

LINDA LINGLE  
GOVERNOR



DARWIN L.D. CHING  
DIRECTOR

COLLEEN Y. LaCLAIR  
DEPUTY DIRECTOR

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

830 PUNCHBOWL STREET, ROOM 321  
HONOLULU, HAWAII 96813  
[www.hawaii.gov/labor](http://www.hawaii.gov/labor)  
Phone: (808) 586-8842 / Fax: (808) 586-9099  
Email: [dlir.director@hawaii.gov](mailto:dlir.director@hawaii.gov)

February 5, 2010

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

Date: Friday, February 5, 2010  
Time: 9:30 a.m.  
Place: Conference Room 309, State Capitol

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

**Testimony in STRONG OPPOSITION**

to

**H.B. 1871 – Relating to the Department of Human Resources Development**

The Department strongly opposes this bill for the same reasons as the Department of Human Resources Development and would like to note that there could be conflicts in having the Hawaii Labor Relations Board, the Labor and Industrial Relations Appeals Board, and Disability Compensation Division, in the same Department as DHRD's Employee Claims, and Employee Relations Divisions.

DHRD's Employee Claims Division frequently appears before the DLIR's Disability Compensation Division as it handles all work comp claims of executive branch employees, and employees of the legislature. DHRD's Employee Relations Division frequently appears before the DLIR's Hawaii Labor Relations Board. In the current structure the advocating divisions are under a separate Department and Director from the adjudicating divisions. The Department believes this separation of advocates and adjudicators is proper and must be maintained.

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 4, 2010

**TESTIMONY TO THE  
HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT**

For Hearing on February 5, 2010  
9:30 A.M., Conference Room 309

BY

MARIE C. LADERTA, DIRECTOR

**House Bill No. 1871**  
**Relating to the Department of Human Resources Development**  
**House Bill No. 2460**  
**Relating to State Departments**

TO CHAIRPERSON RHOADS AND MEMBERS OF THE COMMITTEE:

House Bill Nos. 1871 and 2460 proposes to convert the Department of Human Resources Development (DHRD) from a state department to a division by placing it in the Department of Labor and Industrial Relations (DLIR). It also transfers the Commission on Salaries and the Board of the Deferred Compensation Plan to the Department of Accounting and General Services (DAGS).

We **strongly oppose** this measure, for the following reasons:

First, the functions and purpose of DHRD and DLIR are dissimilar. DHRD, like the departments of Budget and Finance (B&F), Accounting and General services (DAGS) and the Attorney General (AG), is a central staff agency that provides support to the Governor and all Executive Branch agencies, including the DLIR, on a statewide basis. DHRD is responsible for overseeing consistency in the administration of personnel laws, rules, policies and programs regarding recruitment, selection, compensation, and employee rights and benefits; representing the State in collective

bargaining and labor relations matters; and administering the State's self insured workers' compensation program.

DLIR, on the other hand, is a line agency servicing both the public and private sector whose focus is to administer programs designed to ensure that the workers of Hawaii are treated fairly and duly compensated in wages, hours, and benefits. They do this by providing training and employment opportunities; and through the promotion and enforcement of compliance with various labor laws, including worker's compensation, employment security, wage and hour, and industrial relations laws. DLIR does not provide central agency support to other State Executive Branch departments like DHRD.

Second, there is a conflict of interest between DLIR as the regulating, adjudicating, and enforcement agency, and DHRD. The State plays two roles, one as an employer and the other as a regulating, enforcement, and adjudicating agency. DHRD represents the State as the employer and the DLIR, or its attached agencies, is the body to investigate, adjudicate, and enforce the actions of employers. Contested workers' compensation cases are adjudicated by DLIR's Disability Compensation Division, as well as DLIR's Labor and Industrial Relations Appeals Board. DHRD represents the State before the Hawaii Labor Relations Board, which is administratively attached to DLIR, regarding prohibited practice complaints and other labor relations matters. DLIR's Hawaii Civil Rights Commission also hears complaints regarding discriminatory employment practices. Therefore, placement of DHRD under the DLIR would constitute a direct and inherent conflict of interest as it will be difficult for DLIR to be required to enforce labor laws and at the same time be an employer's representative. The director would be responsible for administering program areas which may be taking opposing positions. Consequently, keeping DHRD and DLIR separate is essential to the integrity of their respective roles.

