurance carrier pays for 100% of the cost of the IME and should be afforded the choice of the IME physician. The role of an IME physician is to evaluate the injury and/or treatment.

2. There are already safeguards in place for IMEs. Hawaii's workers' compensation law **requires full disclosure** of the IME report to the injured employee. This allows the treating physician, or the injured worker, to challenge the evaluation. The Department makes its decisions based upon the evidence provided by the opposing parties.
3. Proponents of this legislation believe that this change may decrease the adversarial nature that arises during disputes and eliminate the impression of bias in the IME. However, the Department is not convinced that this would decrease the adversarial nature of the IME and rating process, as there will always be situations in which claimants and employers will disagree. The IME process is the only vehicle available to the employer to support their position when challenging the injured worker's claim or the propriety of the attending physician's treatment.
4. The Department has concerns that this measure would be a detriment to the employee receiving good medical advice. There may not be an adequate number of physicians willing to have their names placed on the list due to the time constraints imposed on the doctors to respond and perform the examinations
5. The Department is concerned that this bill proposes that if an employee "unreasonably" refuses to submit to or obstructs an examination; the

employee's right to compensation shall be suspended. The bill gives no definition of what is considered "unreasonably."

The Department has concerns with having a permanent impairment rating conducted only when the **attending physician** determines the employee to be medically stable, and proposes a new definition of medical stability for the purposes of only this section. First, in some cases, treatment may go on indefinitely before the attending physician believes the employee's condition has stabilized. This will severely limit the employer's right to have a permanent impairment rating done to resolve the case expeditiously, if they have evidence from that the injured employee's condition may be stable. Secondly, this proposal defines "medical stability" to mean that the employee's medical condition is static and well stabilized. It is not clear what time period would equate to "well stabilized". Medical stability is defined in Chapter 386 Administrative Rules, section 12-10-1 to mean "that no further improvement in the injured employee's work-related condition can reasonably be expected from curative health care or the passage of time".

6. The Department also has concerns that additional funding for a position will be required to build and maintain a list of IME and rating physicians who would be willing to conduct these examinations and to coordinate with the employer the appropriate physician to conduct the IME. The Department would require at least one clerical position costing \$28,000 to implement this proposal.
7. The Department would like to note that the current process for selection and payment of an independent medical examiner has worked well for many years and correctly recognizes that employers, who bear the burden of paying workers' compensation benefits, should be responsible for the medical examination that assesses the employee's recovery progress.

LINDA LINGLE
GOVERNOR OF HAWAII



MARIE C. LADERTA
DIRECTOR

CINDY S. INOUE
DEPUTY DIRECTOR

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

February 27, 2009

TESTIMONY TO THE
HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
For Hearing on Tuesday, March 3, 2009
10:00 a.m., Conference Room 309

BY

MARIE C. LADERTA, DIRECTOR

**Senate Bill No. 62, S.D. 1
Relating to Workers' Compensation**

TO CHAIR KARL RHOADS AND MEMBERS OF THE COMMITTEE:

The purpose of S.B. No. 62, S.D. 1, is to amend Section 386-79 (a), Hawaii Revised Statutes, to require that independent medical examinations and permanent impairment rating examinations be performed by mutually agreed upon physicians. **The Department of Human Resources Development is strongly opposed to this bill and requests that it be held.**

An independent medical examination conducted by a physician of the employer's/insurance carrier's choice is the only tool that is available to us to address the statutory presumption, excessive treatment, and reasonableness of a surgical procedure. Amending the statute in this fashion would deprive us of a very fundamental right to discovery.

This bill is unnecessary as safeguards already exist in the statute. The injured employee receives a copy of the report and is afforded the opportunity to rebut it or correct any misinformation. This report is also sent to the injured employee's attending physician who is invited to comment on it.

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As written, the bill makes no allowances for evaluations to be performed by physicians whose specialties are not available in the State. It isn't clear how we would proceed under those circumstances. It also requires that the mutually agreed upon physician examine the employee within thirty days of selection. This appears to be unrealistic given that we often have to wait 90 days or more for an available appointment.

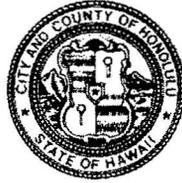
Lastly, the definition of medical stability in the bill is inconsistent with the definition in Section 12-10-1, of the Administrative Rules. The rule refers to curative care, passage of time OR when an employee refuses to undergo diagnostic tests or treatment. This would lead to the usage of different standards when determining medical stability for different purposes.

We do not believe that these amendments will serve to reduce the adversarial nature of certain disputes and will likely result in higher costs due to more claims being fully litigated. This would not be prudent given the State's current fiscal difficulties.

DEPARTMENT OF HUMAN RESOURCES
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 10TH FLOOR
HONOLULU, HAWAII 96813

MUFI HANNEMANN
MAYOR



KENNETH Y. NAKAMATSU
DIRECTOR

March 3, 2009

The Honorable Karl Rhoads, Chair
and Members of the Committee on Labor & Public Employment
State House of Representatives
Hawaii State Capitol
Honolulu, Hawaii 96813

Dear Chair Rhoads and Members:

RE: SENATE BILL NO. 62, SD1 RELATING TO WORKERS' COMPENSATION

The City and County of Honolulu strongly opposes Senate Bill No. 62, SD1 repealing Section 386-79 of the Hawaii Workers' Compensation Law and adding a new section entitled, **Medical examinations; selection of physicians**. This bill requires independent medical examinations and permanent impairment rating examinations to be performed by mutually agreed upon physicians. Although the vast majority of workers' compensation claims proceed without controversy or disagreement, there are claims where this cannot be avoided. The Hawaii Workers' Compensation Law permits a claimant to secure medical treatment from any physician practicing in the State of Hawaii. Occasionally questions arise concerning diagnosis, treatment, or disability status. While employers have no say in an employee's choice of physician, they currently have the right to obtain an opinion from a physician or specialist when questions arise concerning the progress of a claim. This bill greatly limits an employer's ability to obtain such independent examinations by mandating that only physicians agreed upon by claimants be used for employer requested medical examinations, or if both parties cannot reach a consensus, physicians assigned by the Department of Labor and Industrial Relations.

Hawaii's Workers' Compensation Law weighs heavily in favor of the claimant. Under the presumption clause, any claim filed is deemed compensable unless the employer presents substantial evidence to the contrary. During the hearing process at the Disability Compensation Division (DCD) and the Labor and Industrial Relations Appeals Board (LAB), issues of doubt are often resolved in favor of the claimant. The employer currently has the right to select an independent medical examiner to review a claimant's current medical progress. To change this as proposed is unfair and inequitable to employers. The DCD and LAB already provide the necessary checks and balances to ensure that employees are treated fairly, including limiting ordered medical examinations to one per case, while allowing employers to exercise their rights to review the progress of claims using independent medical examiners.

000019

The Honorable Karl Rhoads, Chair
March 3, 2009
Page 2

The 1995 Legislature enacted major reforms to the Hawaii Workers' Compensation Law resulting in hundreds of millions of dollars being saved over the last 12 years. The magnitude of the savings can be assessed using data from the State's Department of Labor and Industrial Relations Workers' Compensation Data Book, published annually (see Attachment I). In short, statewide workers' compensation costs 3 years prior to the reform averaged \$331 million annually. Workers' compensation costs for the 12 years immediately following the reform averaged \$253 million annually; a \$78 million annual savings. Put in the proper perspective, over the last 12 years the State of Hawaii saved \$936 million in workers' compensation costs as a result of the 1995 Legislative changes.

