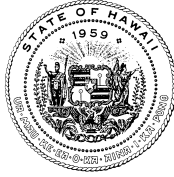


**HB2574, HD1**



NEIL ABERCROMBIE  
GOVERNOR

DWIGHT Y. TAKAMINE  
DIRECTOR

AUDREY HIDANO  
DEPUTY DIRECTOR

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

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March 12, 2012

To: The Honorable Clayton Hee, Chair,  
The Honorable Maile S.L. Shimabukuro, Vice Chair, and  
Members of the Senate Committee on Judiciary and Labor

Date: Monday, March 12, 2012  
Time: 10:00 a.m.  
Place: Conference Room 016, State Capitol

From: Dwight Y. Takamine, Director  
Department of Labor and Industrial Relations (DLIR)

**Re: IN STRONG SUPPORT OF HB2574HD1 RELATING TO NOTIFICATION  
OF CHAPTER 91 HEARINGS.**

**I. OVERVIEW OF PROPOSED LEGISLATION**

HB2574HD1 authorizes the Appeals Board, an agency administratively attached to DLIR, to send written notices of Chapter 91 hearing by first class mail and eliminates the current requirement that notices of hearing be sent by registered or certified mail with return receipt.

DLIR strongly supports HB2574HD1 because the proposal would enhance the operational capacity of the Labor and Industrial Relations Appeals Board (LIRAB). If enacted, the measure would permit the Appeals Board to apply the savings to other areas of operations and increase the overall efficiency of the Board.

This measure represents one small piece in rebuilding the capacity of the Workers' Compensation system, which has suffered through budget constraints over the last few budget cycles.

HB2574HD1  
March 12, 2012  
Page 2

## **II. CURRENT LAW**

Hawaii Revised Statutes (HRS) Section 91-9.5 requires notices of agency hearing to be sent by registered or certified mail with return receipt requested at least fifteen days before the hearing, unless otherwise provided by law.

## **III. COMMENTS ON THE HOUSE BILL**

- The budget shortfalls of the past several years have required the State to reevaluate the way it does business and to improve management of fiscal resources.
- This cost-saving measure is part of this administration's New Day plan to transform government.
- Currently, within the department there already exists statutory authority for sending notices of Chapter 91 hearing by first class mail. In DLIR's Employment Services Appeals Referees' Office, Chapter 91 notices of hearings for unemployment claim appeals are sent by first class mail pursuant to HRS Section 383-38(a).

NEIL ABERCROMBIE  
GOVERNOR



ROLAND Q.F. THOM  
CHAIRMAN

MELANIE S. MATSUI  
DAVID A. PENDLETON  
MEMBERS

LABOR & INDUSTRIAL RELATIONS APPEALS BOARD  
KEELIKOLANI BUILDING  
830 PUNCHBOWL STREET, ROOM 404  
HONOLULU, HAWAII 96813  
(808) 586-8600

March 9, 2012

To: The Honorable Clayton Hee, Chair,  
The Honorable Maile Shimabukuro, Vice Chair, and  
Members of the Senate Committee on Judiciary and Labor

Hearing

Date: March 12, 2012

Time: 10:00 a.m.

Place: Conference Room 016, State Capitol

From: ROLAND Q.F. THOM, Chairman  
Labor and Industrial Relations Appeals Board (Appeals Board)

**IN SUPPORT OF H.B. No. 2574 H.D. 1**  
**RELATING TO NOTIFICATION OF CHAPTER 91 HEARING**

**I. OVERVIEW OF PROPOSED LEGISLATION**

H.B. No. 2574 H.D. 1 authorizes the Appeals Board to send written notices of Chapter 91 hearing by first class mail and eliminates the current requirement that notices of hearing be sent by registered or certified mail with return receipt requested.

The Appeals Board strongly supports H.B. 2574 H.D. 1 because the State would reap significant savings in general funds without sacrificing efficiency.

## **II. CURRENT LAW**

Unless otherwise provided by law, Hawaii Revised Statutes (HRS) Section 91-9.5 requires notices of agency hearing to be sent by registered or certified mail with return receipt requested at least fifteen days before the hearing.

## **III. COMMENTS ON HOUSE BILL**

- This measure is consistent with this administration's New Day plan to transform government and improve fiscal management of resources.

