

DAVID Y. IGE  
GOVERNOR

SHAN S. TSUTSUI  
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA  
DIRECTOR

LEONARD HOSHIO  
DEPUTY DIRECTOR

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

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February 8, 2016

To: The Honorable Mark M. Nakashima, Chair,  
The Honorable Jarrett Keohokalole, Vice Chair, and  
Members of the House Committee on Labor & Public Employment

Date: Tuesday, February 9, 2016  
Time: 9:30 a.m.  
Place: Conference Room 309, State Capitol

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

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

**I. OVERVIEW OF PROPOSED LEGISLATION**

H.B. 2161 proposes to appropriate funds for the hiring of six hearing officer positions and support staff within the Department of Labor and Industrial Relations' (department) Disability Compensation Division (DCD) and to provide the officers and staff with legal and medical training.

The department prefers funding for the positions identified in the Governor's Supplemental Budget request, which contains the following requested positions in DCD:

- 1 Professional Employers Organization Specialist
- 1 Vocational Rehabilitation Specialist
- 2 DC Enforcement Specialists (1 in Kauai; 1 in Kona)
- 1 Auditor

One request not approved by the Department of Budget & Finance in the Supplemental Budget was one DLIR requested for a Hearings Officer in Kona. This is the location in which the department is currently seeking to reduce the Workers

Compensation hearing backlog.

## **II. CURRENT STATUS**

The Disability Compensation Division 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 2015 legislature appropriated \$905,000 to conduct a business process optimization analysis and case system modernization for the Disability Compensation program. A consultant (Gartner) was contracted to: conduct the Disability Compensation Business Process Optimization Study; and to develop a DC Program Business Case. In the past five months, the consultant has been working on a wholesale review of DCD's current processes, organization, and technology. The consultant is currently developing the Business Case/Modernization plan to execute the recommended process changes identified in their review.

DCD is still struggling with its current system and is currently taking up to eight weeks to establish a Workers' Compensation (WC) claim and up to six months to schedule a hearing. Temporary Disability Insurance (TDI) hearings, although fewer in number, are backlogged there (3) years in Honolulu and as much as seven (7) years on the Neighbor Islands.

Until the case system modernization project is completed, DCD has begun implementing no/low cost changes identified by the consultant. With these changes the department is being more proactive in case review and streamlining the decision process. The department will continue to work with the consultant on its comprehensive review of the processes, organization and technology.

## **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 has no objection to this measure, provided that its passage does not replace or adversely impact priorities indicated in our Executive Budget as referenced in the Overview Section of this testimony.

DCD's priority requests listed above as part of the Supplemental Budget request represent the priorities of DLIR. DLIR did request one Hearings Officer for Kona in the Supplemental Budget, although it was denied by the Department of Budget & Finance.

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 8, 2016

**TESTIMONY TO THE  
HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT**

For Hearing on Tuesday, February 9, 2016  
9:30 a.m., Conference Room 309

BY

JAMES K. NISHIMOTO  
DIRECTOR

**House Bill No. 2161**  
**Relating to the Disability Compensation Division**

**WRITTEN TESTIMONY ONLY**

TO CHAIRPERSON MARK NAKASHIMA AND MEMBERS OF THE COMMITTEE ON  
LABOR AND PUBLIC EMPLOYMENT:

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

The purpose of H.B. 2161 is to appropriate funds for the hiring of six hearing 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 additional hearings officers and support staff, with the proper legal and medical training, will allow the Disability Compensation Division to expedite hearings and decisions on contested issues of compensability, medical treatment, 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**

650 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

February 9, 2016

The Honorable Mark M. Nakashima, Chair  
and Members of the Committee on  
Labor & Public Employment  
The Honorable Henry J.C. Aquino, Chair  
and Members of the Committee on  
Transportation  
The House, Conference Room 309  
State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chairs Nakashima and Aquino and Members of the Committees:

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

H.B. 2161 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 funding provided for in H.B. 2161 will enable the DCD to carry out its mission in a more efficient and effective manner. The City and County of Honolulu, Department of Human Resources, accordingly supports the measure.

Thank you for the opportunity to testify.

