

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

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February 6, 2012

To: The Honorable Gilbert S.C. Keith-Agaran, Chair,
The Honorable Karl Rhoads, Vice Chair, and
Members of the House Committee on Judiciary

Date: Tuesday, February 7, 2012
Time: 2:00 p.m.
Place: Conference Room 325, State Capitol

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

Re: **IN SUPPORT OF H.B. No. 2574 Relating to Notification of
Chapter 91 Hearings**

I. OVERVIEW OF PROPOSED LEGISLATION

H.B. No. 2574 authorizes written notices of Chapter 91 hearings to be sent 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 H.B. 2574 because the Department would reap substantial savings in general funds. In particular, the measure would permit the Appeals Board to apply the savings to other areas of operations and increasing the overall efficiency of the Board. This would be one small piece in rebuilding the capacity of the Workers' Compensation system, which has suffered through budget constraints over the last few budget cycles.

II. CURRENT LAW

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

III. COMMENTS ON SENATE BILL

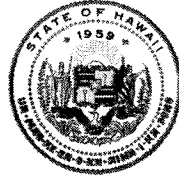
- This measure is consistent with this administration's New Day plan to transform government and improve fiscal management of resources.

- Notices of hearing sent by first class mail are an effective method of service of notice.

- There is statutory precedent for sending Chapter 91 notices of hearing by first class mail. Under Hawaii Revised Statutes, Section 383-38(a), notices of hearings can be sent by first class mail for unemployment claims appeals.

- Attached agencies and divisions within DLIR, which include the Hawaii Labor Relations Board, Wage Standards Division, Civil Rights Commission, and the Labor and Industrial Relations Appeals Board could collectively save close to \$3,000.00, if not more, per year in mailing costs.

- Agencies and departments outside of DLIR that conduct Chapter 91 hearings and are subject to Chapter 91's service of notice of hearing requirements also stand to save substantial mailing costs. Those agencies and departments include but are not limited to the Land Use Commission, Public Utilities Commission, Liquor Commission, the Department of Commerce and Consumer Affairs, and Department of Human Services.



LABOR & INDUSTRIAL RELATIONS APPEALS BOARD
KEELIKOLANI BUILDING
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(808) 586-8600

February 6, 2012

To: The Honorable Gilbert S.C. Keith-Agaran, Chair,
The Honorable Karl Rhoads, Vice Chair, and
Members of the House Committee on Judiciary

Date: Tuesday, February 7, 2012
Time: 2:00 p.m.
Place: Conference Room 325, State Capitol

From: Roland Q.F. Thom, Chairman
Labor and Industrial Relations Appeals Board ("Board")

Re: **IN SUPPORT OF H.B. No. 2574 Relating to Notification of
Chapter 91 Hearings**

I. OVERVIEW OF PROPOSED LEGISLATION

H.B. No. 2574 authorizes written notices of Chapter 91 hearings to be sent by first class mail and eliminates the current requirement that notices of hearing be sent by registered or certified mail with return receipt. The Board strongly supports H.B. 2574 because the State would reap substantial savings in general funds without sacrificing efficiency or customer service.

II. CURRENT LAW

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

III. COMMENTS ON SENATE BILL

- This measure follows the administration's New Day plan to transform government and promote frugal fiscal management of resources. If enacted, this measure would allow the Board to save general funds and give it the ability to apply the savings to other areas of operations, thus increasing the overall efficiency of the Board without diminishing customer service.

- The basis for Chapter 91 was the Model State Administrative Procedures Act (1961). The model act contains a provision similar to section 91-9.5, HRS, regarding the content of a notice of hearing, but it did not contain a provision similar to Section 91-9.5 requiring a certified or registered mailing of a notice of hearing.

Section 91-9.5 was added to Chapter 91 in 1976. According to the legislative committee reports, the provision was added because the Legislature was interested in establishing some consistency regarding what constituted "reasonable notice." The committee reports stated that if other laws provide for different methods of giving notice, then those laws would control. It appears from the committee reports that the Legislature was not wedded to the requirement of sending notices by registered or certified mail. In fact, there is statutory authority under section 383-38(a), HRS that authorizes Chapter 91 notices of hearing in unemployment claims appeals to be sent by first class mail.

- Notices of hearing sent by first class mail have been demonstrated to be an effective method of service of notice. At the Board, orders, notices other than notices of hearing (e.g., notices of conference or motion), and other documents that are not required to be sent by certified or registered mail are currently being sent by first class mail. Less than 1% of the Board's mail sent by first class mail is returned undeliverable.

- The Board sends approximately 400 notices of hearing per year by certified mail with return receipt. It costs the Board \$2,060.00 to send 400 notices by certified mail with return receipt ($400 \times \$5.15 = \$2,060.00$). In comparison, it would cost \$176.00 ($400 \times \$0.44 = \176.00) to send 400 notices of hearing by first class mail. A savings of \$1,884.00 in mailing costs per year is generated if notices of hearing are allowed to be sent by first class mail.

- Other agencies and divisions within the Department of Labor and Industrial Relations (DLIR), which includes the Hawaii Labor Relations Board, Wage Standards Division and Civil Rights Commission, could collectively save about \$900.00 or more per year if notices of Chapter 91 hearings are allowed to be sent by first class mail.

- In total, the DLIR alone could save close to \$3,000.00, if not more, per year in mailing costs.

Testimony for HB2574 on 2/7/2012 2:00:00 PM

Testimony for HB2574 on 2/7/2012 2:00:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Monday, February 06, 2012 4:55 PM

To: JUDtestimony

Cc: MolokaiMAN@basicisp.net

Testimony for JUD 2/7/2012 2:00:00 PM HB2574

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: George Peabody

Organization: <http://www.MolokaiAdvertiserNews.com>

E-mail: MolokaiMAN@basicisp.net

Submitted on: 2/6/2012

Comments:

Stop this effort to facilitate crooked biased immoral unlawful vindictive and vexatious persecutions by government agents against sovereign United States Citizen Nationals. This legislation opens the door to fraud and abuses of due process by corrupted racketeers embedded in government offices who practice extortion under color of law, and makes it even easier for them to operate their rackets the laws notwithstanding. Look at this current A.G. David Louie trying to prosecute me with a Chapter 91 persecution in 2nd Circuit 11-years after then A.G. wrote that no further action would be taken against me.

Instead, it is time now to make legislation to punish A.G. and prosecutors for vindictive frivolous and vexatious lawsuits against United States Citizens who exercise their right to protect their property from ravages of Nature.