

# H.B. NO. 920

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## A BILL FOR AN ACT

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

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

1           SECTION 1. Consistent with Governor Neil Abercrombie's New  
2 Day plan to transform government and change the way government  
3 does business through the creative use of technology, the  
4 purpose of this Act is to authorize the labor and industrial  
5 relations appeals board to establish a filing fee for appeals  
6 filed to the board and fees for other administrative costs  
7 associated with the processing of appeals, and create a special  
8 fund into which moneys collected shall be deposited for use by  
9 the board to meet its goal of paperless litigation and move the  
10 agency into the digital age. Moneys from fees collected would  
11 be used to fund operational costs, such as technology and  
12 equipment upgrades, as well as high-priority but currently cost-  
13 prohibitive projects such as an electronic archiving system and  
14 an online electronic document filing system that could be  
15 integrated with the judiciary's electronic filing system.

1 SECTION 2. Chapter 371, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§371- Labor and industrial relations appeals board

5 special fund. (a) There is established in the state treasury  
6 the labor and industrial relations appeals board special fund,  
7 into which shall be deposited:

8 (1) All moneys collected by the labor and industrial  
9 relations appeals board pursuant to section 386-87;  
10 and

11 (2) All interest accrued by the revenues of the fund.

12 (b) The fund shall be administered by the labor and  
13 industrial relations appeals board.

14 (c) Moneys in the labor and industrial relations appeals  
15 board special fund shall be used by the labor and industrial  
16 relations appeals board for operating costs, as defined in  
17 section 37-62, incurred in the performance of its functions  
18 under chapters 371 and 386. The operating costs include but are  
19 not limited to upgrades of technology and equipment and  
20 procurement of an electronic document management system.

21 (d) The labor and industrial relations appeals board shall  
22 submit a report to the legislature detailing all funds received

1 and all moneys disbursed out of the fund prior to the convening  
2 of each regular session."

3 SECTION 3. Section 386-87, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "**§386-87 Appeals to appellate board.** (a) A decision of  
6 the director shall be final and conclusive between the parties,  
7 except as provided in section 386-89, unless within twenty days  
8 after a copy has been sent to each party, either party appeals  
9 therefrom to the appellate board by filing a written notice of  
10 appeal with the appellate board or the department. In all cases  
11 of appeal filed with the department the appellate board shall be  
12 notified of the pendency thereof by the director. No compromise  
13 shall be effected in the appeal except in compliance with  
14 section 386-78.

15 (b) The appellate board shall hold a full hearing de novo  
16 on the appeal.

17 (c) The appellate board shall have power to review the  
18 findings of fact, conclusions of law and exercise of discretion  
19 by the director in hearing, determining or otherwise handling of  
20 any compensation case and may affirm, reverse or modify any  
21 compensation case upon review, or remand the case to the  
22 director for further proceedings and action.

1 (d) In the absence of an appeal and within thirty days  
2 after mailing of a certified copy of the appellate board's  
3 decision or order, the appellate board may, upon the application  
4 of the director or any other party, or upon its own motion,  
5 reopen the matter and thereupon may take further evidence or may  
6 modify its findings, conclusions or decisions. The time to  
7 initiate judicial review shall run from the date of mailing of  
8 the further decision if the matter has been reopened. If the  
9 application for reopening is denied, the time to initiate  
10 judicial review shall run from the date of mailing of the denial  
11 decision.

12 (e) The appellate board may establish a fee of \$30 for the  
13 filing of a written notice of appeal pursuant to this section  
14 and fees for administrative costs associated with the processing  
15 of appeals, including but not limited to telefaxing, preparation  
16 of audio recordings, photocopying, search of records, and  
17 dishonored checks; provided that the schedule and amount of fees  
18 may be established and adjusted accordingly by the appellate  
19 board by rules adopted pursuant to chapter 91.

20 The fees prescribed under this subsection shall be paid to  
21 the chief clerk of the appellate board. Any fees collected  
22 shall be deposited with the director of finance to the credit of

1 the labor and industrial relations appeals board special fund  
2 established under section 371- .

3 The appellate board may waive the payment of fees and costs  
4 for good cause shown.

5 Neither the State nor any county or any political  
6 subdivision shall be required to pay any fees prescribed under  
7 this subsection."

