

LATE

House of Representatives  
The Twenty-Fifth Legislature  
Regular Session 2009

Committee on Labor & Public Employment

Rep. Karl Rhoads, Chair

Rep. Kyle Yamashita, Vice Chair

DATE: Tuesday, March 17, 2009

TIME: 8:30 a.m.

PLACE: Conference Room 309

**TESTIMONY OF THE UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO  
ON SB 63, SD2, RELATING TO WORKERS' COMPENSATION**

SB 63, SD2 requires an employer to pay temporary total disability benefits to an injured worker regardless whether the employer controverts the right to benefits. Termination of such benefits can only be made by the DLIR Director, or if the treating physician determines the employee is able to resume work and the employer has made a bona fide offer of suitable work.

**The United Public Workers, Local 646, supports this measure.**

Too often, injuries are ignored by insurers and benefits to deserving claimants are denied or terminated without good cause. Weeks even months may go by without appropriate medical care and TTD benefits, which results in financial hardship on workers and their families. This disruption is counterproductive and is a serious impediment to the cost-effective treatment and recovery of injured workers.

This bill ensures that injured workers get the timely medical services that our workers' compensation system was created to provide. We urge the passage of SB 63, SD2.

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Testimony in STRONG OPPOSITION to SB 63 SD2

RELATING TO WORKERS' COMPENSATION

Presented to the House Committee on Labor and Public Employment  
For the public hearing 8:30 a.m. Tuesday, March 17, 2009  
Conference Room 309, Hawaii State Capitol

Submitted by David H. Rolf, for the Hawaii Automobile Dealers Association  
Hawaii's franchised new car dealers

Chair Rhodes and members of the committee:

We respectfully must oppose this measure because of the encouragement that it fosters for abuse of the system.

As you may know, workers' compensation is known as "the compensation bargain" whereby a worker gives up the opportunity for recourse outside the worker compensation system in exchange for assured limited coverage for injury incurred during work.

The system lends itself to abuse, and this bill would foster more of such.

Just as the financial meltdown occurred because of banks granting loans to customers on their "stated income" (without any proof), so this bill grants 70% of salary to an employee based, for example, on "stated back pain."

I am familiar with a large company in Hawaii, which went out of business, by the way, which had to deal with frequent claims of "back pain" filed immediately before temporary 1-month closures of the plant due to lack of need for the company's product.

The company, with 80 employees, paid \$1 million per year in workers comp, average \$12,500 per employee, mainly due to back pain / injury claims right before these month-long shutdowns. It becomes more attractive to collect work comp pay than unemployment.

The system can be "worked."

Provisions in this bill will lead to such abuse of the workers comp system. We would further advise that that the legislature will likely have to revisit the issue and subsequently delete these added provisions in subsequent years if this measure is passed.

We respectfully request that you hold SB 63 S.D. 2.

Respectfully submitted,

David H. Rolf

The Hawaii Automobile Dealers Association, 1100 Alakea St. Suite 2601, Hon. Hi. 96813 Tel. 808 593-0031

LATE

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March 16, 2009

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TESTIMONY TO THE HOUSE LABOR & PUBLIC  
EMPLOYMENT COMMITTEE  
TUESDAY, MARCH 17, 2009 - 8:30 A.M. IN ROOM 309  
RE: SB 63 RELATING TO WORKERS' COMPENSATION

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

My name is Sylvia Higashi, an attorney with the law firm, Kessner Umebayashi Bain & Matsunaga. This firm represents employers in the defense of workers' compensation claims referred by employers, carriers and third-party administrators. As you probably realize, claims that are referred to defense law firms generally involve complex claims and/or egregious claims involving prolonged and unreasonable treatment, fraudulent claims or unsettled legal issues. As our firm alone receives approximately thirty new referrals a month, the impact of this legislation is significant.

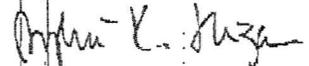
We respectfully request that you hold SB 63 relating to Workers' Compensation. This measure requires the employer to continue temporary total disability benefits regardless of whether the employer controverts the right to benefits. Although we understand the intent of the bill, we believe this bill may serve as a disincentive to return to work, which will be counterproductive to its actual purpose.

Furthermore, if the Director of Labor determines that the claim is not work-related, or if there is overpaid temporary total disability benefits, or there is no permanent partial disability, the employer will be saddled with the costs with no means of recoupment. This measure, if passed, will likely increase workers' compensation premiums and the overall cost of doing business, at a time when businesses and the community are suffering economically and can least afford the increased costs of doing business.

If you have any questions, please do not hesitate to contact us. Thank you for the opportunity to submit written testimony.

Respectfully submitted,

KESSNER UMEBAYASHI  
BAIN & MATSUNAGA



ROBERT C. KESSNER  
SYLVIA K. HIGASHI

yamashita2 - Kristen

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 17, 2009 8:51 AM  
**To:** LABtestimony  
**Cc:** lauradiaz888@yahoo.com  
**Subject:** Testimony for SB63 on 3/17/2009 8:30:00 AM

Testimony for LAB 3/17/2009 8:30:00 AM SB63

Conference room: 309  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Laura Diaz  
Organization: Individual  
Address:  
Phone:  
E-mail: [lauradiaz888@yahoo.com](mailto:lauradiaz888@yahoo.com)  
Submitted on: 3/17/2009

Comments:

**yamashita1- Kathy**

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**From:** JAbe@hhsc.org  
**Sent:** Tuesday, March 17, 2009 11:48 AM  
**To:** LABtestimony  
**Subject:** Take Action Now

LATE

Jeanne Abe  
45-547 Plumeria Street  
Honokaa, HI 96727

TESTIMONY TO THE HOUSE LABOR & PUBLIC EMPLOYMENT COMMITTEE TUESDAY, MARCH 17, 2009 8:30 A.M.  
IN ROOM 309

RE: SB 63 RELATING TO WORKERS' COMPENSATION

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

I respectfully request that you hold SB 63 relating to Workers' Compensation.

This measure requires the employer to continue temporary total disability benefits regardless of whether the employer controverts the right to benefits.

Although I understand the intent of the bill, I believe this bill may serve as a disincentive to return to work, which will be counterproductive to its actual purpose. Furthermore, if the Director of Labor determines that the claim is not work related, or there is overpaid TTD benefits, or there is no permanent partial disability, the employers will be stuck with the costs with no recoupment.

This measure, if passed, may increase my workers' compensation premiums and the overall cost of doing business, a time when my business and the community cannot afford to undertake.

If you have any questions, please do not hesitate to contact me. Thank you for the opportunity to submit written testimony.