



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

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

February 3, 2012

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

Date: February 3, 2012
Time: 9:00 a.m.
Place: Conference Room 309, State Capitol

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

Re: H.B. 2586 Relating to Disability Compensation Division Special Fund

I. OVERVIEW OF PROPOSED LEGISLATION

HB 2586 amends sections 386-86 and 386-95, Hawaii Revised Statutes (HRS), to authorize the Disability Compensation Division to assess fees for issuing subpoenas and filing of first injury reports. The measure would also add a new section to Chapter 386, HRS, to establish a Disability Compensation Division Special Fund into which these fees would be deposited.

The measure provides an opportunity to discuss the implementation of a user fee concept that would not require general funds and which could provide resources that would allow the department to do a better job of cutting down of the delays and backlogs due to recent budget restrictions.

The division's operating budget has suffered greatly over the last three budget cycles, including during the Reduction-in-Force. DCD has endured a 30% reduction in staffing since 2009—35 of 117 positions. The fees would help with the maintenance and upgrading of its automation system, which is the backbone of the division's operations. We believe this proposal will help the division maintain and improve services to its customers.

II. CURRENT LAW

There is no established Disability Compensation Division Special Fund and no provision in the current law to authorize the division to assess fees for the issuing of subpoenas or the filing of first injury reports.

III. COMMENTS ON THE HOUSE BILL

Staffing and budget reductions since 2009 have resulted in a severe backlog in the settling of hearings and reductions of service to the public. The division has had to rely heavily on its automation system to mitigate the backlogs and service reductions, and is seeking funding to improve its electronic management system of the hearings functions and to develop greater efficiency in the complex workers' compensation system.

The automation system, however, also requires additional funding for maintenance and upgrades to prevent catastrophic failure to the workers' compensation system. The division's networking and computer equipment, for example, are reaching the end of their useful lives with no funding available for repair or replacement. Furthermore, the operating systems need to be upgraded to continue to operate the server programs that run the worker's compensation system.

The Division is now seeking, through this proposal, to supplement its budget for operating costs by establishing fees for filing initial reports of injury and for processing subpoena requests. Other State programs have been allowed to charge filing fees. Agencies such as the Land Use Commission and the Public Utilities Commission, for example, charge fees for the filing of certain documents. Chapter 607, HRS, allows the judiciary and courts to charge a variety of filing fees.

Allowing the Disability Compensation Division to establish fees for the issuing of subpoenas and the processing of first injury reports would supplement the Disability Compensation Division's operating budget and help defray costs associated with the development of greater efficiency of its workers' compensation automation system and with the expenses relating to the upkeep and upgrade of the division's automation system.

The department has researched the methods other states have used to operate and/or augment their workers' compensation systems—currently, no other states employ user fees. Given the circumstances, a discussion regarding funding sources as an alternative to the general fund would be appreciated.



Pauahi Tower, Suite 2010
1003 Bishop Street
Honolulu, Hawaii 96813
Telephone (808) 525-5877

Alison Powers
Executive Director

TESTIMONY OF ALISON POWERS

HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
Representative Karl Rhoads, Chair
Representative Kyle T. Yamashita, Vice Chair

Friday, February 3, 2012
9:00 a.m.

HB 2586

Chair Rhoads, Vice Chair Yamashita, and members of the Committee, my name is Alison Powers, Executive Director of Hawaii Insurers Council. Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately 40% of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **opposes** HB 2586. Subpoenas and WC1 filings are an inherent part of the Department's usual and customary duties. This bill imposes user fees of \$10 for each subpoena and \$5 for each WC1 Form filed with the Department. There can be multiple subpoenas issued for a single claim and the new user fees imposed will add to the cost of the workers' compensation system, ultimately resulting in higher insurance premiums to businesses.

We respectfully request that HB 2586 be held.

Thank you for the opportunity to testify.

HOUSE OF REPRESENTATIVES
THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2012

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Rep. Karl Rhoads, Chair
Rep. Kyle T. Yamashita, Vice Chair

Hearing: Friday, February 3, 2012
Time: 9:00 a.m. – 12:00 pm.
Place: Conference Room 309

TESTIMONY OF ILWU LOCAL 142
RE: HB 2586 RELATING TO DISABILITY
COMPENSATION DIVISION SPECIAL FUND

Chair Rhoads, Vice Chair Yamashita, Members of the Committee:

Thank you for the opportunity to present testimony regarding HB 2586. We support this fiscally responsible measure.