- A notice sent by first class mail costs \$.45. A notice sent by certified mail with return receipt costs more than \$5.00. The Appeals Board sends about 400 notices of hearing annually and could save close to \$2,000.00, if not more, per year in mailing costs if this measure passes. This savings could be applied to other areas of operations to improve efficiency.

- Sending notices of hearing by first class mail is an effective method of service of notice. Less than 1% of notices of hearing are returned as undeliverable at the Appeals Board.

- There is built-in redundancy in Appeals Board procedures so that parties are notified and reminded of hearing dates on multiple occasions, either in person or by phone at initial and settlement conferences, and again by first class mail via a written pretrial order. The risk that a case will be dismissed because a party did not receive a notice of hearing sent by first class mail is very low.

- There is statutory precedent for sending Chapter 91 notices of hearing by first class mail. Under HRS Section 383-38(a), notices of Chapter 91 hearings are sent by first class mail for unemployment claim appeals by the DLIR Employment Services Appeals Referees Office.

- This measure applies only to Chapter 91 proceedings before Appeals Board at the Department of Labor and Industrial Relations.

**DENNIS W. S. CHA**

ATTORNEY-AT-LAW

OR LAW

ABILITY

REPRESENTATION

SYSTEM

WORKER'S RIGHTS -

WORKER'S COMPENSATION

SOCIAL SECURITY

LABOR UNION

EMPLOYEES RETIREMENT

BODILY INJURIES

March 12, 2012

To: The Honorable Clayton Hee, Chair,  
The Honorable Maile S.L. Shimabukuro, Vice Chair, and  
Members of the Senate Committee on Judiciary and Labor

Date: Monday, March 12, 2012  
Time: 10:00 a.m.  
Place: Conference Room 016, State Capitol

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

Re: IN STRONG SUPPORT OF HB2574HD1 RELATING TO NOTIFICATION  
OF CHAPTER 91 HEARINGS.

The Director of Labor and Industrial Relations, Dwight Takamine, is tirelessly guiding his dedicated but understaffed organization to carry out the mission of the Department of Labor and Industrial Relations (DLIR). Similarly, the Labor and Industrial Relations Appeals Board is undergoing a reorganization engineered by Chair Roland Thom despite the intolerable though understandable budget shortfalls and dwindling staff, by adopting innovative policies to serve the best interests of all stakeholders.

HB2574HD1 authorizes the Appeals Board, an agency administratively attached to DLIR, to send written notices of Chapter 91 hearings by first class mail and to eliminate the current requirement that notices be sent by registered or certified mail with return receipt. The adoption of the bill will do away with a surprisingly costly process in today's dire economic times and allow the Appeals Board to apply the savings to other areas of operations and increase the overall efficiency of the Board.

However, I do have one reservation, that a "good cause" provision be

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# DENNIS W. S. CHANG

ATTORNEY-AT-LAW

LABOR LAW

DISABILITY

REPRESENTATION

SYSTEM

WORKER'S RIGHTS -

WORKER'S COMPENSATION

SOCIAL SECURITY

LABOR UNION

EMPLOYEES RETIREMENT

BODILY INJURIES

amended and imposed to allow *pro se* workers and to show that mail was not received when appropriate and excused from deadlines. That said, I strongly support the passage of HB 2574 HD1.

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**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [JDLTestimony](#)  
**Cc:** [Lardizabal@local368.org](mailto:Lardizabal@local368.org)  
**Subject:** Testimony for HB2574 on 3/12/2012 10:00:00 AM  
**Date:** Sunday, March 11, 2012 7:16:55 AM

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Testimony for JDL 3/12/2012 10:00:00 AM HB2574

Conference room: 016  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Al Lardizabal  
Organization:  
E-mail: [Lardizabal@local368.org](mailto:Lardizabal@local368.org)  
Submitted on: 3/11/2012

Comments:  
March 11, 2012

Chair Hee; Vice Chair Shimabukuro and Members of the Committee:

The Hawaii Laborers' Union supports HB2574, HD1 to authorize the DLIR and Labor Appeals Board for Chapter 91 hearings, to utilize first class mail or publications when necessary rather than certified or registered mail with return and receipt.

Mahalo for the opportunity to submit this testimony.

Al Lardizabal  
Government Relations