

**HB 2052**

**RELATING TO  
OCCUPATIONAL  
SAFETY AND HEALTH**

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## A BILL FOR AN ACT

RELATING TO OCCUPATIONAL SAFETY AND HEALTH.

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

1           SECTION 1. Section 396-11.5, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3           "(b) In all hearings before the appeals board, each board  
4 member shall have the same powers as possessed by the circuit  
5 courts respecting the administering of oaths; issuing subpoenas;  
6 compelling the attendance of witnesses, the production of  
7 documentary evidence, and the taking of depositions; and  
8 examining or causing to be examined witnesses. The circuit  
9 court of any circuit, upon application by the appeals board or a  
10 party, shall have power to enforce, by proper proceedings, the  
11 attendance and testimony of any witness subpoenaed. Subpoena  
12 and witness fees and mileage in these cases shall be the same as  
13 in criminal cases in the circuit courts and paid by the party  
14 calling the witness.

15           No person shall be excused from attending, testifying, or  
16 producing material, books, paper, correspondence, memoranda, and  
17 other records before the appeals board or in compliance with a



1 subpoena on the grounds that the testimony or evidence,  
2 documentary or otherwise, required of the person may tend to  
3 incriminate the person or subject the person to a penalty or  
4 forfeiture; provided that no person shall be prosecuted or  
5 subjected to any penalty or forfeiture for or on account of any  
6 transaction, matter, or thing concerning which the person is  
7 compelled, after having claimed the privilege against self-  
8 incrimination, to testify or produce evidence, documentary, or  
9 otherwise, except that such persons testifying shall not be  
10 exempt from prosecution and punishment for perjury committed in  
11 testifying.

12 Notwithstanding section 91-12, within a reasonable time  
13 after the appeals board issues each written order or decision,  
14 the appeals board shall provide to each party or the attorney  
15 for each party a copy of the written order or decision. The  
16 written order or decision shall be hand delivered, provided by  
17 the United States Postal Service with delivery confirmation, or  
18 transmitted via electronic service through a company designated  
19 by the appeals board.



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1 Pursuant to chapter 91, the appeals board may adopt rules  
2 of the Hawaii rules of civil procedure and other rules in  
3 conducting any hearing."

4 SECTION 2. Section 91-12, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "**§91-12 Decisions and orders.** [~~Every~~] Except as provided  
7 under section 396-11.5(b), every decision and order adverse to a  
8 party to the proceeding, rendered by an agency in a contested  
9 case, shall be in writing or stated in the record and shall be  
10 accompanied by separate findings of fact and conclusions of law.  
11 If any party to the proceeding has filed proposed findings of  
12 fact, the agency shall incorporate in its decision a ruling upon  
13 each proposed finding so presented. The agency shall notify the  
14 parties to the proceeding by delivering or mailing a certified  
15 copy of the decision and order and accompanying findings and  
16 conclusions within a reasonable time to each party or to the  
17 party's attorney of record."

18 SECTION 3. New statutory material is underscored.

19 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

*Dan Hara*

*Sen Oike*  
*Cindy Evans*



H.B. NO. 2052

John J. ...

Beck ...

Chen ...

Chen ...

JAN 19 2018



# H.B. NO. 2052

**Report Title:**

Hawaii Labor Relations Board; Occupational Safety and Health;  
Delivery of Decisions and Orders

**Description:**

Requires the Hawaii Labor Relations Board to deliver its decisions and orders by hand, USPS mail with delivery confirmation, or electronically.

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



**HB 2052**

**TESTIMONY**

**HB 2052**

**LATE  
TESTIMONY**



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**LATE**

February 6, 2018

To: The Honorable Aaron Ling Johanson, Chair,  
The Honorable Daniel Holt, Vice Chair, and  
Members of the House Committee on Labor & Public Employment

Date: Thursday, February 8, 2018  
Time: 10:30 a.m.  
Place: Conference Room 309, State Capitol

From: Hawaii Labor Relations HLRB (HLRB)  
Dept. of Labor and Industrial Relations (DLIR)

**Re: H.B. No. 2052 Relating to Occupational Safety and Health**

### **I. OVERVIEW OF PROPOSED LEGISLATION**

This bill requires the HLRB to deliver its decisions and orders by hand, United States Postal Service with delivery confirmation, or transmitted via electronic service through a company designated by the appeals board, which is the HLRB, pursuant to § 396-3 Hawaii Revised Statutes (HRS).

The HLRB supports the bill and requests the Committee to vote to pass it to the next committee.

### **II. CURRENT LAW**

Delivery of the HLRB's decisions and orders is controlled by § 91-12, HRS which requires contested case decisions and orders to be delivered or mailed to each party or to a party's attorney of record.

### **III. COMMENTS IN SUPPORT OF THE BILL**

This measure maintains the requirement that the HLRB continue delivering its decisions and orders in accordance with the current requirements but adds another delivery option by electronic service through a company designated by the HLRB.

Since January 1, 2014, the HLRB has offered an electronic filing service to all parties appearing before the Board. Currently, more than 95% of all parties appearing before the board have registered for this service which includes an agreement to receive all documents electronically.

This bill promotes office efficiency and reduces postage costs for the state.

Thank you for the opportunity to testify in support of this bill.