In austere times, adjudicatory agencies like the Disability Compensation Division have struggled valiantly to maintain the number of cases they decide in the face of significant reductions in funding and personnel. Delays in obtaining hearings, issuing decisions on critical issues of medical care, and other disputes about compensation have heaped an increasing measure of frustration on litigants, and the anxiety and non-resolution of issues themselves become an additional barrier to recovery and rehabilitation.

Charging a nominal \$10.00 per subpoena for a limited three year period from July 1, 2012 to June 30, 2015 to be deposited in a special Disability Compensation Division fund is a sensible and restrained proposal. Given the costs already incurred in obtaining medical discovery, the \$10.00 fee is not significant, but the fee would also serve the useful function of encouraging parties to consider how necessary it is to issue a subpoena before they do so.

We would also suggest, however, that the purpose for collecting the operating costs in the special fund include not only “electronic document management” but also “language access and translation services.” Our state is already committed to achieving language access for those with limited proficiency in English by Section 371-31 HRS and Section 371-32 HRS. However, it is not clear that funds have traditionally ever been budgeted for this important purpose, and giving additional legislative recognition to this goal would make the department better able to serve these vulnerable populations.

TESTIMONY BEFORE THE HOUSE COMMITTEE ON

LABOR & PUBLIC EMPLOYMENT

Friday, February 3, 2012
9:00 a.m.

HB 2586
RELATING TO DISABILITY COMPENSATION DIVISION SPECIAL FUND

By Marleen Silva
Director, Workers' Compensation
Hawaiian Electric Company, Inc.

Chair Rhoads, Vice Chair Yamashita, and Members of the Committee:

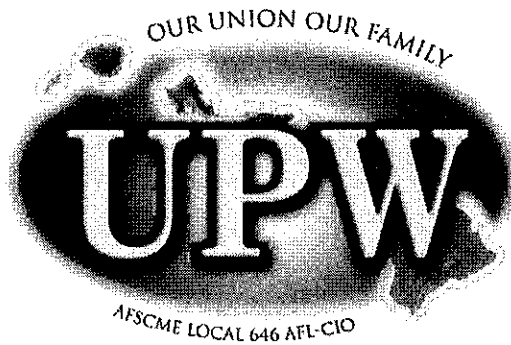
Hawaiian Electric Co. Inc., its subsidiaries, Maui Electric Company, LTD., and Hawaii Electric Light Company, Inc. **respectfully oppose H.B. 2586.** Our companies represent over 2,000 employees.

This bill proposes to add a new section to Chapter 386, HRS, authorizing the Disability Compensation Division (DCD) to establish a special fund. The revenue for this new fund would come from establishing new "reasonable" fees for the filing of the "WC-1 Employer's Report of Industrial Injury" and from new fees for the issuing of subpoenas. Since the vast majority of subpoenas issued are requested by employers and not claimants, and the WC-1 form is one required of employers only, this bill unfairly shifts the costs of administering the workers' compensation program to employers.

We recognize the challenges and need for the DCD to explore different financing approaches to supplement their operating expenses in these tough economic times. However, the challenges of these economic times are not unique to the DCD yet this bill would require employers to unfairly share in this burden. We also oppose the bill for its ambiguity as to what constitutes "reasonable fees," and in the case of allowed waivers "for good cause shown" what constitutes "good cause."

For these reasons, we respectfully oppose H.B. 2586 and request that this measure be held.

Thank you for this opportunity to submit testimony.



