

RE: S.B. No. 2641
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2020
State of Hawaii
Sir:

Your Committees on Labor, Culture and the Arts and Judiciary, to which was referred S.B. No. 2641 entitled:
"A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION,"

beg leave to report as follows:

The purpose and intent of this measure is to adjust the method of calculating average weekly wages for workers' compensation claims.

Your Committees received testimony in support of this measure from the International Longshore and Warehouse Union, Local 142; Hawaii Iron Workers Stabilization Fund; and Pride at Work Hawaii. Your Committees received testimony in opposition to this measure from the Department of Labor and Industrial Relations and Hawaii Insurers Council. Your Committees received comments on this measure from a member of the Chamber of Commerce.

Your Committees find that existing law provides in part, that the injured employee's average weekly wages are computed based on the employee's employment pattern and the duration of the employee's disability, and the injured employee's average weekly wages from all covered employment at the time of personal injury.

Your Committees find that removing the limitation on the compensation calculation that is currently set to the time of injury allows for adjustment to comparable salary and hourly rates at the time of treatment or determination of award, which may be months if not years later.

However, your Committees have heard concerns of the Department of Labor and Industrial Relations and the Hawaii Insurers Council that this measure, as drafted, would remove an important marker. In all cases, the "time of injury" is the marker used to determine the employee's average weekly wages no matter what the worker's payroll scenario is. By removing the marker, the average weekly wage could possibly be based upon wages earned on covered employment at "any time" in the employee's work history. To then order the employer to pay benefits based upon wages not earned or paid by that employer at the time of the injury is not reasonable. Insurers will need to estimate the going-forward costs and receive approval from the Insurance Division for increased rates to cover those costs. This increases uncertainty in the market and increases costs to employers, self-insureds and insurers.

Therefore, your Committees have amended this measure by:

- (1) Inserting an effective date of July 1, 2051, to encourage further discussion;
- (2) Inserting a savings clause; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Labor, Culture and the Arts and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2641, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2641, S.D. 1, and be referred to your Committee on Ways and Means.

Respectfully submitted on behalf of the members of the Committees on
Labor, Culture and the Arts and Judiciary,

KARL RHOADS, Chair

BRIAN T. TANIGUCHI, Chair