The Twenty-fifth Legislature's proposed changes to the Hawaii Workers' Compensation Law will inevitably increase the cost of workers' compensation in the State of Hawaii back to former high levels. In times of economic turmoil requiring fiscal austerity and innovative solutions, we do not believe this change is in the best interest of the people of our State and that it will further add to the already critical financial crises.

We respectfully urge your committee to file Senate Bill No. 62, SD1. The Hawaii Workers' Compensation Law already weighs heavily in favor of the claimant and the changes proposed by this bill further erode an employer's ability to efficiently and effectively manage claims.

Sincerely,



KEN Y. NAKAMATSU
Director of Human Resources

Attachment

000020

STATEWIDE WORKERS' COMPENSATION COSTS BY TYPE OF PAYMENT

| Type of Payment | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | Type |
|--------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------|
| TTD | 55,312,588 | 62,586,914 | 65,056,903 | 67,654,807 | 63,706,668 | 59,067,148 | 54,967,864 | 56,919,048 | TTD |
| TPD | 2,651,756 | 3,043,394 | 2,900,452 | 3,241,339 | 3,184,548 | 3,109,906 | 2,625,563 | 2,705,692 | TPD |
| PTD | 15,507,928 | 15,118,576 | 18,395,265 | 17,626,114 | 18,093,822 | 15,955,797 | 18,599,904 | 16,765,532 | PTD |
| PPD | 57,260,955 | 57,875,459 | 65,159,217 | 68,803,178 | 69,515,306 | 66,399,667 | 64,195,980 | 63,054,843 | PPD |
| Death | 1,962,684 | 2,735,802 | 2,360,809 | 2,325,041 | 2,148,014 | 2,010,782 | 2,182,528 | 3,052,391 | Death |
| Disfigurement | 1,309,482 | 1,357,202 | 1,562,803 | 1,625,475 | 1,524,271 | 1,314,094 | 1,480,269 | 1,263,750 | Disf |
| Voc Rehab | 5,629,397 | 5,802,764 | 6,325,020 | 6,432,282 | 6,114,837 | 5,063,253 | 4,868,366 | 4,561,823 | VR |
| Medical | 91,184,757 | 103,303,676 | 105,926,606 | 106,912,209 | 106,766,183 | 97,638,645 | 93,394,364 | 98,513,146 | Med |
| Attendant Services | 539,633 | 217,365 | 140,180 | 301,787 | 236,375 | 219,851 | 370,655 | 457,629 | AS |
| Total | 231,359,180 | 252,041,152 | 267,827,255 | 274,922,232 | 271,290,024 | 250,779,143 | 242,685,493 | 247,293,854 | Total |

Workers' Compensation Reform began July 1, 1995. Major changes were Medical Fee Schedule (Medicare plus 10%), treatment limits, second injury limits on PPD and part-time workers.

| Type of Payment | 1992 | 1993 | 1994 | 1995 | 1996 | 1997 | 1998 | 1999 | Type |
|--------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------|
| TTD | 75,124,541 | 83,443,021 | 80,281,234 | 70,875,583 | 61,054,623 | 57,366,809 | 53,356,078 | 51,550,709 | TTD |
| TPD | 2,335,548 | 2,769,212 | 3,072,057 | 2,774,293 | 2,829,674 | 2,825,736 | 2,878,552 | 2,743,336 | TPD |
| PTD | 13,600,845 | 11,232,499 | 19,763,997 | 15,497,510 | 17,618,587 | 16,716,542 | 15,714,253 | 15,830,200 | PTD |
| PPD | 69,506,346 | 76,270,234 | 81,865,987 | 95,125,484 | 93,619,941 | 72,453,667 | 64,909,092 | 57,124,045 | PPD |
| Death | 2,765,124 | 2,392,562 | 2,632,183 | 2,789,579 | 2,814,023 | 2,899,119 | 2,238,102 | 2,395,396 | Death |
| Disfigurement | 1,763,162 | 1,869,215 | 1,681,428 | 1,759,164 | 1,942,172 | 1,808,428 | 1,384,551 | 1,341,929 | Disf |
| Voc Rehab | 6,639,072 | 7,866,683 | 7,892,705 | 7,871,615 | 6,574,004 | 6,179,012 | 5,534,403 | 5,359,001 | VR |
| Medical | 115,960,185 | 137,740,829 | 145,500,111 | 129,125,665 | 101,664,903 | 94,424,669 | 87,019,208 | 85,513,448 | Med |
| Attendant Services | 307,956 | 178,355 | 390,071 | 303,969 | 376,739 | 241,389 | 190,286 | 198,250 | AS |
| Total | 288,002,779 | 323,762,610 | 343,079,773 | 326,122,862 | 288,494,666 | 254,915,371 | 233,224,525 | 222,056,314 | Total |

Source: Workers' Compensation Data Book, State of Hawaii, Department of Industrial Relations, Research and Statistics Office (1992 - 2007)

000021



**Testimony to the House Committee on Labor & Public Employment
Tuesday, March 3, 2009; 10:00 a.m.
Conference Room 309**

RE: SENATE BILL 62 SD1 RELATING TO WORKERS' COMPENSATION

Chair Rhoads, Vice Chair Yamashita and Members of the Committee:

My name is Jim Tollefson and I am the President and CEO of The Chamber of Commerce of Hawaii ("The Chamber"). The Chamber does not support SB 62 SD1, relating to Workers' Compensation.

The Chamber is the largest business organization in Hawaii, representing more than 1,100 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 its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

This measure requires independent medical examinations and Permanent Impairment Rating Examinations to be performed by mutually agreed upon physicians.

The Chamber has carefully reviewed the issues involving the IME process and continues to explore how to improve the process for the injured workers and employers. Although we understand the intent of the bill, the Chamber does not support this bill for the following reasons:

- 1) In many cases, there is a necessity to retain physicians in specialties outside of Hawaii to conduct an IME. The physician community should be consulted to establish appropriate procedural guidelines for conducting IMEs.
- 2) The IME process is an essential part of the employers' discovery process to ensure proper treatment and to justify incurred costs. The right for an employer to select the physician of its choice to determine whether or not an injury is work related should not be subjected to the delay and costs associated with this procedure.

The employer and insurance carrier pay for 100% of the cost of the IME, therefore should be afforded the choice of the IME physician. The employee chooses his or her treating physician, so we believe the employer should be able to obtain a second opinion for his or her protection. Furthermore, it is the employee's treating physician,

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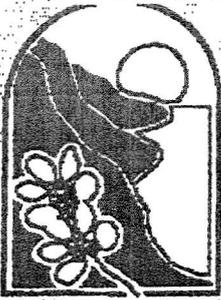
and not the IME physician, that is conducting the actual medical treatment. The IME physician's role is to evaluate the injury and treatment.

- 3) Proponents of this legislation believe that this change may decrease the adversarial nature that arises during disputes and eliminate the impression of bias in the IME. However, the vast majority of IMEs are conducted without incident or dispute. The opportunity for an employer IME can greatly enhance the likelihood of successful treatment and recovery.
- 4) Safeguards exist for IMEs. Hawaii's workers' compensation law requires full disclosure of the IME report to the injured employee. As a result, the employee will be able to determine whether the evaluation was accurate. If on the contrary, the employee or his or her personal physician will have the opportunity to contest the report.
- 5) The Department makes a determination based upon the evidence presented to the hearings officers. This bill appears to suggest that the IME report is the final say regarding the injured employee.

In summary, we believe the current system regarding independent medical examinations is working and that most IMEs occur by mutual agreement absent any statute. Only a very small percentage of workers' compensation claims require an ordered IME.

For these reasons, the Chamber does not support SB 62 SD1 and respectfully requests that the committee holds this measure.

Thank you very much for the opportunity to testify.



