

JAN 18 2013

A BILL FOR AN ACT

RELATING TO OCCUPATIONAL SAFETY AND HEALTH HEARINGS.

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

1 SECTION 1. Chapter 396, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§396- Appeals board. (a) In any hearing conducted by
5 the appeals board under this chapter and pursuant to chapter 91,
6 notwithstanding section 91-9.5, all parties shall be given
7 written notice of hearing by first class mail at least fifteen
8 days before the hearing.

9 (b) In all hearings before the appeals board, each board
10 member shall have the same powers as possessed by the circuit
11 courts respecting the administering of oaths, issuing subpoenas,
12 compelling the attendance of witnesses, the production of
13 documentary evidence, or the taking of depositions, and
14 examining or causing to be examined witnesses. The circuit
15 court of any circuit upon application by the appeals board or a
16 party shall have power to enforce by proper proceedings the
17 attendance and testimony of any witness so subpoenaed. Subpoena
18 and witness fees and mileage in such cases shall be the same as



1 in criminal cases in the circuit courts and paid by the party
2 calling the witness.

3 No person shall be excused from attending or testifying or
4 producing material, books, paper, correspondence, memoranda, and
5 other records before the appeals board or in obedience to
6 subpoena on the grounds that the testimony or evidence,
7 documentary or otherwise, required of the person may tend to
8 incriminate the person or subject the person to a penalty or
9 forfeiture; provided that no individual shall be prosecuted or
10 subjected to any penalty or forfeiture for or on account of any
11 transaction, matter, or thing concerning which the individual is
12 compelled, after having claimed the individual's privilege
13 against self-incrimination, to testify or produce evidence,
14 documentary, or otherwise, except that such individuals so
15 testifying shall not be exempt from prosecution and punishment
16 for perjury committed in so testifying.

17 Pursuant to chapter 91, the appeals board may adopt rules
18 of the Hawaii rules of civil procedure and other rules in
19 conducting any hearing.

20 (c) Contemptuous conduct at any hearing shall be grounds
21 for summary exclusion from the hearing. Such misconduct, if of
22 an aggravating character and engaged in by an attorney or other



1 representative of a party, shall be grounds for suspension or
2 disbarment from further practice before the appeals board after
3 due notice and hearing. The appeals board may impose other
4 sanctions for contemptuous conduct, including dismissal of the
5 appeal. Any action taken by the appeals board shall be by a
6 simple majority."

7 SECTION 2. Section 396-3, Hawaii Revised Statutes, is
8 amended by adding a new definition to be appropriately inserted
9 and to read as follows:

10 "Aggravating character" means circumstances and behavior
11 that increase the seriousness or outrageousness of the
12 contemptuous conduct."

13 SECTION 3. New statutory material is underscored.

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

15

INTRODUCED BY:

Man Hee



S.B. NO. 877

Report Title:

Occupational Safety and Health; Hawaii Labor Relations Board

Description:

Authorizes the Hawaii labor relations board to provide written notice of hearing to all parties by first class mail at least fifteen days before the hearing, notwithstanding section 91-9.5, Hawaii Revised Statutes, and clarifies the board's powers for conducting appeals under chapter 396, Hawaii Revised Statutes.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

