



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

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March 14, 2016

To: The Honorable Gilbert S.C. Keith-Agaran, Chair,  
The Honorable Maile S.L. Shimabukuro, Vice Chair, and  
Members of the Senate Committee on Judiciary and Labor

Date: Wednesday, March 16, 2016  
Time: 9:00 a.m.  
Place: Conference Room 016, 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**

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 and not ensuring compliance with other provisions of the law like informing DoTAX of non-compliance and therefore loss of GE Tax exemptions or pursuing other PEOs that are operating without registering.

### 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, our 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 of 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 backlog of WC hearings in Kona is preventing timely resolution of WC cases for both claimants and employers.

## **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

March 11, 2016

TESTIMONY TO THE  
SENATE COMMITTEE ON JUDICIARY AND LABOR

For Hearing on Wednesday, March 16, 2016  
9:00 a.m., Conference Room 016

BY

JAMES K. NISHIMOTO  
DIRECTOR

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

**WRITTEN TESTIMONY ONLY**

TO CHAIRPERSON GILBERT KEITH-AGARAN 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.

DEPARTMENT OF HUMAN RESOURCES

**CITY AND COUNTY OF HONOLULU**

850 SOUTH KING STREET 10<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
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KIRK CALDWELL  
MAYOR



CAROLEE C. KUBO  
DIRECTOR  
NOEL T. ONO  
ASSISTANT DIRECTOR

March 16, 2016

The Honorable Gilbert S.C. Keith-Agaran, Chair  
and Members of the Committee on  
Judiciary and Labor  
The House, Conference Room 016  
State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Keith-Agaran and Members of the Committee:

Subject: House Bill No. 2161, HD1  
Relating to the Disability Compensation Division

H.B. 2161, HD1 appropriates funds for the hiring of six full-time hearing officer positions and support staff within the State of Hawaii, Department of Labor and Industrial Relations, Disability Compensation Division (DCD). The measure also provides funding to provide DCD staff with legal and medical training.

The City and County of Honolulu, Department of Human Resources, supports the measure. The positions and training authorized by H.B. 2161, HD 1, will provide additional resources for the DCD to carry out its mission.

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink that reads "Carolee C. Kubo".

Carolee C. Kubo  
Director

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [JDLTestimony](#)  
**Cc:**  
**Subject:** Submitted testimony for HB2161 on Mar 16, 2016 09:00AM  
**Date:** Monday, March 14, 2016 11:09:58 AM

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**HB2161**

Submitted on: 3/14/2016

Testimony for JDL on Mar 16, 2016 09:00AM in Conference Room 016

<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. It seems a win situation. 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.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)



Chamber of Commerce HAWAII  
*The Voice of Business*

**Testimony to the Senate Committee on Judiciary & Labor  
Wednesday, March 16, 2016 at 9:00 A.M.  
Conference Room 016, State Capitol**

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

Chair Keith-Agaran, Vice Chair Shimabukuro, 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

THE SENATE

Committee on Judiciary and Labor  
Senator Gilbert S.C. Keith-Agaran, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair  
State Capitol, Conference Room 016  
Wednesday, March 16, 2016; 9:00 a.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.



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

March 14, 2016

To: The Honorable Gilbert S.C. Keith-Agaran, Chair,  
The Honorable Maile S.L. Shimabukuro, Vice Chair, and  
Members of the Senate Committee on Judiciary and Labor

Date: Wednesday, March 16, 2016  
Time: 9:00 a.m.  
Place: Conference Room 016, State Capitol

From: Dennis W. S. Chang, Attorney-At-Law  
Private Practicing Attorney

**Re: HB No. 2161, HD 1 Relating to the Disability Compensation Division**

Unlike before prior cutbacks and attrition when the Disability Compensation Division (DCD) was flourishing with workers at every desk, it should be evident to anyone who walks through the Division or the Department of Labor and Industrial Relations as a whole, that we have what appears to be a "ghost town". That characterization is a bit of an embellishment, but nevertheless, the truth is that the DCD grossly needs additional positions for more functionality in serving the needs of the public. Currently, a broken system is spreading the current staff duties too thinly in adjudicating cases promptly according to the rules (some key employees perform multiple tasks).

I incorporate my previous testimony and submit that the meager amount requested should be promptly granted and the bill should move forward to the next committee. Most DCD employees are truly dedicated to carry out the humanitarian purpose of the workers' compensation statute. However, monies are needed to add additional employees to timely adjudicate disputed claims are for more prompt enforcement and audits. Simply, as a direct result of the lack of resources, there is rampant abuse that goes unchecked or delayed before discovered. At times I also have had to request for an emergency hearing three times to no avail.

The total cost to fund the positions is \$355,526 as laid out in the Director's prior testimony. Aside from the Supplemental Package, this additional sum is for six (6) additional positions considered critical to the functioning of the DCD. We should be proud of our Department's rehabilitation into what it can be. For these reasons, I wholeheartedly support the passage of the bill.