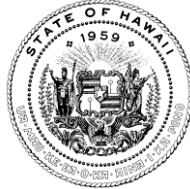


DAVID Y. IGE  
GOVERNOR

SHAN S. TSUTSUI  
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LINDA CHU TAKAYAMA  
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**STATE OF HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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February 23, 2016

To: The Honorable Sylvia Luke, Chair,  
The Honorable Scott Y. Nishimoto, Vice Chair, and  
Members of the House Committee on Finance

Date: Wednesday, February 24, 2016  
Time: 3:00 p.m.  
Place: Conference Room 308, State Capitol

From: Linda Chu Takayama, Director  
Department of Labor and Industrial Relations (DLIR)

**Re: H.B. No. 2161 H.D. 1 Relating to the Disability Compensation Division**

**I. OVERVIEW OF PROPOSED LEGISLATION**

HB2161 HD1 proposes to appropriate funds for the hiring of six positions within the Department of Labor and Industrial Relations' (department) Disability Compensation Division (DCD).

The department supports this measure, provided that its passage does not replace or adversely impact priorities indicated in the Governor's Supplemental Budget request.

The cost to fund the positions is \$355,526 and is broken out in the comments section for the Committee's information.

The six positions in the measure are:

- One (1) Professional Employers Organization Specialist;
- One (1) Vocational Rehabilitation Specialist;
- Two (2) Disability Compensation Enforcement Specialists (one assigned to Kauai and one to Kona);
- One (1) Auditor; and

- One (1) Hearings Officer assigned to Kona.

## II. CURRENT STATUS

DCD is currently in a rebuilding process after suffering 31% of its staff positions being cut since 2009. In 2013, the legislature authorized 14 positions (while abolishing three other positions) and in 2014 authorized one additional position to DCD's staff.

The Division currently lacks adequate staffing to carry out its responsibilities in its Professional Employer Organizations (PEO), Vocational Rehabilitation (VR), Enforcement, and Hearings programs.

### Professional Employer Organizations.

The Division was tasked in 2013 with administering chapter 373L, Hawaii Revised Statutes, (Professional Employer Organizations) without staffing or funding. Without adequate resources, the division has only been able to focus on registering new and renewal applications from PEOs.

### Vocational Rehabilitation.

The Division currently administers the Workers' Compensation Vocational Rehabilitation (VR) program with only one Vocational Rehab Specialist in the VR unit. The VR Specialist must review and approve/disapprove the VR plans for claimants within 20 days else the VR plans are approved by default. By law, these VR determinations can only be signed by the VR unit, and without a second Specialist in the unit, the Division will be unable to review plans and issue the time-sensitive determinations when the specialist is on leave or if the position is vacant.

### Enforcement - Investigation.

The Division does not have investigator positions on Kauai and Kona to ensure employers are providing their employees the Workers' Compensation (WC), Temporary Disability Insurance (TDI), and Prepaid Health Care (PHC) coverage mandated by law. Consequently, the Investigation Section in Honolulu has tried unsuccessfully to enforce these laws remotely by email, phone, and regular mail.

### Enforcement – Audit.

The Division lacks adequate staffing to conduct the Financial and Compliance audits necessary to ensure self-insured employers are financially healthy enough to continue their self-insured program and to ensure employers are not over-withholding premium deductions from their employees. The Audit section, comprised of only one supervisor and two auditors, is responsible for enforcing the financially-related sections for the WC, TDI, and PHC laws throughout the entire State.

### Hearings – Kona.

The West Hawaii (Kona) District Office is staffed with only one Hearings Officer to adjudicate WC disputes. The office has had difficulty maintaining its current case

load after the Kona Hearings Staff was cut by 50% during the RIF in 2009.

**III. COMMENTS ON THE HOUSE BILL**

The department appreciates the opportunity to increase its DCD staff to improve its quality and timeliness of services to the public and supports this measure, provided that its passage does not replace or adversely impact priorities indicated in the Governor's Supplemental Budget request.

With the exception of the Kona Hearings Officer, DCD's priority staffing requests listed above are part of the department's Supplemental Budget request and represent the priorities of the DLIR. The department did request one Hearings Officer for Kona in the Supplemental Budget, but that request was not approved by the Department of Budget & Finance.

The estimated cost to fund the six positions follows.

Annual Salaries	\$ 317,424
Expenses & Equipment	\$ 31,602
Training	<u>\$ 6,500</u>
Total	<u>\$ 355,526</u>

DAVID Y. IGE  
GOVERNOR



JAMES K. NISHIMOTO  
DIRECTOR

CINDY S. INOUE  
DEPUTY DIRECTOR

**STATE OF HAWAII**  
**DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT**  
235 S. BERETANIA STREET  
HONOLULU, HAWAII 96813-2437

February 22, 2016

**TESTIMONY TO THE  
HOUSE COMMITTEE ON FINANCE**

For Hearing on Wednesday, February 24, 2016  
3:00 p.m., Conference Room 308

BY

JAMES K. NISHIMOTO  
DIRECTOR

**House Bill No. 2161, H.D. 1**  
**Relating to the Disability Compensation Division**

**WRITTEN TESTIMONY ONLY**

TO CHAIRPERSON SYLVIA LUKE AND MEMBERS OF THE COMMITTEE:

Thank you for the opportunity to testify in **strong support** of H.B. 2161, H.D. 1.