Sincerely,

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

Carolee C. Kubo  
Director

Testimony of Brooke Wilson  
Pacific Resource Partnership

Committee on Labor and Public Employment  
Representative Mark Nakashima, Chair  
Representative Jarrett Keohokalole, Vice Chair

Committee on Transportation  
Representative Henry Aquino, Chair  
Representative Matthew LoPresti, Vice Chair

HB 2161 – Relating to Disability Compensation Division  
Tuesday, February 09, 2016  
9:30 A.M.  
State Capitol – Room 309

Aloha Chairs Nakashima and Aquino, Vice Chairs Keohokalole and LoPresti and members of the Committees:

We are in **support** of HB 2161. This bill appropriates funds for the hiring of six hearing 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.

#### 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.*



From: mailinglist@capitol.hawaii.gov  
Sent: Saturday, February 06, 2016 2:22 PM  
To: LABtestimony  
Cc: moore4640@hawaiiantel.net  
Subject: Submitted testimony for HB2161 on Feb 9, 2016 09:30AM

**HB2161**

Submitted on: 2/6/2016

Testimony for LAB on Feb 9, 2016 09:30AM in Conference Room 309

<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 hearing 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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From: mailinglist@capitol.hawaii.gov  
Sent: Monday, February 08, 2016 2:57 PM  
To: LABtestimony  
Cc: cwilson@ahcs.com  
Subject: \*Submitted testimony for HB2161 on Feb 9, 2016 09:30AM\*

**HB2161**

Submitted on: 2/8/2016

Testimony for LAB on Feb 9, 2016 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
cathy wilson	Individual	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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# 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

To: The Honorable Mark M. Nakashima, Chair  
The Honorable Jarrett Keohokalole, Vice Chair, and  
Members of the House Committee on Labor & Public Employment

**LATE**

From: Dennis W.S. Chang, Attorney At Law

Date: February 9, 2016  
Time: 9:30 A.M.  
Place: Conference Room 309, State Capitol

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

As a long practicing labor attorney for nearly 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. The passage of this proposed bill continues to move us in the right direction. Hopefully, we will have additional appropriations in future sessions so that injured workers do not unduly suffer continued physical harm, needless emotional distress, and economic ruin.

In a quick survey of my practice, I have seen an increasing number of injured workers and their families and loved ones going homeless merely because the Disability Compensation Division does not have the requisite manpower to conduct prompt hearing when their claims are denied and issue rapid decisions.

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 committee and, in particular, the Chair and Vice Chair to insert 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.

Respectfully submitted,

  
Dennis W.S. Chang



The Twenty-Eighth Legislature  
Regular Session of 2016

HOUSE OF REPRESENTATIVES  
Committee on Labor & Public Employment  
Rep. Mark M. Nakashima, Chair  
Rep. Jarrett Keohokalole, Vice Chair  
State Capitol, Conference Room 309  
Tuesday, February 9, 2016; 9:30 a.m.



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

The ILWU Local 142 **supports** H.B. 2161, which appropriates funds for hiring of six hearing 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 hearing officers 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. Thank you for the opportunity to provide testimony on this matter.

George M. Waialeale  
910 Kapahulu Avenue #703  
Honolulu, Hawaii 96816  
(808) 383-0436  
Email: GEEDUBBYOU@AOL.COM

**LATE**

February 9, 2016

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Rep. Mark M. Nakashima, Chairman

Rep. Jarrett Keohokalole, Vice Chairman

Rep. Henry J.C. Aquino

Rep. Joy A. San Buenaventura

Rep. Sharon Har

Rep. Roy M. Takumi

Rep. Linda Ichiyama

Rep. Kyle Yamashita

Rep. Aaron Ling Johanson

Rep. Andria P.I. Tupola

Rep. Matthew S. Lopresti

NOTICE OF HEARING

DATE: Tuesday, February 02, 2016  
TIME: 9:30 a.m.  
PLACE: Conference Room 309  
State Capitol  
415 South Beretania Street

HB2161 RELATING TO THE DISABILITY COMPENSTION DIVISION

I am here to testify in support of HB2161. This bill will appropriate funds for the hiring of six hearing officers within the department of labor and industrial relations' disability compensation division. I believe this will streamline and make the department of labor more effective.

I ask for your passage of this legislation.

George M. Waialeale

