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February 28, 2012

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

Date: Tuesday, February 28, 2012
Time: 9:00 a.m.
Place: Conference Room 211, State Capitol

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

RE: S.B. NO. 2671 SD1 RELATING TO COLLECTIVE BARGAINING

I. OVERVIEW OF PROPOSED LEGISLATION

SB2671SD1 clarifies that the Hawaii Labor Relations Board (HLRB) has the authority to appoint attorneys and paralegals and authorizes attorneys employed by the Board to represent the Board, draft legal documents and provide other legal services for the Board.

II. COMMENTS ON THE SENATE BILL

DLIR supports this measure, as it will give the HLRB more flexibility and the ability to efficiently allocate its resources. HLRB, like many other agencies within DLIR, has encountered severe budget restraints over the last few budget cycles and has significant case backlogs. The measure, if enacted, will strengthen the ability of the Board to accomplish its mission of deciding appeals from the Occupational Safety and Health Division and promoting the harmonious and cooperative relations between government and its employees to the benefit of the state.

The department notes that the measure does not have a fiscal impact.

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Senate Committee on Ways and Means
Tuesday, February 28, 2012
9:00 a.m.

SB 2671, SD1, Relating to Collective Bargaining.

Dear Chairman Ige and Committee Members:

On behalf of the University of Hawaii Professional Assembly (UHPA), our union supports SB 2671, SD1 to ensure that the Hawaii Labor Relations Board has the ability to employ the appropriate personnel to support the work of the agency in meeting their responsibility to ensure the rights to collective bargaining are protected and advanced. This agency must be able to effectively operate. As an administrative agency it provides the necessary vehicle for resolving labor disputes without having to increase the workload of the Circuit Courts.

UHPA notes that over the course of the last few years, there has been an increase in complex issues needing the assistance of the HLRB. These are time intensive and strain the resources of the agency meaning that justice is delayed. UHPA supports the increase of resources to the Hawaii Labor Relations Board.

UHPA urges the Committee to support SB 2671, SD1.

Respectively submitted,

Kristeen Hanselman
Associate Executive Director

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PROFESSIONAL ASSEMBLY

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February 26, 2012

TO: The Honorable David Ige, Chair and Michelle Kidani, Vice-Chair
Members of the Senate Committee on Ways and Means

DATE: Tuesday, February 28, 2012

TIME: 09:00 A.M.

PLACE: Conference Room 211, State Capitol

FROM: Hawaii Labor Relations Board
Department of Labor and Industrial Relations

RE: Testimony in Support of S.B. No. 2671, S.D. 1 Relating to Collective Bargaining

Aloha, my name is Sesnita Moepono and I am testifying in support of S.B. No. 2671, S.D. 1 for the Hawaii Labor Relations Board and on behalf of my fellow Board Members, who are not able to be here today due to a scheduled hearing on a prohibited practice case.

I. OVERVIEW OF PROPOSED LEGISLATION

S.B. No. 2671, S.D. 1 clarifies the Hawaii Labor Relations Board's authority to hire attorneys and paralegals. The bill further authorizes attorneys hired by the Board on a part-time or contract basis to represent the Board in litigation, draft legal documents for the Board, and provide other necessary legal services to the Board.

II. CURRENT LAW

Hawaii Revised Statutes (HRS) §89-5, enables the board the discretion to appoint an executive officer, mediators, arbitrators, and hearing officers, and employ other assistants as it may deem necessary in the performance of its functions. This statute currently permits an attorney employed by the Board as a full-time staff member to represent the Board in litigation, draft legal documents and provide other legal services to the Board and shall not be deemed to be a deputy attorney general.

III. COMMENTS ON THE SENATE BILL

The Board supports this bill as it will allow the Board to hire more than one attorney and employ attorneys on a part-time or contractual basis in the event the Board has any savings at the end of the fiscal year. The bill will also allow the Board to hire paralegals. This bill will assist the Board with:

- A) Drafting administrative rules to implement HRS 377-4.6 - streamlining union certification or “card check” provision passed by the legislature in 2009 and any other amendments to HRS Chapters 89 and 377 passed by the 2012 Legislature;
- B) Updating the Board’s administrative rules that have not been changed since 1981;
- C) Drafting decisions and orders to reduce the backlog of cases; and
- D) Providing legal services as needed.

The Board's staff currently includes an Executive Officer who represents the Board in appeals because she is the only attorney on staff, a Secretary and a legal file clerk. From 1997 - 1999, the Board has lost three positions; two attorneys and a paralegal.

The Board hears prohibited practice complaints under HRS Chapters 89 and 377 and appeals from the Hawaii Occupational, Safety and Health Division and. Board decisions and orders are drafted by the Executive Officer and Board Members when they are not in hearings. The Executive Officer also schedules the hearings and motions and drafts all hearing notices, appeals to Hawaii’s Circuit Court, Intermediate Court of Appeal and Supreme Court. Unfortunately, the HLRB does not have one position that is dedicated to writing decisions and orders. On June 30, 2011, we had approximately 90 pending prohibited practice complaints and 110 HIOSH appeals. This bill will give the Board an opportunity to address its backlog and its rules.

The Board thanks you for the opportunity to testify on S.B. No. 2671, S.D. 1 and asks for your support for this bill.