KAUAI

*Chamber
of
Commerce*

To: Fax: 1-800-535-3859 Testimony to the House Labor & Public Employment Committee --
Tuesday, March 3, 10:00 a.m. in Room 309

Chair Rhoads, Vice Chair Yamashita and members of the committee:
RE: SB 62, SD1 and SB 695, SD1 regarding Workers' Compensation

Aloha! My name is Randall Francisco and I am President of the Kauai Chamber of Commerce which represents 460 Kauai business members and, consists of approximately, 87% small businesses who reflect the island's business community. Of the chamber's membership, approximately, 8000 individuals are employees who are from the construction and tourism sectors, to agriculture, retail and defense industries, to name a few. On behalf of the Kauai Chamber of Commerce, I am writing to express the members **opposition of these bills for the following reasons:**

SB 62 SD1 requires independent medical examinations and Permanent Impairment Rating Examinations to be performed by mutually agreed upon physicians. In this free market system, it is unfair to allow one party to choose both the treating physician and the IME physician who will review the treating physician's plan. In order to balance the equation, the employer should have the right to select a physician to conduct the IME. Furthermore, it is the employer who pays for 100% of the cost of the IME physician and, it is part of the employers' discovery process to ensure that proper treatment and costs are justified.

SB 695 SD1 requires the employer to continue medical services to an injured employee despite disputes over whether treatment should be continued. This measure may lead to abuse and cause unreasonable and unnecessary treatment for unrelated work injuries, prolong time off the job, even if the employee is deemed able to return to his or her work. There are adequate safeguards within the statute and current practices to make sure that injured employees receive appropriate medical care. Businesses make every effort and go above and beyond to ensure a safe working environment for our employees, especially, on Kauai where we pride ourselves on our sense of community and taking care of each other.

It is unfair to pass legislation that is heavily in favor of one party over another. Furthermore, this is not the time to pass legislation that will further increase costs. Businesses are already hurting, jobs are being evaluated and scrutinized and, even lost, and the economy continues its downward spiral.

These measures will further increase the cost of workers' compensation premiums and the overall cost of doing business. I respectfully ask that you hold this measure.

Thank you for the opportunity to submit testimony and your consideration on behalf of the Kauai Chamber of Commerce membership. Should I be of any assistance, please do not hesitate to contact me directly at 245-7363 or email at randall@kauaichamber.org. Aloha.

Sincerely yours,

Randall Francisco

Randall Francisco
President

The mission of the Kauai Chamber of Commerce founded in 1913 is:
"To promote, develop and improve commerce, quality growth, and economic stability in the County of Kauai"

000024



Randy Perreira
President

HAWAII STATE AFL-CIO

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The Twenty-Fifth Legislature, State of Hawaii
House of Representatives
Committee on Labor and Public Employment

Testimony by
Hawaii State AFL-CIO
March 3, 2009

S.B. 62, SD1 – RELATING TO WORKERS' COMPENSATION

The Hawaii State AFL-CIO strongly supports S.B. 62, SD1 which requires independent medical examinations and permanent impairment rating examinations to be performed by physicians mutually agreed upon by employers and employees or appointed by the director of labor and industrial relations.

The purpose of this bill is to reduce workers' compensation costs and speed up their ability to return to work by selecting outside non-treating doctors who are mutually agreed upon.

Presently, injured employees are required to go to non-treating doctors who are selected by the employers or insurance carriers. Employees have absolutely no decision as to who the doctors will be, resulting in lack of trust when the medical reports are generated. In fact, there are doctors who are paid hundreds of thousands of dollars each year by insurance companies to perform medical examinations which raises a red flag and causes many to question the validity of the medical reports. As a result, unnecessary hearings are conducted, resulting in various delays causing higher costs for both the employers and insurance companies.

Most notably, S.B. 62, SD1 would reduce workers' compensation costs by eliminating the unnecessary struggles that exist between the employers and employees. It would require mutual cooperation when selecting a doctor to perform a medical examination. This helps ensure that a non-biased doctor who could potentially be paid hundreds of thousands of dollars is not selected.

Thank you for the opportunity to testify in support of S.B. 62, SD1.

Respectfully submitted,

Randy Perreira
President

THE HOUSE OF REPRESENTATIVES
THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2009

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Rep. Karl Rhoads, Chair
Rep. Kyle T. Yamashita, Vice Chair

Date: Tuesday, March 3, 2009
Time: 10:00 a.m.
Place: Conference Room 309, State Capitol

TESTIMONY OF ILWU LOCAL 142

RE: SB 62, SD 1, RELATING TO WORKERS' COMPENSATION

Thank you for the opportunity to present testimony regarding SB 62, SD 1.

The bill amends Section 386-79 HRS to require the mutual selection of examining physicians to conduct permanent impairment ratings for injured workers once they have attained medical stability. It also prohibits conducting both an independent medical examination under Section 386-79 HRS and a permanent impairment rating simultaneously without the consent of the injured worker.

HB SB 62, SD 1 is necessary to preserve the integrity of the permanent impairment rating process. Historically, the Disability Compensation Division has required mutual consent between the injured worker and the employer or insurer to insure that the physician examiner was impartial. Physicians jointly selected recognized that they were being hired to conduct objective assessment of permanent impairment, although their examinations were paid for by the insurance carrier, and it served to offset the enormous economic advantage insurers had in adjudication compared to individual employees.

In recent years, however, insurers have often bypassed the need for separate assessments of questions about medical treatment or basic coverage by combining independent medical examinations and permanent impairment ratings. Permanent impairment ratings were conducted with independent medical examinations even though an injured worker was still receiving curative medical treatment and had not reached medical stability. The insurer would compel attendance at independent medical examinations upon the threat of suspending compensation, and then ask questions not only about medical care and coverage, but would encourage the examining physician to predict in advance whether there would be permanent impairment, irrespective of whether the injured worker had attained medical stability.

Sometimes insurers would encourage a finding that an injured worker had no permanent impairment to try to subvert the employee's right to vocational rehabilitation, since a finding that an injured worker has, or may have, a permanent impairment is a necessary condition for receiving vocational rehabilitation under Section 386-25(b) HRS. SB 62, SD 1 seeks to end these

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kinds of abuses and to restore neutrality and objectivity to permanent impairment ratings. The measure will not require any added costs to administer but it will encourage the kind of balance and fairness that should always characterize workers' compensation adjudication.

We urge the adoption of this sensible and constructive bill.

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HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

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The Twenty-Fifth Legislature, State of Hawaii
Hawaii State Senate
Committee on Labor & Public Employment

Testimony by
Hawaii Government Employees Association
March 3, 2009

S.B. 62, S.D. 1 – RELATING TO
WORKERS' COMPENSATION

The Hawaii Government Employees Association supports the purpose and intent of S.B. 62, S.D. 1. We believe that employees injured on the job deserve to be evaluated by an impartial physician selected with their agreement. As drafted, the bill provides a reasonable alternative to selection of an impartial physician in the event no mutual agreement is reached and further identifies fair timelines for scheduling the examinations.

Thank you for the opportunity to testify in support of S.B. 62, S. D. 1

Respectfully submitted,

Nora A. Nomura
Deputy Executive Director



Hawaii State Chiropractic Association

P.O. Box 22668 Honolulu, HI 96823-2668
ph: (808) 926-8883 fx: (808) 926-8884

February 27, 2009

The House of Representatives
Committee on Labor & Public Employment
Chair Rep. Karl Rhoads
Vice Chair Rep Kyle Yamashita

Testimony for hearing
Date: Tuesday, March 3, 2009
Time: 10:45 pm
Conference Room 309

Chair Rhoads, Vice Chair Yamashita, and members of the committee

My name is Gary Saito and I am the President and Executive Director of the Hawaii State Chiropractic Association. We are in **strong support of the intent of SB 62 SD1.**

We believe that mutual agreement between the employer and the employee in selecting an IME physician is crucial to insuring that a truly impartial injury and disability evaluation is conducted.

Opposition to this bill would demonstrate that one of the parties means to prejudice the IME process and findings by depriving the other party an equal input in the selection of the examiner. IME examinations and impairment ratings must be done in the most impartial and professional manner by a truly independent examiner. The fairest way to insure this is to have all parties mutually agree on the IME examiner.

If this bill becomes laws, there will be fewer disputes over compensability and liability issues, it will be harder for either party to dispute the IME findings, and there will be fewer adjudicated cases at the Department of Labor. Instead, what we have today are unnecessary disputes, hostility between the employer and employee, more legal involvement, delays in providing appropriate treatments to injured employees, and burdens on the DCD hearings process.

A simple requirement that the employer and employee must agree on the IME examiner or PPD rating physician would remedy our current convoluted and contentious process.

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Page 2 of 2

Thank you for allowing us to provide comments on this bill.

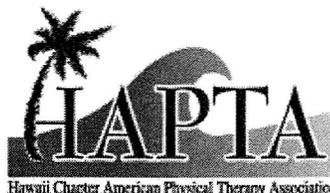
Sincerely,



Gary Saito, DC
President and ED, HSCA

000030

Testimony by:
Derrick Ishihara, PT
SB 62sd1, Workers' Compensation
House LAB Committee
Tuesday, March 3, 2009
Room 309, 10:00 am



Position: Support with Comment, Page 2, lines 7-9

Chair Rhoads and Members of the House LAB Committee:

I am Derrick Ishihara, P.T., a small business owner/physical therapist and member of HAPTA's Legislative Committee and member of the Hawaii Chapter – American Physical Therapy Association (HAPTA). HAPTA is comprised of 300 member physical therapists and physical therapist assistants employed in hospitals and health care facilities, the Department of Education and Department of Health systems, and private practice. Our members represent Hawaii at the national American Physical Therapy Association and are delegates for Pediatrics, Women's Health, Parkinson's Disease and other issue sections. We are part of the spectrum of care for Hawaii, and provide rehabilitative services for infants and children, youth, adults and the elderly. Rehabilitative services are a vital part of restoring optimum function from neuromusculoskeletal injuries and impairments.

We support the primary focus of this measure, and believe that we should collaboratively focus on the mutual and fair selection of IMEs. Such a process is needed whereby injured workers and the insurer can re-assess the medical care being given and the future needs of the injured employee in a fairer manner. Currently, the examining physician is selected by the employer/insurer. This process has led to confrontation and extreme distrust between the injured worker and the insurer.

Some opposed to this measure rightly state that a claimant dissatisfied with findings of an IME can appeal the findings in a Hearing at the DLIR. As we know, this process can take months to schedule and after the Hearing, weeks to months to receive a decision. For an injured worker in pain, even a few days without needed medical treatment can seem like an eternity.

Discussions with treating physicians and claimant attorneys reveal that much of the conflict between injured workers and insurers exist early in the process. Some insurers have denied initial medical care and diagnostic tests "pending investigation". We understand the insurers' need for discovery and do not object to this. However we fail to see how mutually selecting a physician to perform the IME denies them this tool. At the very least, we should use mutually selected physicians for the initial IME to get the needed medical care started and as currently practiced, a mutually selected physician to do the Permanent Partial Disability IME.

We anticipate that fair and impartial IMEs will lead to quicker resolution of cases as the injured party can get necessary care in a timely manner, potentially avoiding problems associated with chronic pain and disability. The insurer can also get slowly moving cases examined and recommendations made to resolve medical issues in a faster, more efficient manner, thus minimizing indemnity costs. Employers can get experienced employees back on the job and productive in less time. Hopefully, as the antagonistic nature of treating Workers Compensation cases improves, more qualified medical providers will return to the system and access to providers will improve for injured workers.

Page 2, lines 7-9 requires the IME doctor selected "...shall examine the employee within thirty calendar days of selection or appointment." We note that this might be a problem for physicians with busy practices who are already scheduled more than 30 days in advance.

Thank you for the opportunity to provide testimony. I can be reached at (808) 593-2610 if there are any questions.

TESTIMONY BEFORE THE HOUSE OF REPRESENTATIVES COMMITTEE ON

LABOR & PUBLIC EMPLOYMENT

Tuesday, March 3, 2009

10:00 a.m.

SB 62, SD1

RELATING TO WORKERS' COMPENSATION

By Marleen Silva

Director, Workers' Compensation

Hawaiian Electric Company, Inc.

Chair Rhoads, Vice Chair Yamashita and Members of the Committee:

Hawaiian Electric Co. Inc., its subsidiaries, Maui Electric Company, LTD., and Hawaii Electric Light Company, Inc. **strongly oppose S.B. 62, SD1.** Our companies represent over 2,000 employees.

This bill mandates that independent medical examinations (IME's) and permanent impairment rating examinations, be performed by physicians mutually agreed upon by the employer and the injured employee. We cannot support a bill that takes away an employer's fundamental right to select their own expert medical opinion, since the cost of the exam is at the employer's expense. The current statutes have safeguards in place to allow injured employees full disclosure of an employer's IME report, and the right to seek their own medical opinion if they disagree.

This bill also requires an unrealistic time frame for physicians selected from the Department of Labor and Industrial Relations list to perform the exam and complete their report. In practice, physicians are often booked over thirty days in advance. Given that we are an island community, the qualified physician pool is very limited here, and the bill does not make it possible to retain the expertise of specialists outside the State of Hawaii.

In addition, it provides a new definition for "medical stability" that is inconsistent with the definition contained in *The Guides to the Evaluation of Permanent Impairment, Sixth Edition*, currently used to evaluate permanent impairments.

We believe this bill is unnecessary. A majority of IME's are conducted under the current statutes without incident or dispute today. Permanent impairment rating examinations are also currently performed by mutual agreement between parties, without any mandate by legislation.

For these reasons, we strongly oppose S.B. 62, SD1 and respectfully request this measure be held.

Thank you for this opportunity to submit testimony.

000032



Representative Karl Rhoads, Chair
Senator Kyle Yamashita, Vice Chair
Committee on Labor

HEARING Tuesday, March 03, 2009
10:00 am
Conference Room 309
State Capitol, Honolulu, Hawaii 96813

RE: SB62, SD1, Relating to Workers' Compensation

Chair Rhoads, Vice Chair Yamashita, and Members of the Committee:

Retail Merchants of Hawaii (RMH) is a not-for-profit trade organization representing 200 members and over 2,000 storefronts, and is committed to support the retail industry and business in general in Hawaii. The retail industry is the one of the largest single employer in the state, employing 20% of the labor force.

RMH opposes SB62, SD1, which requires independent medical examinations and permanent impairment rating examinations to be performed by physicians mutually agreed upon by employers and employees or appointed by the director of labor and industrial relations.

We do not dispute that an injured worker should receive quality and appropriate medical care as long as required. From the employer's position, the IME process is a vital mechanism to ensure proper treatment for the injured employee and costs of the treatment incurred are justified. As a safeguard, the existing statute requires full disclosure to the injured worker of the IME report, which affords the treating physician and the injured employee the opportunity to challenge the evaluation.

Considering that the employer ultimately bears the entire cost of the IME, the choice of the IME justifiably should be the employer's.

The members of the Retail Merchants of Hawaii respectfully request that you hold SB62, SD1. Thank you for your consideration and for the opportunity to comment on this measure.

Carol Pregill, President

RETAIL MERCHANTS OF HAWAII
1240 Ala Moana Boulevard, Suite 215
Honolulu, HI 96814
ph: 808-592-4200 / fax: 808-592-4202

000033

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

GOVERNMENT RELATIONS TEAM:
GARY M. SLOVIN
CHRISTOPHER G. PABLO
ANNE T. HORIUCHI
MIHOKO E. ITO

ALII PLACE, SUITE 1800 • 1099 ALAKEA STREET
HONOLULU, HAWAII 96813

MAIL ADDRESS: P.O. BOX 3196
HONOLULU, HAWAII 96801

TELEPHONE (808) 547-5600 • FAX (808) 547-5880
info@goodsill.com • www.goodsill.com

INTERNET:
gslovin@goodsill.com
cpablo@goodsill.com
ahoriuchi@goodsill.com
meito@goodsill.com

MEMORANDUM

TO: Representative Karl Rhoads
Chair, Committee on Labor & Public Employment
Via: LABtestimony@Capitol.hawaii.gov

FROM: Anne T. Horiuchi

DATE: March 2, 2009

RE: S.B. 62, SD1 - Relating to Workers' Compensation
Hearing: Tuesday, March 3, 2009 at 10:00 a.m., Room 309

Dear Chair Rhoads and Members of the Committee on Labor & Public Employment:

I am Anne Horiuchi, testifying on behalf of the American Insurance Association (AIA). AIA represents approximately 350 major insurance companies that provide all lines of property and casualty insurance and write more than \$123 billion annually in premiums. AIA members supply 23 percent of the property/casualty insurance sold in Hawaii. The association is headquartered in Washington, D.C. and has representatives in every state. All AIA news releases are available at www.aiadc.org.

S.B. 62, SD1 requires independent medical examinations and permanent impairment rating examinations to be performed by physicians mutually agreed upon by employers and employees or appointed by the Director of Labor and Industrial Relations.

AIA **opposes** S.B. 62, SD1. AIA believes that the current system regarding independent medical examinations is well-established, and we believe that it is working. AIA is also concerned that requiring the selection of an IME physician by mutual agreement may delay the delivery of medical treatment in certain cases, and may also increase costs. AIA opposes S.B. 62, SD1, and respectfully requests that it be held.

Thank you very much for the opportunity to submit testimony on this measure.



HIIA

Hawaii Independent Insurance Agents Association

March 2, 2009

To: Representative Karl Rhoads, Chair
Representative Kyle T. Yamashita, Vice Chair
Committee on Labor & Public Employment

From: Sonia M. Leong, Executive Director
Hawaii Independent Insurance Agents Association

Re: SB 62, SD1 Relating to Workers Compensation
Hearing: Tuesday, March 3, 2009

The Hawaii Independent Insurance Agents Association (HIIA) **opposes** SB62, SD1 which would require Independent Medical Examinations (IME) and Permanent Impairment Rating Exams (PIRE) to be performed by mutually agreed upon physicians.

The law is intended to be impartial and fair and thus the law provides the Employee (Injured Claimant) the right to select his or her own primary care physician. On the other side of the justice scale, the Employer has the right of discovery to measure the progress of the Employee's treatment, medical stability & disability. Additionally, the Employee also has the right to challenge the IME findings.

While we are sympathetic to the claimant's needs, we also feel that the current law is working 98% of the time without statute intervention with approximately only 2% of the new and pending cases requiring an ordered IME. If the law is currently working, we feel that adding this requirement will cause more negative consequences like delays in services and increased cost of the claims.

HIIA is a non profit trade association of independent insurance producers dedicated to assisting the insurance buying public with their insurance needs. Many of our clients are business owners who will be directly affected if this bill should pass. As you are all aware, workers compensation is a very complex issue with so many interrelated factors that one change would tip the delicate balance. One not so obvious additional cost would be the extra expense of finding substitute employees to cover while the injured employee is unable to perform their job duties. This is a crucial additional expense for the small business.

Thank you for this opportunity to submit testimony.



HAWAII INJURED WORKERS ALLIANCE
715 SOUTH KING STREET SUITE #410
HONOLULU, HAWAII 96813

March 3, 2009

The Twenty-Fifth Legislature, State of Hawaii
Hawaii State House of Representatives
Committee on Labor and Public Employment

SB 62 HD1 requires independent medical examination to be performed by mutually agreed physician.

The Hawaii Injured Workers Alliance strongly supports this measure.

The purpose of this bill is to reduce workers' compensation costs and speed up their ability to return to work by selecting outside non-treating doctors who is mutually agreed upon.

HIWA believes that mutual agreement of an IME physician between the employer and the employee is the fairest way to insure impartial evaluation is conducted. Disability and impairment ratings must be done in the most impartial manner by truly independent examiner.

The passage of the mutually agreed IME bill (SB 62 SD1) will benefit both the injured workers and their employers.

Your passage of this bill would be greatly appreciated.

George M. Waialeale
Executive Director
Hawaii Injured Workers Alliance
383-0436

000036

TESTIMONY OF
ABC Stores

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
Rep. Karl Rhoads, Chair
Rep. Kyle T. Yamashita, Vice-Chair

Tuesday, March 03, 2009
10:00 A.M.
Conference Room 309

SB 62. SD1

Representatives Rhoads, Yamashita, and members of the House Committee on Labor and Public Employment, my name is Neil Y. Ishida, Director of Human Resources of ABC Stores. ABC Stores employs 900 residents in Hawaii.

I am opposed to SB 62, SD1 relative to the Workers' Compensation statutes because the bill will eliminate my right as an employer, to investigate potential fraud, abuse, and malingering.

Requiring the Dept. of Labor to appoint a physician will not benefit employers and injured workers because I believe that is inherently unfair to allow one party to choose both the treating physician and the IME physician. To balance the equation, the employer should have the right to select a physician to conduct the IME. Furthermore, it is the employer who pays for 100% of the cost of the IME physician and it is part of our discovery process to ensure proper treatment and that the cost is justified.

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This bill adds to the bureaucracy of the system and ultimately increase cost of claims and premiums. An increase in premiums will have an adverse effect on businesses especially during these tough times.

Legislators should focus on improving the delivery of benefits in these tough economic times. Ensuring the injured worker is treated appropriately should take precedent over creating delays in the process that will ultimately increase cost of doing business. Requiring IME physicians to adhere to the same protocol or obtain medical certification to conduct IMEs and PPD exams would ensure that the injured worker is receiving an impartial and thorough evaluation.

I respectfully request that this bill be held.

Yours very truly

Neil Y. Ishida

000038

March 2, 2009

HOUSE
The Twenty-fifth Legislature

Committee on Labor

HOUSE CHAIR: Representative Karl Rhoads
Vice Chair: Representative Kyle Yamashita

DATE: Tuesday March 2, 2009
TIME: 10 a.m.
PLACE: ROOM 309

Testimony in support of SB 62 SD 1

My name is Laurie Hamano, President of Vocational Management Consultants. We, signed below are vocational rehabilitation counselors in the community for the past 25 + years working with injured workers as well as members of Hawaii Injured Workers Alliance members, and International Association of Rehabilitation Specialists. We support SB 62 SD 1 as this bill supports the mutually agreed upon Independent Medical Evaluations. This will help the system by asking all the parties involved to agree upon a doctor to lessen the animosity that is set forth during these employer requested medical evaluations.

We have experienced the trauma with our injured workers who have been subjected to numerous IMES on their cases as they are told over and over by these Employer selected doctors that "there is nothing wrong with you; go back to work" only to find that they cannot return and either re-injure or are terminated from their jobs. These cases never receive the proper treatment that is needed to assist them to recover and return to productive lives. In turn, the case drags on for many more months than if the Injured Worker received the immediate care he/she needed to recover.

