

Honolulu, Hawaii

MAR 06 2015

RE: S.B. No. 1174
S.D. 2

Honorable Donna Mercado Kim
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 1174, S.D. 1, entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Provide that an independent medical examination and permanent impairment rating examination shall be conducted by a qualified physician selected by the mutual agreement of the parties; and
- (2) Provide a process for appointment in the event that there is no mutual agreement.

Your Committee received testimony in support of this measure from the Hawaii Injured Workers Association; International Longshore and Warehouse Union, Local 142; and nineteen individuals. Your Committee received testimony in opposition to this measure from the Department of Human Resources, City and County of Honolulu; Chamber of Commerce Hawaii; General Contractors Association of Hawaii; Grace Pacific LLC; Hawaii Insurers Council; Healy Tibbitts Builders, Inc.; Jade Painting, Inc.; Jayar Construction, Inc.; King & Neel, Inc.; LYZ, Inc.; M. Shiroma Painting Co., Inc.; Mechanical Contractors Workers' Compensation Self-Insurance Group; PDCA of Hawaii Workers' Compensation Self-insurance Group; Property Casualty Insurers Association of America; Ralph S. Inouye Co., Ltd.; Retail



Merchants of Hawaii; Robert M. Kaya Builders, Inc.; Rons Construction Corporation; S & M Sakamoto, Inc.; Society for Human Resource Management - Hawaii Chapter; Specialty Surfacing Co. HI, Inc.; Tomco Corp.; Akira Yamamoto Painting, Inc.; Heartwood Pacific, LLC; and one individual. Your Committee received comments on this measure from the Department of Human Resources Development and Department of Labor and Industrial Relations.

Your Committee finds that the workers' compensation system is often adversarial in nature as both employee and employer often choose doctors that are highly partisan to each respective side. Mutual agreement regarding the selection of the independent medical examination or permanent impairment rating examination physician will serve to minimize or even eliminate negative perceptions about the examiner, providing greater assurance that the examination will be conducted fairly.

Your Committee notes with concern that this measure appears to require a selected physician to participate in an evaluation or examination without first obtaining that physician's advance consent to be nominated or perform services at a specific time and place. Your Committee also questions whether, in the absence of mutual agreement, the method of alternating to appoint then strike five nominees will ever, as a practical matter, result in one of the employee's nominees being used for the evaluation or examination.

Your Committee has amended this measure by:

- (1) Inserting an effective date of January 7, 2059, to encourage further discussion; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1174, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1174, S.D. 2.



Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,


GILBERT S.C. KEITH-AGARAN, Chair



Record of Votes
Committee on Judiciary and Labor
JDL

*Only one measure per Record of Votes