Third, we are experiencing one of the worst economic situations in our State's history, requiring the Executive Branch agencies to furlough their employees and downsize. More than ever, DHRD needs to remain an independent department and a member of the Governor's cabinet to efficiently and effectively administer the State's

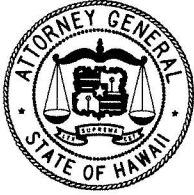
human resources program and assist the departments with their staffing needs, labor relations issues, and coordination of transactions and payroll. The transfer of DHRD to DLIR will impede the ability to respond efficiently and effectively to address these issues and needs.

Fourth, through time, the Legislature, the Governor and the administration have always placed a high value on its greatest resources – its employees, by recognizing human resources as a cabinet post. They have relied heavily on the support and advice of principal staff agencies such as the AG, B&F, DAGS and DHRD to address administrative issues on a statewide basis. Placement of DHRD within a line department will diminish the effectiveness of providing leadership in human resource matters throughout the State.

And lastly, the substantive reasons aside, we point out that timing-wise, and generally speaking, with about 11 months left of this administration, this may not be the best time to be merging one State department with another because even if it is a good idea to consolidate, and it is not in this case, the transition would require movement of positions, programs, and discussions with unions where relevant. It is a daunting task to say the least and will distract current efforts for economic recovery and stability which is priority.

We do not see any benefit or good in merging the two agencies and feel this will only cause major disruptions throughout the Executive Branch agencies over the few remaining months under the current administration. We therefore respectfully request that this bill be held.

Thank you for the opportunity to testify in opposition of this bill.



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-FIFTH LEGISLATURE, 2010**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 1871, RELATING TO THE DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT.

**BEFORE THE:**

HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

**DATE:** Friday, February 5, 2010      **TIME:** 9:30 a.m.

**LOCATION:** State Capitol, Room 309

**TESTIFIER(S):** Mark J. Bennett, Attorney General, or  
James E. Halvorson, Deputy Attorney General, or  
Jeffrey A. Keating, Deputy Attorney General

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Chair Rhoads and Members of the Committee:

The Department of the Attorney General opposes this bill.

The primary purpose of this bill is to convert the Department of Human Resources Development (DHRD) from a principal state department to a division in the Department of Labor and Industrial Relations (DLIR).

By converting DHRD into a division and placing it within DLIR, there is a conflict of interest relating to workers' compensation claims. The Disability Compensation Division, which oversees workers' compensation claims, is within DLIR. The employee claims division of DHRD represents the State as the employer when a workers' compensation claim is filed under chapter 386, Hawaii Revised Statutes. Once a claim for compensation is made, section 386-86 mandates the director of DLIR to further investigate if necessary and render a decision either awarding or denying compensation. The fact that the director of DLIR renders the decision is a direct conflict in instances where the state would be represented by the division of human resources development.

We respectfully ask the Committee to hold this bill.

LINDA LINGLE  
GOVERNOR



RUSS K. SAITO  
Comptroller

SANDRA L. YAHIRO  
Deputy Comptroller

STATE OF HAWAII  
DEPARTMENT OF ACCOUNTING  
AND GENERAL SERVICES  
P.O. BOX 119  
HONOLULU, HAWAII 96810-0119

TESTIMONY  
OF  
RUSS K. SAITO, COMPTROLLER  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
TO THE  
HOUSE COMMITTEE  
ON  
LABOR & PUBLIC EMPLOYMENT  
ON  
February 5, 2010

H.B. 1871

RELATING TO THE DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT

Chair Rhoads and members of the Committee, thank you for the opportunity to testify on H.B. 1871.

The Department of Accounting and General Services (DAGS) opposes this bill because it would diminish the effectiveness of the Administration's Human Resources function. Human resources and associated costs are the largest components of the Executive Branch expenses. Having a cabinet level department focused on this function for all departments of the Executive Branch will ensure consistency and uniformity in the application of human resources laws, rules, policies, and procedures.

If the Human Resources function is transferred to one of the numerous departments that have separate functional responsibilities, human resources issues of importance to the departments as a whole will not get the attention they deserve. As currently placed, the Human

Resources function is effective at addressing, on a consolidated basis, labor negotiations, hiring, and personnel policies.

DAGS also opposes this bill because it would transfer the Commission on Salaries and Deferred Compensation Board to DAGS. These functions are part of the overall compensation package and should not be broken away from the Department of Human Resources Development (DHRD). The synergy for these functions, as this bill recognizes even while proposing to transfer them to DAGS, is to remain with DHRD. DAGS cannot provide effective oversight of these functions, as DHRD is able to.

Thank you for allowing me to testify on this matter.