Thank you for this opportunity to provide our testimony to the committee and we urge you to pass this bill. All we ask is that the Injured Workers are treated fairly and with dignity.

Our address and phone number is:

715 S. King Street Suite 410
Honolulu, Hi 96813 #538-8733
Laurie H. Hamano M. Ed. CRC, MHC
Kirsten Harada, M. Ed. CRC, MHC
Patti Inoue, M. Ed. CRC, MHC
Beverly Tokumine, M. Ed. CRC, MHC
Percy Wong, M.Ed. CRC, MHC

000039

Vocational Management Consultants, Inc.
And
International Association of Rehabilitation Providers

000040

yamashita2 - Kristen

From: bill prucha [billprucha@bpcshawaii.com]
Sent: Friday, February 27, 2009 1:01 PM
To: LABtestimony
Subject: Comm on Labor & Public Employment/SB62 SDI

Importance: High

FROM: William F Prucha, MS, CRC

COMPANY: BPCS HAWAII

*Aloha **Committee on Labor & Public Employment:***

RE: HEARING, MARCH 3, 2009 at 10:00AM

RE: HB62, SDI

Please accept my testimony/comments in support of SB62.SDI

SB 62, SDI
(SSCR437)
Status

RELATING TO WORKERS' COMPENSATION.
Requires independent medical examinations and permanent
impairment rating examinations to be performed by physicians
mutually agreed upon by employers and employees or appointed by the
director of labor and industrial relations. (SDI)

LAB, FIN

Respected Legislators:

Having worked as a vocational rehabilitation counselor in the private sector for over 28 years, with extensive experience in the workers compensation/industrial injury rehab arena, I have seen ,and worked with, the impact on the individual, his family, the employer relationship and the overall rehabilitation effort when there is good communication and agreement on the various assessment providers. The process is smoother and claim resolution facilitated with the ongoing communication with, and respect for, the individual worker in this process of selection of the IME provider. Likewise, the stress and delay that results from an appointment of IME provider considered an advocate for the insurer promotes the adversarial relationship, prompting additional litigation and prolonging the claim in dispute.

Having an agree-upon IME provider, with the understanding of a limited appeals process, can facilitate this claim resolution, allowing the individual to get on with his/her life.

I support the proposed bill SB62.

For any additional information, please contact me at 808-575-7304

Respectfully submitted,



Bill Prucha, MS, CRC

BPCS Hawaii

Vocational Consultant

billprucha@bpcshawaii.com

000041

Phone: 808-575-7304
Cell: 808-276-5353
FAX: 808-575-5214
P.O. Box 80060
Haiku, Maui, HI 96708

"Do What You Can, With What You Have, Where You Are" - Theodore Roosevelt

yamashita2 - Kristen

From: mberkowitz@VocationOptions.com
Sent: Friday, February 27, 2009 1:31 PM
To: LABtestimony
Subject: Committee on Labor & Public Employment RE: SB62, SDI

FROM: Marcia Berkowitz, CRC, LMHC
COMPANY: Vocation Options

Committee on Labor & Public Employment:
RE: HEARING, MARCH 3, 2009 at 10:00AM
RE: SB62, SDI
Please accept my testimony/comments in support of SB62.SDI

Respective Representatives

I a vocational rehabilitation counselor residing on the island of Maui. I have worked the in the private sector rehabilitation field for several years. I support SB62. SDI . It seems reasonable for both sides to agree on the IME provider. If both sides are in agreement one side cannot say they were treated unfairly as they had no choice in the matter. This will facilitate claims moving forward rather than fueling the argument that an individual was treated unfairly and without due consideration.

I believe an agree-upon IME provider will assist in as well claim resolution, which is in the best interest of all parties concerned.

For the aforementioned reasons I support the proposed bill SB62.

Should you require additional information, please contact me at 808-242-1444.

Submitted by,

Marcia Berkowitz CRC LMHC

Vocation Options, LLC
Post Office Box 2
Kahului, Hawaii 96733

242-1444 - voice
298-4142 - cell
878-7436 - fax

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February 28, 2009

Committee on Labor and Public Employment
Chairman Rep. Karl Rhoads
Vice Chairman Rep. Kyle Yamashita

RE: Testimony in Support of the intent of SB62, SD1, SD1, Relating to
Workers' Compensation
Hearing, Tuesday, March 03, 2009 10:00 AM
Conference Room 309

FROM: James A. Pleiss, DC
2045 Main Street, Wailuku, Maui, Hawaii 96793
808-244-0312

Dear Chairman Rhoads, Vice Chair Yamashita, and Members of the Committee:

Thank you for the opportunity to testify in support of the intent SB62, SD1 which requires permanent impairment rating examinations be performed by physicians mutually agreed upon by employers and employees or appointed by the director of labor.

I have been performing independent medical evaluations (IME) and permanent partial disability (PPD) ratings in Hawaii since 1985. However, the majority of my practice is in the treatment of patients. I have performed in excess of 300 of these types of examinations. In my record reviews involved in those examinations, and of those IME/PPD ratings performed on my patients by others, those physicians who only perform IME/PPD examinations that do not have an active practice tend to be biased towards the entity that refers to them, namely the insurance companies and defense attorneys. In other words, if one only performs these examinations as their source of income, they tend to be inherently biased towards the referring party.

SB62, SD1 goes a long way to correct this situation. However, one problem is that injured workers have no way of knowing the qualifications of the doctors who perform these examinations.

In order to correct this, SB62, SD1 should be amended to allow only the director of labor to pick the PPD physician from a list of qualified examiners on a rotating basis. The choice of provider should be the same specialty as the treating provider. This will insure a fair and balanced assessment because there will be no incentive to provide a report that satisfies the referring entity. This law should also apply to independent medical examinations (IME) as well.

I also support the testimony of the Hawaii State Chiropractic Association.

Thank you for the opportunity to testify before your committee in support of the intent of SB62, SD1.

Sincerely

James A. Pleiss, DC

000044

yamashita1- Kathy

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 27, 2009 7:05 AM
To: LABtestimony
Cc: egreenia@hhsc.org
Subject: Testimony for SB62 on 3/3/2009 10:00:00 AM

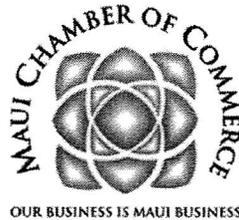
Testimony for LAB 3/3/2009 10:00:00 AM SB62

Conference room: 309
Testifier position: oppose
Testifier will be present: No
Submitted by: Earl Greenia
Organization: Kona Community Hospital
Address: 79-1019 Haukapila St Kealahou HI
Phone: 808-322-4433
E-mail: egreenia@hhsc.org
Submitted on: 2/27/2009

Comments:

If passed, this bill will increase the cost of workers' compensation rates and the overall cost of doing business.

LATE



Testimony for the Labor & Public Employment Committee
Conference Room 309, State Capitol
Tuesday, March 3, 2009 at 10am

Re: SB 62 SD1 and SB 695 SD 1

Dear Chair Rhoads, Vice Chair Yamashita and Members of the Committee:

The Maui Chamber of Commerce, a business organization whose mission it is to advance and promote a healthy economic environment for business, advocating for responsive government and quality education, while preserving Maui's unique community characteristics, opposes SB 62 SD1 and SB 695 SD 1 as they will increase the cost of doing business.

We are a membership driven organization comprised of over 900 members, 88% of which are small businesses with fewer than 25 employees, representing nearly 21,000 employees. Over the past couple of days, we surveyed our members to see how they felt about these two bills. As you can see from the attached survey, of the 101 members who took our survey, 98 oppose SB 62 SD 1 and all oppose SB 695 SD 1. Additionally, over 90 members chose to add their names to our testimony and share their opposition of these bills with you.

SB 62 SD1 is a measure that requires independent medical examinations and Permanent Impairment Rating Examinations to be performed by mutually agreed upon physicians.

We believe it is inherently unfair to allow one party to choose both the treating physician and the IME physician who will review the treating physician's plan. Therefore, to balance the equation, the employer should have the right to select a physician to conduct the IME. Furthermore, it is the employer who pays for 100% of the cost of the IME physician and it is part of our discovery process to ensure proper treatment and that the costs are justified.

SB 695 SD1 requires the employer to continue medical services to an injured employee despite disputes over whether treatment should be continued. This measure may lead to abuse and cause unreasonable and unnecessary treatment for non-related work injuries, and prolong time off the job, even if the employee is deemed able to return to his or her work. We believe there are adequate safeguards within the statute and current practices to make sure that injured employees receive appropriate medical care. Businesses make every effort and go above and beyond to ensure a safe working environment for their employees.

It is unfair to pass legislation that heavily tips in favor for one party and not the other. Furthermore, this is not the time to pass legislation that will further increase business costs. If businesses hurt, jobs will be lost, and the economy will continue to spiral down.

These measures, if passed, will increase the cost of workers' compensation premiums and the overall cost of doing business. Therefore we ask you hold this measure so that it does not move forward.

Sincerely,
Pamela Tumpap
President

000046

Maui Chamber of Commerce Members' Survey

Legislative Action - Oposing Work Comp Bills That Increase Costs Results Overview



Date: 3/2/2009 4:55 PM PST
Responses: Completes
Filter: No filter applied

1. The House will review two Workers Compensation bills, SB 62 and SB 695, on Tuesday that will increase the cost of doing business. Do you OPPOSE Work Comp bills that increase the cost of doing business?

| | | | |
|-------|-------------------------------------|----|------|
| Yes | <input checked="" type="checkbox"/> | 96 | 97% |
| No | <input type="checkbox"/> | 3 | 3% |
| Total | | 99 | 100% |

2. The Maui Chamber of Commerce OPPOSES SB 62 SD1 as it requires independent medical examinations and Permanent Impairment Rating Examinations to be performed by mutually agreed upon physicians. We believe it is inherently unfair to allow one party to choose both the treating physician and the IME physician who will review the treating physician's plan. Therefore, to balance the equation, the employer should have the right to select a physician to conduct the IME. Furthermore, it is the employer who pays for 100% of the cost of the IME physician and it is part of our discovery process to ensure proper treatment and that the costs are justified. Do you agree with our position and OPPOSE this bill?

| | | | |
|-------|-------------------------------------|-----|------|
| Yes | <input checked="" type="checkbox"/> | 98 | 98% |
| No | <input type="checkbox"/> | 2 | 2% |
| Total | | 100 | 100% |

3. The Maui Chamber of Commerce OPPOSES SB 695 SD1 which would require the employer to continue medical services to an injured employee despite disputes over whether treatment should be continued. This measure may lead to abuse and cause unreasonable and unnecessary treatment for non-related work injuries, and prolong time off the job, even if the employee is deemed able to return to his or her work. We believe there are adequate safeguards within the statute and current practices to make sure that injured employees receive appropriate medical care. Furthermore, businesses make every effort and go above and beyond to ensure a safe working environment for their employees. Do you agree with our position and OPPOSE this bill?

| | | | |
|-------|-------------------------------------|-----|------|
| Yes | <input checked="" type="checkbox"/> | 100 | 99% |
| No | <input type="checkbox"/> | 1 | 1% |
| Total | | 101 | 100% |

4. We believe it is unfair to pass legislation that heavily tips in favor for one party and not the other and this is not the time to pass legislation that will further increase business costs. If businesses hurt, jobs will be lost, and the economy will continue to spiral down. Do you agree with our position that legislators should OPPOSE or HOLD these measures so that they do not move forward?

| | | | |
|-------|-------------------------------------|----|------|
| Yes | <input checked="" type="checkbox"/> | 98 | 99% |
| No | <input type="checkbox"/> | 1 | 1% |
| Total | | 99 | 100% |

000047

3/2/2009

**Legislative Action - Oposing Work
Comp Bills That Increase Costs
Results Overview**



Date: 3/2/2009 4:54 PM PST
Responses: Completes
Filter: No filter applied

5. Please provide your company name so legislators can hear from their constituents and understand how businesses feel about these bills.

| # | Response |
|----|---|
| 1 | Pacific Rim Land, Inc. |
| 2 | Paradise Self Storage |
| 3 | CJ'S Deli & Diner LLC / Comfort Zone Catering LLC |
| 4 | Maui Dive Shop |
| 5 | Honua 'ula Partners, LLC |
| 6 | Maui Global Communications Corp |
| 7 | Gilbert & Associates |
| 8 | Peter H. Fay, DMD |
| 9 | Paradise Flower Farms, Inc. |
| 10 | Four Star Mortgage Corp. |
| 11 | Maui Vacation Properties / Windsurfing West Ltd. |
| 12 | The Westin Maui Resort & Spa |
| 13 | scuba shack maui |
| 14 | Shore to Shore Realty, Inc. |
| 15 | Maui Publishing Company |
| 16 | Haynes Publishing Group, Inc. |
| 17 | Kilakila Employer Services Inc. |
| 18 | Aloha International Employment |
| 19 | Paradise Sandal Co. |
| 20 | deBeer Realty |
| 21 | The Mortgage Store, Inc |
| 22 | A Simply Elegant Wedding |
| 23 | Araki-Regan & Associates, LLC |
| 24 | Workforce Assurance LLC |
| 25 | Trading Places International |
| 26 | Kahana Falls Resort |
| 27 | Napili Kai Beach Resort |
| 28 | Maui Plastics |
| 29 | Joanne Foxxe, Real Estate at Kapalua Realty |
| 30 | AAAAA RENT A SPACE |
| 31 | Lahaina Inn |

000048

3/2/2009

| | |
|----|--|
| 32 | TREB Maui Inc |
| 33 | Keller Williams Realty |
| 34 | Hawaiian Island Weddings, Inc. |
| 35 | Bay Realty, Inc |
| 36 | L'AMOUR WEDDING / BRIDAL SALON |
| 37 | Myles Kawakami, President, Hawaiian Carpet/Ceramic |
| 38 | Wailea Community Association |
| 39 | Wailea Realty Corporation |
| 40 | Maui Land & Pineapple Company, Inc. |
| 41 | The Wright Company, LLC |
| 42 | Michael Kern maui Chamber |
| 43 | Poelman & Langa |
| 44 | Pollis Mexican Restaurant |
| 45 | Bello Realty, Inc. |
| 46 | Island Essence, Inc. |
| 47 | The Wharf Cinema Center - Shops & Restaurants |
| 48 | TC KOKUA |
| 49 | Koali Ranch, Inc. |
| 50 | Oxford International, Inc. |
| 51 | Sakamoto Properties |
| 52 | Warren & Annabelle's |
| 53 | Ruth's Chris Steak House Wailea |
| 54 | Horizon Financial LLC |
| 55 | Friends of the Children's Justice Center of Maui |
| 56 | Maui Oma Coffee Roasting Co. |
| 57 | Jim Worley - Pali Kai Inc. |
| 58 | THE MAUI CLOSET COMPANY |
| 59 | west maui sports and fishing supply |
| 60 | Aloha Recycling |
| 61 | Maui Tech Guru |
| 62 | Maui Tech Guru |
| 63 | HAWAIIAN CLASSIC PERFUMES, INC. |
| 64 | Food For The Soul LLC. |
| 65 | Catering From Soup to Nuts, Inc./Chefg@maui.net/ |
| 66 | Gina On Maui, LLC |
| 67 | maxwell design group |
| 68 | V.I.P. Services Inc |
| 69 | Surf Rents Trucks |
| 70 | Construction Enterprises, Inc. |
| 71 | Image Station, Inc. dba Maui Giclee |
| 72 | Cook Kwee's Maul Cookies |

