

S.B. NO. 1120

JAN 28 2015

A BILL FOR AN ACT

RELATING TO NOTICE OF HEARING BY 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 by amending subsection (d) to read as follows:

3 "(d) Unless otherwise provided by law, if service by first
4 class mail is not made because the board or its agents have been
5 unable to ascertain the address of the party after reasonable
6 and diligent inquiry, the notice of hearing may be given to the
7 party by online posting on the board's webpage or by publication
8 at least once in each of two successive weeks in a newspaper of
9 general circulation. The online posting or last published
10 notice shall appear at least fifteen days prior to the date of
11 the hearing. The online posting shall be removed from the
12 webpage after the date of the hearing."

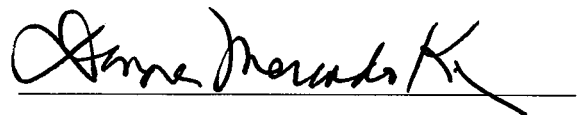
13 SECTION 2. New statutory material is underscored.

14 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY:



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BY REQUEST

S.B. NO. 1120

Report Title:

Notice of Hearing; Labor and Industrial Relations Appeals Board

Description:

Allows the Labor and Industrial Relations Appeals Board the option to provide notice of hearing by online posting on the board's webpage if service by first class mail fails to elicit a response from the party.

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 NOTICE OF HEARING BY THE LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD.

PURPOSE: To allow the Labor and Industrial Relations Appeals Board (LIRAB) the option to provide notice of hearing by online posting on the LIRAB's webpage if service by first class mail is returned as undeliverable.

MEANS: Amend section 371-4(d), Hawaii Revised Statutes (HRS).

JUSTIFICATION: Section 371-4(c), HRS, requires the LIRAB to provide chapter 91, HRS, notice of hearing by first class mail. Sometimes, such notice is returned as undeliverable because a party cannot be located due to the party moving away or abandoning the appeal without providing a forwarding address. In such instances and after a reasonable and diligent effort to ascertain the party's address, the LIRAB is required by section 371-4(d), HRS, to provide notice of hearing by publication in a newspaper of general circulation.

Notice by newspaper publication has not been an effective or economical means of providing notice to a party who has a pending case on appeal. Legal notices in the newspaper are arranged under broad headings in no particular order, such as, "Court Notices," "Summons," "Public Notice," and "Public Meetings," that are buried in fine print. At least for the last twenty-five years, no party has ever appeared at the LIRAB for a hearing after notice by newspaper publication. For the last four years (2011-2014), the LIRAB spent a total of \$4,980.00 for thirteen newspaper ads.

This calculates to an average of \$1,245.00 per year and \$383.00 per ad.

The proposed amendment to subsection (d) gives the LIRAB the option of posting the notice of hearing on its webpage and to keep it posted until after the date of the hearing. Online posting of information has become commonplace in today's digital world, because it is quick, efficient, and relatively inexpensive. The LIRAB has an online presence under the Department of Labor and Industrial Relations' website and encourages litigants on appeal to access information on the LIRAB's webpage. With online posting, an interested party who already has a pending case at the LIRAB but cannot be contacted via first class mail, can easily find the case-specific information on the LIRAB's webpage during the period of online posting.

In that regard, information posted online is more readily accessible than information buried in legal print ads. Clearly, the expense of publication far exceeds its intended result, while online posting is by far the more cost-effective medium. Publication by newspaper will remain an alternative medium for the LIRAB because its website could become unavailable on occasion due to maintenance or other technical difficulties.

Impact on the public: The proposed amendment to section 371-4(d), HRS, has minimal effect on the public. The notice of hearing that the LIRAB seeks authority to post online is not public notice directed at a group or the general population. The notice is directed at a specific party or litigant within the LIRAB's jurisdiction who was at one time a participant in a pending workers' compensation appeal but has since moved away or cannot be found.

Impact on the department and other agencies:
The proposed amendment would save the Department public funds and also LIRAB staff time that has to be expended to draft, prepare, and place the ads. The LIRAB estimates a savings of \$1,317.00 per year. There would be no impact on other agencies because the amendment pertains only to LIRAB notices of hearing.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: LBR812.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.