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WORKER'S RIGHTS - LABOR LAW
WORKER'S COMPENSATION
SOCIAL SECURITY DISABILITY
LABOR UNION REPRESENTATION
EMPLOYEES RETIREMENT SYSTEM
BODILY INJURIES

March 27, 2012

VIA ELECTRONIC MAIL

To: The Honorable David Ige, Chair,
The Honorable Michelle N. Kidani, Vice Chair, and
Members of the Senate Committee on Ways and Means

Date: Wednesday, March 28, 2012
Time: 9:30 a.m.
Place: Conference Room 211, State Capitol

From: Dennis W. S. Chang
Labor and Workers' Compensation Attorney

**Re: IN STRONG SUPPORT OF HB 2574 HD1, SD1 RELATING
TO NOTIFICATION OF CHAPTER 91 HEARINGS**

I. OVERVIEW OF PROPOSED LEGISLATION

HB 2574 HD1, SD1 authorizes the Labor and Industrial Relations Appeals Board (Board), an agency administratively attached to Department of Labor and Industrial Relations, to send written notices of Chapter 91 hearings by first class mail and eliminates the current requirement that notices of hearing be sent by registered or certified mail with return receipt. With this slight change in the proposed bill, the savings are beyond the actual costs of monies saved by doing away with registered mail. Less manpower, however slight, is required in sending out notices and any measure to assist the Board to be more efficient is and should be welcomed by all involved in light of the increasing daily costs of running the vital Board operations.

II. DISCUSSION

I strongly support HB 2574 HD1, SD1 since it would make the operations more efficient and hopefully the savings will be used to enhance the operational capacity of the Board. This is why I mentioned the bill is a "godsend" since it is a step in the right direction when viewed in conjunction with other cost saving measures proposed by the Board and Director of Labor and Industrial Relations (Director). This would certainly have been a tremendous beginning if these other bills were properly vetted and passed rather than allowed to languish and be killed. They, too, would have generated monies/savings in today's times of budget shortfalls, unfilled vacancies and the like,

consistent with the pronouncement of the current administration's New Day plan to transform government.

III. SUGGESTION

However, I have a caveat that the Board have a "good cause" mechanism in its procedures to allow the injured worker to show that he or she failed to receive the mail, especially for a hearing. To not have a provision would be contrary to the intent of the proposed bill. The reasoning is that the proposed bill is doing away with what is unnecessary, but in my nearly thirty-five (35) years of practice, there have been times when I personally have not received mail for whatever reasons. Under these circumstances, we are often allowed to reschedule our engagements.

The continued practice of contacting the injured worker or his or her representative before the settlement conference, after such conferences and days before the hearing by telephone to ensure that there is ample notice given for a scheduled event, is necessary to ensure a smooth and fair operation. If there is no log of telephone calls and an injured worker later objects that he or she failed to receive timely notice, the Board should take this at face value as it has often done over the years in the absence of other evidence showing proof of service.

Thank you for allowing me to testify on this essential measure.

DWSC:ty