



NEIL ABERCROMBIE  
GOVERNOR

DWIGHT Y. TAKAMINE  
DIRECTOR

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

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March 21, 2013

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: Monday, March 25, 2013

Time: 9:05 a.m.

Place: Conference Room 211, State

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

**Re: H.B. No. 921 Relating to Proceedings Before the  
Labor and Industrial Relations Appeals Board**

**I. OVERVIEW OF PROPOSED LEGISLATION**

H.B. 921 is an Administration proposal that affirms the authority of the Labor and Industrial Relations Appeals Board (LIRAB) to take appropriate action to enforce its rules and orders and to provide workers' compensation litigants with the statutory authority to file electronic notices of appeal with the appellate court.

DLIR strongly supports this Administration measure.

**II. CURRENT LAW**

Current Section 371-4(h) of the Hawaii Revised Statutes (HRS) provides that LIRAB "may adopt rules and regulations in its area of responsibilities in accordance with chapter 91." There is, however, no express statutory authority for the Board to issue orders or take other action (such as the imposition of administrative or monetary sanctions) to enforce its rules or orders.

Current Section 386-88 of the HRS provides for judicial review of LIRAB decisions by filing a written notice of appeal with LIRAB. There is no option for filing electronic notices of appeal with the appellate court, which is now available through the Judiciary Electronic Filing System (JEFS).

### **III. COMMENTS ON THE HOUSE BILL**

This bill gives LIRAB the express statutory authority to enforce its rules and orders and, in doing so, would give LIRAB's rules and orders "teeth" and result in more efficient processing of appeals. The proposed bill is partly patterned after HRS Section 386-97.5, which gives the Director of Labor and Industrial Relations statutory authority to assess penalties against those found to have violated any provision of Chapter 386 or rule adopted by the Director thereunder for which no penalty is otherwise provided.

Similar to HRS Section 386-97.5 as it applies to the Director of Labor and Industrial Relations, all monetary sanctions or fines collected by LIRAB would be deposited into the Special Compensation Fund established under HRS Section 386-151 to help pay benefits to injured workers in the event of a default by an employer.

Authorizing litigants to electronically file notices of appeal is a small step towards paperless litigation for LIRAB. The proposed bill to allow electronic filing helps to reduce the State's carbon footprint.

In sum, the proposal improves efficiency in the processing of workers' compensation appeals, provides for the use of technology to increase productivity and improve government processes, and is consistent with the Governor's New Day initiatives to create a "green" and more efficient government.

NEIL ABERCROMBIE  
GOVERNOR



ROLAND Q.F. THOM  
CHAIRMAN

MELANIE S. MATSUI  
DAVID A. PENDLETON  
MEMBERS

LABOR & INDUSTRIAL RELATIONS APPEALS BOARD  
KEELIKOLANI BUILDING  
830 PUNCHBOWL STREET, ROOM 404  
HONOLULU, HAWAII 96813  
(808) 586-8600

March 22, 2013

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: Monday, March 25, 2013  
Time: 09:05 a.m.  
Place: Conference Room 211, State Capitol

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

**Re: H.B. No. 921 Relating to Proceedings Before the  
Labor and Industrial Relations Appeals Board**

**I. OVERVIEW OF PROPOSED LEGISLATION**

H.B. 921 is an Administration measure that expressly authorizes the Labor and Industrial Relations Appeals Board (LIRAB) to take appropriate action to enforce its rules and orders and to provide workers' compensation litigants with the statutory authority to file electronic notices of appeal with the appellate court.

LIRAB strongly supports this Administration measure. This bill promotes orderly and efficient adjudication and processing of workers' compensation appeals and reduces the State carbon footprint by providing workers' compensation litigants the option to electronically file judicial appeals.

**II. CURRENT LAW**

Current Section 371-4(h) of the Hawaii Revised Statutes (HRS) provides that LIRAB "may adopt rules and regulations in its area of responsibilities in accordance with chapter 91." There is, however, no express statutory authority for the Board to issue orders or take other action (such as the imposition of administrative or monetary sanctions) to enforce its rules or orders.

Current Section 386-88 of the HRS provides for judicial review of LIRAB decisions by filing a written notice of appeal with LIRAB. There is no option for filing electronic notices of appeal with the appellate court, which is now available through the Judiciary Electronic Filing System (JEFS).

### **III. COMMENTS ON THE HOUSE BILL**

Empowering LIRAB to enforce its rules and orders would give its rules and orders "teeth" and result in more efficient processing and adjudication of appeals. The proposed bill is modeled in part after HRS Section 386-97.5, which gives the Director of Labor and Industrial Relations statutory authority to assess penalties against those found to have violated any provision of Chapter 386 or rule adopted by the Director thereunder for which no penalty is otherwise provided.

Other State boards or commissions have statutory authority to fine or sanction parties for noncompliance with a law, regulation, or rule: Hawaii Labor Relations Board (HRS Section 377-9), Hawaii Public Utilities Commission (HRS Section 269-28), and Hawaii Land Use Commission (HRS Section 205-13).

Similar to HRS Section 386-97.5 as it applies to the Director of Labor and Industrial Relations, funds collected through the imposition of sanctions would be deposited into the Workers' Compensation Special Compensation Fund created under HRS § 386-151 to pay benefits to employees in case of employer default.

Authorizing litigants to electronically file notices of appeal is another step towards paperless litigation and a "greener" government.

THE SENATE  
THE TWENTY-SEVENTH LEGISLATURE  
REGULAR SESSION OF 2013

COMMITTEE ON WAYS AND MEANS

Sen. David Y. Ige, Chair  
Sen. Michelle N. Kidani, Vice Chair

Date: Monday, March 25, 2013  
Time: 9:05 a.m.  
Place: Conference Room 211

**TESTIMONY OF ILWU LOCAL 142**  
**RE: HB 921, RELATING TO PROCEEDINGS BEFORE THE**  
**LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD**

Chair Ige, Vice Chair Kidani, Members of the Committee on Ways & Means:

Thank you for the opportunity to present testimony regarding HB 921. We support this bill.

The Labor and Industrial Relations Appeals Board, like all adjudicatory bodies, requires the ability to enforce its rules and orders through sanctions. This is a commonplace and appropriate function of administrative tribunals and the monetary amounts of \$250.00 per offense is modest and restrained. The proposed legislation also importantly provides for an opportunity to be heard before the board regarding any sanctions that are imposed and therefore respects due process.

H.B. 921 further creates the alternative for filing appeals electronically in accordance with the manner electronic appeals are filed under the Hawaii Rules of Appellate Procedure. This, too, is a constructive idea, but we suggest that if the Board adopts this procedure that it be implemented in a manner so that the system is user-friendly and easily navigated by pro se litigants as well as attorneys and other non-attorney representatives. Even the current Hawaii appellate court procedure has quirks and idiosyncracies that can make utilizing the system a challenge. Electronic filing of documents, however, will be a special asset to the population of disabled pro se litigants who appear before the board, since it will spare them the necessity of physically traveling to the board or arranging for a messenger service to file necessary documents and pleadings.