



GOV. MSG. NO. 1114

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

April 16, 2013

The Honorable Donna Mercado Kim,
President
and Members of the Senate
Twenty-Seventh State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

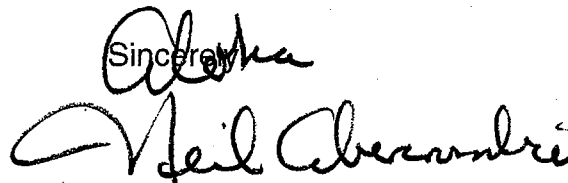
The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Seventh State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kim, Speaker Souki, and Members of the Legislature:

This is to inform you that on April 16, 2013, the following bill was signed into law:

HB921

RELATING TO PROCEEDINGS BEFORE THE
LABOR AND INDUSTRIAL RELATIONS APPEALS
BOARD
ACT 014 (13)

Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

Approved by the Governor
on APR 16 2013

ORIGINAL ACT 014

H.B. NO. 921

A BILL FOR AN ACT

RELATING TO PROCEEDINGS BEFORE THE LABOR AND INDUSTRIAL
RELATIONS APPEALS BOARD.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 371-4, Hawaii Revised Statutes, is
2 amended to read as follows:
3 "**§371-4 Labor and industrial relations appeals board.** (a)
4 There is created a labor and industrial relations appeals board
5 composed of three members nominated and, by and with the advice
6 and consent of the senate, appointed by the governor for terms
7 of ten years each, except that the terms of members first
8 appointed shall be for six, eight, and ten years respectively as
9 designated by the governor at the time of appointments. The
10 governor shall designate the chairperson of the board, who shall
11 be an attorney at law licensed to practice in all of the courts
12 of this State. Each member shall hold office until the member's
13 successor is appointed and qualified. Because cumulative
14 experience and continuity in office are essential to the proper
15 handling of appeals under workers' compensation law and other
16 labor laws, it is hereby declared to be in the public interest
17 to continue board members in office as long as efficiency is

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1 demonstrated. The members shall devote full time to their
2 duties as members of the board. Effective July 1, 2005, the
3 chairperson of the board shall be paid a salary set at eighty-
4 seven per cent of the salary of the director of labor and
5 industrial relations, and the salary of each of the other
6 members shall be ninety-five per cent of the chairperson's
7 salary.

8 (b) The board shall have power to decide appeals from
9 decisions and orders of the director of labor and industrial
10 relations issued under the workers' compensation law and any
11 other law for which an appeal to the board is provided by law.

12 (c) For purposes of appeals to the board conducted
13 pursuant to chapter 91, notwithstanding section 91-9.5, all
14 parties shall be given written notice of hearing by first class
15 mail at least fifteen days before the hearing.

16 (d) Unless otherwise provided by law, if service by first
17 class mail is not made because the board or its agents have been
18 unable to ascertain the address of the party after reasonable
19 and diligent inquiry, the notice of hearing may be given to the
20 party by publication at least once in each of two successive
21 weeks in a newspaper of general circulation. The last published

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1 notice shall appear at least fifteen days prior to the date of
2 the hearing.

3 (e) A decision concurred in by any two members shall
4 constitute a decision of the board.

5 (f) A vacancy in the board, if there remain two members of
6 it, shall not impair the authority of two members to act.

7 (g) If any member of the board is unable to act because of
8 absence, temporary disability, or disqualification, the governor
9 may make a temporary appointment and the appointee shall have
10 all the powers and duties of a regular member of the board.

11 (h) The chairperson of the appeal board shall be
12 responsible for the administrative functions of the appeal
13 board. The appeal board may:

14 (1) Appoint an executive officer and hearings officer, and
15 employ other employees as it deems necessary in the
16 performance of its functions;

17 (2) Set the duties and compensation of the executive
18 officer, hearings officer, and employees; and

19 (3) Provide for the reimbursement of actual and necessary
20 expenses incurred by the executive officer, hearings
21 officer, and employees in the performance of their
22 duties, within the amounts made available by

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1 appropriations therefor.

2 Members of the appeal board and employees other than
3 clerical and stenographic employees shall be exempt from
4 chapters 76 and 89. Clerical and stenographic employees shall
5 be employed in accordance with chapter 76.

6 (i) The board shall be within the department of labor and
7 industrial relations for budgetary and administrative purposes
8 only.

9 (j) The board may adopt rules [~~and regulations~~] within its
10 area of responsibilities in accordance with chapter 91.

11 (k) The board may make or issue any order or take other
12 appropriate steps as may be necessary to enforce its rules and
13 orders and to carry into full effect the powers and duties given
14 to it by law. The board may after notice and reasonable
15 opportunity to be heard by the board:

16 (1) Impose administrative sanctions; and

17 (2) Impose monetary sanctions of not more than \$250 for
18 each offense against any person who is found to have
19 violated the board's rules or orders, which amounts
20 shall be deposited into the special compensation fund
21 created by section 386-151.

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1 The board shall determine and direct the appropriate notice
2 and form for such opportunity to be heard."

3 SECTION 2. Section 386-88, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§386-88 Judicial review.** The decision or order of the
6 appellate board shall be final and conclusive, except as
7 provided in section 386-89, unless within thirty days after
8 mailing of a certified copy of the decision or order, the
9 director or any other party appeals to the intermediate
10 appellate court, subject to chapter 602, by filing a written
11 notice of appeal with the appellate board[+], or by
12 electronically filing a notice of appeal in accordance with the
13 Hawaii rules of appellate procedure. A fee in the amount
14 prescribed by section 607-5 for filing a notice of appeal from a
15 circuit court shall be paid to the appellate board for filing
16 the notice of appeal from the board, which together with the
17 appellate court costs shall be deemed costs of the appellate
18 court proceeding. The appeal shall be on the record, and the
19 court shall review the appellate board's decision on matters of
20 law only. No new evidence shall be introduced in the appellate
21 court, except that if evidence is offered that is clearly newly

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1 discovered evidence and material to the just decision of the
2 appeal, the court may admit the evidence."

3 SECTION 3. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 4. This Act shall take effect upon its approval.

6
7 INTRODUCED BY: _____

Jim Smith

8 BY REQUEST

9
10
JAN 22 2013

APPROVED this 16 day of APR, 2013

Neil Abernethy

GOVERNOR OF THE STATE OF HAWAII