The purpose of H.B. 2161, H.D. 1, is to appropriate funds for the hiring of six identified hearings officer positions and support staff within the Department of Labor and Industrial Relations' Disability Compensation Division and to provide the officers and staff with legal and medical training.

The Department of Human Resources Development ("DHRD") has a fiduciary duty to administer the State's self-insured workers' compensation program and its expenditure of public funds.

DHRD believes that an additional hearing officer, vocational rehabilitation specialist, and other support staff, with the proper legal and medical training, will allow the Disability Compensation Division to expedite hearings, decisions, and resolutions of contested issues of compensability, medical treatment, vocational rehabilitation, and myriad other issues that arise in workers' compensation claims. This would benefit all stakeholders in the workers' compensation system.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 23, 2016 1:38 PM  
**To:** FINTestimony  
**Cc:** moore4640@hawaiiantel.net  
**Subject:** Submitted testimony for HB2161 on Feb 24, 2016 15:00PM

**HB2161**

Submitted on: 2/23/2016

Testimony for FIN on Feb 24, 2016 15:00PM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Douglas Moore	Hawaii Injured Workers Association	Support	No

Comments: Aloha: the Hawaii Injured Workers Association (HIWA) respectfully supports the passage of this legislation to add much needed Disability Compensation Division (DCD) hearing officers with appropriate medical and legal training. Injured workers tell HIWA about the lengthy harmful delays in getting DCD hearings to resolve disputes causing many injured workers to go without appropriate medical treatment or very needed wage loss often for long periods of time. These lengthy delays cause great hardship to the injured workers and their families. Hearing officers need to be appropriately educated & trained in medical and legal issues, as these are issues they will be reviewing, analyzing & deciding. We know there are medical and legal experts, including members of the Hawaii Medical Association and members of the Hawaii State Bar Association, who can provide such education & training and are willing to do so. Therefore, please pass this legislation which will benefit injured workers and their families, as well as employers & insurance carriers who request hearings to resolve disputed issues. Mahalo for your consideration & support. Douglas Moore, HIWA President

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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Testimony of Brooke Wilson  
Pacific Resource Partnership

Committee on Finance  
Representative Sylvia Luke, Chair  
Representative Scott Nishimoto, Vice Chair

HB 2161, HD1 – Relating to Disability Compensation Division  
Wednesday, February 24, 2016  
3:00 P.M.  
State Capitol – Room 308

Aloha Chair Luke, Vice Chair Nishimoto and members of the Committee:

We are in **support** of HB 2161, HD1. This bill appropriates funds for the hiring of six identified hearings officer positions and support staff within the Department of Labor and Industrial Relations' Disability Compensation Division (DCD) and to provide the officers and staff with legal and medical training.

The DCD is understaffed, and it is extremely difficult for the Department to keep up with the efforts required by state statute. We would welcome the additional capacity and training to assist with the administration of the Workers' Compensation (WC) law, the Temporary Disability Insurance (TDI) law, and the Prepaid Health Care (PHC) law.

Thank you for the opportunity to share our opinion and we respectfully request support of HB 2161, HD1.

#### About PRP

*Pacific Resource Partnership (PRP) is a not-for-profit organization that represents the Hawaii Regional Council of Carpenters, the largest construction union in the state, and more than 240 of Hawaii's top contractors. Through this unique partnership, PRP has become an influential voice for responsible construction and an advocate for creating a stronger, more sustainable Hawaii in a way that promotes a vibrant economy, creates jobs and enhances the quality of life for all residents.*



# DENNIS W. S. CHANG

*Attorney at Law, A Limited Liability Law Corporation*

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

## HOUSE OF REPRESENTATIVES THE TWENTY-EIGHTH LEGISLATURE REGULAR SESSION OF 2016

TO: COMMITTEE ON FINANCE  
Rep. Sylvia Luke, Chair  
Rep. Scott Y. Nishimoto, Vice Chair

FROM: Dennis W.S. Chang, Attorney-At - Law

### **Re: H.B. No. 2161, HD 1, Relating to the Disability Compensation Division**

#### **I. Discussion.**

As a long practicing labor attorney for nearly four (4) decades with a heavy emphasis in the processing of workers' compensation claims for injured workers, I wholeheartedly endorse the passage of HB No. 2161. Despite the slight gains made by the last administration in the last few years, there is much more to be done. We cannot place blame on the Disability Compensation Division (DCD), which is in need of critical monies for multiple programs, here in particular, for injured workers.

