



**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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February 2, 2010

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

Date: Tuesday, February 2, 2010
Time: 9:00 a.m.
Place: Conference Room 309, State Capitol

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

Testimony in OPPOSITION
to
H.B. 2079 – Relating to Workers' Compensation

I. OVERVIEW OF CURRENT PROPOSED LEGISLATION

HB 2079 proposes to amend Section 386-86(a), HRS, by repealing the possibility of the director extending the due date for written decisions on the outcome of workers' compensation cases.

II. CURRENT LAW

Section 386-86(a), HRS, requires the director, upon receipt of a claim for compensation, to investigate and render a decision by stating the findings of fact and conclusions of law in awarding or denying compensation within sixty days after the conclusion of the hearing. Currently, this section allows for an extension past the sixty-day due date for the decision to be issued if there is good cause and agreement by all parties. Decisions are issued in writing and a copy is sent to all parties.

Occasionally, extensions for issuance of decisions past the sixty-day period are granted when one party at the hearing submits new evidence just prior to or at the hearing. The extension is granted to give the other party their due process by allowing the opposing

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party to review and respond to the new evidence. On other occasions, extensions are granted in highly complex multiple-issue cases to allow parties to clarify their positions by submitting written position memorandums to the hearings officer. In all cases, the extension must be agreed to by both parties, allowing either to contest the extension.

III. HOUSE BILL

The Department opposes this bill. Removing the possibility of extending the due date will not allow opposing parties adequate time to investigate and respond to the newly introduced evidence, essentially undermining the parties' rights to due process. If the director is unable to extend the decision deadline, the parties will not be allowed to introduce new evidence resulting in the director's decision being appealed to the Labor and Industrial Relations Appeals Board. The Board may then remand the case back to the director to address the newly introduced evidence, resulting in another workers' compensation hearing and lengthening the adjudication process and delaying potential payments and treatments for years to the injured claimant.

Currently, in the past year, there were a negligible number of cases in which extensions were granted. Of the 1,547 cases heard in 2009, only 22 extension waivers were granted. Eliminating the director's ability to extend the due date of written decisions will serve little purpose to the workers' compensation hearings system.

The Department, therefore, opposes the proposed amendment for the reasons cited above.