000049

3/2/2009

| | |
|----|--|
| 73 | Rosemaui Communication Ent. |
| 74 | Haleakala Bike Co.,. |
| 75 | maui potato chips |
| 76 | aloha kia |
| 77 | Robert H. Dein, Centruy 21 All Islands |
| 78 | Birken & Bailey's Boutique |
| 79 | The Pet Shop, Inc. |
| 80 | Maui Process Technologies LLC |
| 81 | Maui Speed Print Inc. |
| 82 | Global Business Solutions, LLC |
| 83 | Su-Su's Inc. |
| 84 | Watanabe Vegetable Processing LLC |
| 85 | The Love Shack, Kihei |
| 86 | Bug Man Termite & Pest Control Inc. |
| 87 | VIP Foodservice |
| 88 | Uncle Louie Sausage Co., Inc. |
| 89 | Maui Ocean Center, Inc. |
| 90 | Pacific Dive |
| 91 | Workforce Assurance LLC |
| 92 | Four Seasons |
| 93 | JERRY GRIGORY PHOTOGRAPHY |
| 94 | The Majestic Corporation Of Maui, Inc |

Concerned Citizens

Same Written Testimony in Opposition to: SB 62 and SB 695

(See attached for a sample of the written testimony. All testimony will be available online.)

| | First Name | Last Name | Title/Position | Company |
|----|-------------------|------------------|-----------------------------|-----------------------------------|
| 1 | Traci | Downs | President & CCO | Archinoetics, LLC |
| 2 | Kathy | Dang | | Marsh |
| 3 | Joshua | Joyce | | Terminix |
| 4 | Thomas | Grimes | | Aloha Gas |
| 5 | Eric | England | | |
| 6 | Glenn | Muranaka | | Dean Foods |
| 7 | Rocco | Sansone | | Marsh |
| 8 | Matt | Riel | | AES |
| 9 | Neil | Ishida | | ABC Stores |
| 10 | Donn | Takaki | | Hawktree |
| 11 | Mike | Sands | | Resort Quest Hawaii |
| 12 | Benjamin | Ventura, PhD | | Wal-Mart |
| 13 | John | Leary | | Island Demo |
| 14 | Stephen | Hopkins | | Hopkinsoptions, LLC |
| 15 | Shelley | Homecare | President | Wilson Homecare |
| 16 | Lisa | Daijo | | Express Pros |
| 17 | Louis | Darnell | Vice President | Makai Communitions |
| 18 | Louis | Darnell | President & Founder | ComTel |
| 19 | Ken | | | Kai Hawaii |
| 20 | Ka'eo | Gouveia | | Mokulua Contracting, LLC |
| 21 | JoAnn | Yee | | Avalon Hawaii |
| 22 | Kawika | Kane | | |
| 23 | Kent | McConnell | | ADP |
| 24 | Grace | Ordonio | Director of Finance | Marriott's Ko Olina Beach Club |
| 25 | Debbie | Padello | | Altres |
| 26 | Darrel | Tajima | | Dean Foods |
| 27 | Maile | Romanowski | | Jas. W. Glover, Ltd. |
| 28 | L. | Wong | | |
| 29 | Edgar | Gum | | Vacation Club |
| 30 | Henrique | Regina | Assist. Executive Director | Wayland Baptist University |
| 31 | Carol | Furtado | Director of Human Resources | King Auto Group, Kauai & Oahu |
| 32 | Patrick | Bustamante | President | Pacific LightNet Communications |
| 33 | Dennis | Kennedy | | Business Factoring Hawaii |
| 34 | Noelle | Condon | | Consumer Service Analysis, Inc. |
| 35 | Ruby | Sarmiento | | Water Group |
| 36 | Jeremiah | Sarmiento | | Water Group |
| 37 | Marc | Okumura | | Asipacific |
| 38 | | | | Britton Gallery |
| 39 | Lillian | Sakane | | HMSHost |
| 40 | Joanna | Amberger | | Financial Group |
| 41 | Brad | Dechter | President | Dependable Hawaiian Express, Inc. |
| 42 | RC | Murphy | | SOI Engagements |

| | | | | |
|----|-----------------|----------|-----------------------------|----------------------------------|
| 43 | George | Naito | | Sylvan Mililani |
| 44 | K. | Okamura | | |
| 45 | Eileen | Caldwell | Director of Human Resources | Sheraton Maui Resort & Spa |
| 46 | Edwin & Rebecca | Gonzales | | Gecko Enterprises, Inc. |
| 47 | Chris | Robbins | | CocHawaii |
| 48 | Charle | | | Aloha Nursing |
| 49 | Melinda | Momoki | | Island Title Corporation |
| 50 | Sai | Chantavy | | Maunalani Nursing & Rehab Center |
| 51 | Kevin | Roberts | President and CEO | Castle Medical Center |
| 52 | Trina | Sakuma | | Prada |
| 53 | Niki | Doyle | General Manager | Hard Rock Café |
| 54 | Michael | Rabe | President | Creations in Catering |
| 55 | J. | Toth | | NetEnterprise Inc. |
| 56 | Robert | Pereira | President | Midas Hawaii |
| 57 | H. | Hartmann | | Paragon Metals |
| 58 | Tim | Forkner | | DHX |
| 59 | P. | Sammer | | |

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yamashita2 - Kristen

From: traci@archinoetics.com
Sent: Friday, February 27, 2009 5:11 AM
To: LABtestimony
Subject: Take Action Now

Traci Downs
700 Bishop Street, Suite 2000
Honolulu, HI 96813-4120

Testimony to the House Labor & Public Employment Committee Tuesday, March 3 10:00 a.m. in Room 309

From: Traci H. Downs
President & COO
Archinoetics, LLC

RE: SB 62 and SB 695 re Workers' Compensation

Chair Rhoads, Vice Chair Yamashita and members of the committee:

I respectfully request that you do not pass SB 62 SD1 and SB 695 SD1, both relating to Workers' Compensation.

SB 62 SD1 measure requires independent medical examinations and Permanent Impairment Rating Examinations to be performed by mutually agreed upon physicians.

I believe that it is inherently unfair to allow one party to choose both the treating physician and the IME physician who will review the treating physician's plan. Therefore, to balance the equation, the employer should have the right to select a physician to conduct the IME. Furthermore, it is the employer who pays for 100% of the cost of the IME physician and it is part of our discovery process to ensure proper treatment and that the costs are justified.

SB 695 SD1 requires the employer to continue medical services to an injured employee despite disputes over whether treatment should be continued. This measure may lead to abuse and cause unreasonable and unnecessary treatment for non-related work injuries, and prolong time off the job, even if the employee is deemed able to return to his or her work. I believe there are adequate safeguards within the statute and current practices to make sure that injured employees receive appropriate medical care. Businesses such as mine make every effort and go above and beyond to ensure a safe working environment for our employees.

It is unfair to pass legislation that heavily tips in favor for one party and not the other. Furthermore, this is not the time to pass legislation that will further increase costs. If businesses hurt, jobs will be lost, and the economy will continue to spiral down.

These measures, if passed, will increase the cost of workers' compensation premiums and the overall cost of doing business. Thus, I respectfully ask that you hold this measure.

Thank you for the opportunity to submit testimony.

Sincerely,
Traci Downs