THE HAWAII STATE HOUSE OF REPRESENTATIVES
The Twenty-Sixth Legislature
Regular Session of 2012

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
The Honorable Rep. Karl Rhoads, Chair
The Honorable Rep. Kyle T. Yamashita, Vice Chair

DATE OF HEARING: Friday, February 3, 2012
TIME OF HEARING: 9:00 a.m. – 12:00 p.m.
PLACE OF HEARING: Conference Room 309

**TESTIMONY ON HB 2586 RELATING TO DISABILITY COMPENSATION
DIVISION SPECIAL FUND**

By DAYTON M. NAKANELUA,
State Director of the United Public Workers,
AFSCME Local 646, AFL-CIO ("UPW")

My name is Dayton M. Nakanelua and I am the State Director of the United Public Workers, AFSCME, Local 646, AFL-CIO (UPW). The UPW is the exclusive representative for approximately 11,000 public employees, which include blue collar, non-supervisory employees in Bargaining Unit 01 and institutional, health and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties. The UPW also represents about 1,500 members of the private sector.

The UPW supports HB 2586, that establishes the Disability Compensation Division Special Fund and authorizes the Disability Compensation Division to establish reasonable fees for the issuing of subpoenas and filing of first injury reports.

Accordingly, the UPW is in support of HB 2586.

Thank you for opportunity to testify on this measure.

DENNIS W. S. CHANG

ATTORNEY-AT-LAW

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

February 2, 2012

VIA ELECTRONIC MAIL

TO: COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
Representative Karl Rhoads, Chair
Hawaii State Capitol, Room 309

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

RE: **Testimony in Support of HB 2586**

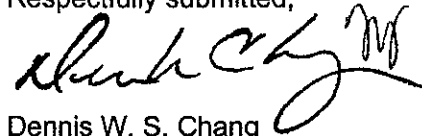
Dear Honorable Chair Rhoads and Committee Members:

As an active practicing labor attorney with a special emphasis in handling workers' compensation claims, I wholeheartedly support HB 2586 relating to the establishment of a special fund for the Disability Compensation Division's (DCD) operating expenses. Attrition, budget shortfalls and cutbacks have created an enormous strain on and backlog at the DCD. I have personally witnessed the outrageous reduction in staffing and negative impact on the handling of claims for injured workers. One only needs to visit the DCD to understand the gravity of the adverse impact on the division

Though the contribution requested in the bill is nominal, this is a small step in the right direction. \$10.00 for each subpoena is a neutral charge for both sides and reasonable. \$5.00 for each WC-1 "Employer's Report of Industrial Injury" should have no impact on the premiums and earnings of the self-insured employers and insurance carriers. If there is any impact, it will be nominal and as our Hawai'i Supreme Court has repeatedly articulated, workers' compensation is part and parcel of the cost of doing business. Finally, however little to be contributed to the special fund for operating costs, the DCD could strive to be more efficient consistent with the underlying humanitarian social policy of the workers' compensation statute.

I support HB 2586 without reservations in light of the current outrageous budget and remaining exemplary staff manning the onerous operations at the DCD.

Respectfully submitted,



Dennis W. S. Chang

DWSC:ty

DILLINGHAM TRANSPORTATION BUILDING

735 BISHOP STREET ● SUITE 320 ● HONOLULU, HAWAII 96813 ● TELEPHONE: (808) 521-4005

George M. Waialeale
910 Kapahulu Avenue #703
Honolulu, Hawaii 96816
Email: geedubbyou@aol.com
Phone: (808) 383-0436

February 3, 2012

Committee on Labor and Public Employment

HB 2586 Relating to Disability Compensation Division Special Fund

I am here to testify in support of HB 2586. This bill authorizes the Disability Compensation Division to establish a Disability Compensation Division Special Fund and to establish reasonable fees for the issuing of subpoenas and filing of first injury reports.

The money collected in the disability compensation division special fund shall be used by the disability compensation division for operating costs.

The disability compensation division shall submit a report to the legislature detailing all funds received and all moneys disbursed out of the fund prior to the convening of each regular legislative session.

I ask for your passage of this legislation.

George Waialeale

yamashita2 ----Aulii

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 02, 2012 9:08 PM
To: LABtestimony
Cc: Brenda.Kosky@gmail.com
Subject: Testimony for HB2586 on 2/3/2012 9:00:00 AM

Testimony for LAB 2/3/2012 9:00:00 AM HB2586

Conference room: 309
Testifier position: Support
Testifier will be present: No
Submitted by: Brenda Kosky
Organization: Individual
E-mail: Brenda.Kosky@gmail.com
Submitted on: 2/2/2012

Comments: