



**STATE OF HAWAII**  
**DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**  
830 PUNCHBOWL STREET, ROOM 321  
HONOLULU, HAWAII 96813  
<http://labor.hawaii.gov>

March 11, 2013

To: The Honorable Clayton Hee, Chair,  
The Honorable Maile Shimabukuro, Vice Chair, and  
Members of the Senate Committee on Judiciary and Labor

Date: Wednesday, March 13, 2013  
Time: 10:30 a.m.  
Place: Conference Room 016, State Capitol

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).



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

March 12, 2013

To: The Honorable Clayton Hee, Chair,  
The Honorable Maile Shimabukuro, Vice Chair, and  
Members of the Senate Committee on Judiciary and Labor

Date: Wednesday, March 13, 2013  
Time: 10:30 a.m.  
Place: Conference Room 016, 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 statutory option

to file electronic notices of appeal with the appellate court, which is currently 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 help 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.

**DENNIS W. S. CHANG**  
Attorney at Law, LLLC

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

THE SENATE  
TWENTY-SEVENTH LEGISLATURE, 2013  
STATE OF HAWAII

March 11, 2013

VIA ELECTRONIC MAIL

TO: The Honorable Clayton Hee, Chair  
The Honorable Maile S. L. Shimabukuro, Vice Chair  
and Members of the Senate Committee on Judiciary & Labor

DATE: Wednesday, March 13, 2013  
TIME: 10:30 a.m.  
PLACE: Conference Room 016, State Capitol  
415 South Beretania Street

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

**Re: HB 921 Relating to Proceedings Before the  
Labor and Industrial Relations Appeals Board**  
**Strong Support**

I fully support the underlying spirit and intent of HB 921. The Labor and Industrial Relations Appeals Board (Board) should be able to issue orders or take other appropriate action to enforce its own rules and orders. Without this, you will have an essentially partially functioning board. Can you imagine a court which is unable to enforce its own rules and orders? It would be unimaginable and the same is true for the Board.

Similarly, allowing parties to electronically file appeals to the appellate court is necessary. It is clearly a step in the right direction in the 21st century where we all can use better technology to increase productivity and improve work in both the private and government industry.

However, it should be clearly known that I do not support any bill that comes along with this bill that would impose costs on injured workers as litigants such as the

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attempt to impose filing fees for appeals. It is already difficult for injured workers to go unpaid should the decision be erroneous, or to be paid at a meager rate so that even nominal amounts such as filing fees to defray costs for the Board are unquestionably a hardship on workers.

With the condition stated above, I unequivocally support HB 921.

DWSC:ty

THE SENATE  
THE TWENTY-SEVENTH LEGISLATURE  
REGULAR SESSION OF 2013

COMMITTEE ON JUDICIARY & LABOR

Sen. Clayton Hee, Chair  
Sen. Maile S. L. Shimabukuro, Vice Chair

Date: Wednesday, March 13, 2013

Time: 10:30 a.m.

Place: Conference Room 016

Chair Hee, Vice Chair Shimabukuro, Members of the Committee on Finance:

Thank you for the opportunity to present testimony regarding HB 921, H.D. 1. 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. It may be appropriate to add that the sanctions imposed should be appealable, through additional language to that effect.

H.B. 921, H.D. 1 also 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 properly funded so that the system adopted is user-friendly and easily navigated by pro se litigants as well as attorneys. Even the current Hawaii appellate court procedure has quirks and idiosyncracies that can make utilizing the system a challenge. The Board should therefore weigh carefully if it requires added appropriations to implement its electronic filing program and seek such funding also.

**hee2 - Kathleen**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, March 10, 2013 5:11 PM  
**To:** JDLTestimony  
**Cc:** TABRAHAM08@GMAIL.COM  
**Subject:** Submitted testimony for HB921 on Mar 13, 2013 10:30AM

**HB921**

Submitted on: 3/10/2013

Testimony for JDL on Mar 13, 2013 10:30AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
TROY ABRAHAM	Individual	Support	No

Comments: i support urgent fix of this bill to create more jobs and handle jobs complaints more effectively

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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