8 SECTION 4. There is appropriated out of the labor and  
9 industrial relations appeals board special fund the sum of  
10 \$10,000, or so much thereof as may be necessary, for fiscal year  
11 2013-2014 for operating costs incurred in the performance of its  
12 functions under chapters 371 and 386, Hawaii Revised Statutes.

13 SECTION 5. The sum appropriated shall be expended by the  
14 department of labor and industrial relations for the purposes of  
15 this Act.

16 SECTION 6. New statutory material is underscored.

17 SECTION 7. This Act, upon its approval, shall take effect  
18 on July 1, 2013.

19

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INTRODUCED BY: 

21

BY REQUEST

22

JAN 22 2013

H.B. NO. 920

**Report Title:**

Labor and Industrial Relations Appeals Board

**Description:**

Authorizes the Labor and Industrial Relations Appeals Board to establish a \$30 fee for the filing of appeals and fees for other administrative expenses associated with the processing of appeals and to establish a Labor and Industrial Relations Appeals Board Special Fund.

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

JUSTIFICATION SHEET

DEPARTMENT: Labor and Industrial Relations

TITLE: A BILL FOR AN ACT RELATING TO APPEALS TO THE LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD.

PURPOSE: To authorize the Labor and Industrial Relations Appeals Board (Board) to establish a \$30 fee for the filing of workers' compensation appeals and fees for other administrative costs associated with the processing of appeals and to establish a Labor and Industrial Relations Appeals Board Special Fund into which funds shall be deposited for use by the Board.

MEANS: Add a new section to chapter 371, Hawaii Revised Statutes, and amend section 386-87, Hawaii Revised Statutes.

JUSTIFICATION: Governor Abercrombie's New Day plan envisions transforming state government into an efficient and effective enterprise. If enacted, this measure would allow the Board to move the agency into the digital age with a goal towards paperless litigation and electronic filing and document management.

Allowing the Board to establish filing fees and fees for other administrative costs would supplement the Board's operating budget and help fund operational expenses, such as upgrades of technology and equipment, training, and other costs associated with the adjudication of appeals, as well as high-priority, but currently cost-prohibitive projects such as an electronic archiving and filing system that could be integrated with the Judiciary's e-filing system.

The Board's decisions and orders are currently kept in hard copies in file

cabinets stored on the premises. The office "footprint" required to store and retrieve hard copies is not efficient.

Other uses of technology to enhance productivity and efficiency include the procurement of a calendaring and reminder system to send litigants reminders for conferences and hearings via text messages from the Board's lotus notes calendar and the enhancement of the Board's website to provide litigants with online access to the board's conference and trial calendar.

A filing fee for appeals would not only serve as a source of funding for important projects, it would also discourage the filing of vexatious and frivolous appeals. It has been the Board's experience that a number of less than meritorious appeals have been taken by parties as a delay tactic.

Other state programs are allowed to charge filing fees. Agencies such as the Land Use Commission and Public Utilities Commission charge fees for the filing of documents. Chapter 607 of the Hawaii Revised Statutes allows the Judiciary and courts to charge a variety of filing fees.

The creation of a special fund into which funds collected by the Board from filing fees and fees for other administrative costs would allow the Board to manage its funds for the purpose of processing appeals.

Impact on the public: A reasonable fee would discourage frivolous or vexatious appeals. As a result, the Board would have more time to devote to appeals with merit. By setting the fee at a reasonable amount and providing a procedure for parties to seek an exemption or a waiver of the fee with good cause shown, parties with legitimate appeals who cannot afford the filing fees would not be excluded from the appeals process.



Impact on the department and other agencies:  
Revenues from fees would supplement the department budget for the Board.

GENERAL FUND: None.

OTHER FUNDS: Up to \$10,000 from Labor and Industrial Relations Appeals Board Special Fund for fiscal year 2013-2014.

PBBS PROGRAM  
DESIGNATION: LBR 812.

OTHER AFFECTED  
AGENCIES: Department of Labor and Industrial Relations, Disability Compensation Division (DCD), whose assistance would be required to collect the filing fees for appeals filed with the DCD, especially on the neighbor islands.

EFFECTIVE DATE: July 1, 2013.