Hopefully, we will have vital additional appropriations in future sessions as well so that injured workers do not unduly suffer continued physical harm, needless emotional distress, and economic ruin. I have seen an increasing number of injured workers and their families and loved ones going homeless merely because the DCD does not have the requisite manpower to conduct prompt hearings when their claims are denied and issue rapid decisions. The passage of this proposed bill continues to move us in the right direction.

#### **II. Condition.**

However, I do have a major concern, which is left unaddressed - who will be conducting the necessary legal and medical training? I would urge the Chair and whole committee to sincerely consider inserting a provision that a handbook for training be prepared by representatives of the insurance industry and injured workers. The same balance should be struck with medical training and not the lopsided training to date from defense oriented experts and physicians.

That said, I urged the passage of HB No. 2161. The proposed bill is a win-win for everyone.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 23, 2016 2:05 PM  
**To:** FINTestimony  
**Cc:** cwilson@ahcs.com  
**Subject:** Submitted testimony for HB2161 on Feb 24, 2016 15:00PM

**HB2161**

Submitted on: 2/23/2016

Testimony for FIN on Feb 24, 2016 15:00PM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Cathy Wilson	Individual	Support	No

Comments: The DLIR is very short handed. In order for them to get things done more timely, they need more help. This will help the DLIR, which helps our people of Hawaii. The length of time things take to get done, due to being short staffed, hurts our injured workers and their families the most! Thank you for your consideration on HB2161.

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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**LATE**



Chamber of Commerce HAWAII  
*The Voice of Business*

**Testimony to the House Committee on Finance  
Wednesday, February 24, 2016 at 3:00 P.M.  
Conference Room 308, State Capitol**

**RE: HOUSE BILL 2161 HD 1 RELATING TO THE DISABILITY COMPENSATION  
DIVISION**

Chair Luke, Vice Chair Nishimoto, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **supports** HB 2161 HD 1, which appropriates funds for the hiring of six identified hearings officer positions and support staff within the Department of Labor and Industrial Relations' Disability Compensation Division and to provide the officers and staff with legal and medical training.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

The addition of these six officer positions and support staff within the Disability Compensation Division will greatly alleviate the hearings backlog. In addition, the PEO, vocational rehab, and enforcement specialist positions will allow for a more efficient regulation of the industry, a speedier recovery for injured workers, and stronger enforcement of workers' compensation, prepaid health, and other issues.

Thank you for the opportunity to testify.

The Twenty-Eighth Legislature  
Regular Session of 2016

**LATE**

HOUSE OF REPRESENTATIVES  
Committee on Finance  
Rep. Sylvia Luke, Chair  
Rep. Scott Y. Nishimoto, Vice Chair  
State Capitol, Conference Room 308  
Wednesday, February 24, 2016; 3:00 p.m.

**STATEMENT OF THE ILWU LOCAL 142 ON H.B. 2161, HD1  
RELATING TO THE DISABILITY COMPENSATION DIVISION**

The ILWU Local 142 **supports** H.B. 2161, HD1, which appropriates funds for hiring of six identified hearings officer positions and support staff within the Department of Labor and Industrial Relations' Disability Compensation Division and to provide the officers and staff with legal and medical training.

The Disability Compensation Division (DCD) has been short-staffed for several years. The hiring of additional hearings officers and staff will ensure that hearings are held in a timely manner, avoiding delays to medical treatment for injured workers and delays in payment of benefits.

However, the real concern is the trend by employers to challenge compensation for injured workers, resulting in injured workers left in limbo waiting for medical treatment to help them return to gainful employment or being denied monetary compensation that would allow them to survive while they are not able to work.

The workers' compensation law was intended to be a no-fault law that provides compensation to workers who are injured in the course of employment. In exchange, workers are prohibited from filing legal action against their employers. Yet, in recent years, employers have been using the tactic of denying liability in order to conduct an "investigation" of the claim, which often means hiring so-called independent medical examiners who are paid by the employer or the employer's insurance carrier and may not be entirely "independent" or unbiased.

The workers' compensation system requires a thorough evaluation and assessment to ensure that the original intent of the law is enforced and that injured workers are provided benefits and services to allow them to return to work. Delays that ultimately result in workers injured on the job no longer being gainfully employed and thus having to rely on government assistance is a gross injustice.

The ILWU urges passage of H.B. 2161, HD1. Thank you for the opportunity to provide testimony on this matter.

From: mailinglist@capitol.hawaii.gov  
Sent: Tuesday, February 23, 2016 6:48 PM  
To: FINTestimony  
Cc: ssmhawaii@aol.com  
Subject: \*Submitted testimony for HB2161 on Feb 24, 2016 15:00PM\*

**LATE**

**HB2161**

Submitted on: 2/23/2016

Testimony for FIN on Feb 24, 2016 15:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Scott J Miscovich MD	WIMAH Work Injury Medical Association of Hawaii	Support	No

Comments:

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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