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February 5, 2019

To: The Honorable Brian T. Taniguchi, Chair,
The Honorable Les Ihara, Jr., Vice Chair, and
Members of the Senate Committee on Labor, Culture and the Arts

Date: Tuesday, February 5, 2019
Time: 2:45 p.m.
Place: Conference Room 224, State Capitol

From: Scott T. Murakami, Director
Department of Labor and Industrial Relations (DLIR)

**Re: S.B. No. 797 RELATING TO THE DEPARTMENT OF
LABOR AND INDUSTRIAL RELATIONS**

Chair Taniguchi, Vice Chair Ihara, and member of the Committee—my name is Scott Murakami and I am the Director of Labor and Industrial Relations. The Department supports this measure and notes that the proposal has funding and staffing increases as contained in the Governor's Biennium Budget request. The following are descriptions of the additions as contained in the measure (DLIR notes that Sections 6, 7, & 11 are housekeeping provisions):

1. Disability Compensation Division (DCD, LBR183)—Modernization Project

DCD is in the process of improving its level of services to all stakeholders and an integral part of that effort involves the automation of the division's operations with a focus on providing customer-centric services. In FB2015-17, DCD embarked on a strategic plan to improve its business processes and to modernize its case management system and with \$905,000 procured a consultant and derived recommendations.

The first steps involved improving business processes with the resources already available to help ensure that subsequent automation efforts would not in effect lock inefficient processes in an automated fashion.

In FB2017-19 the department received \$3,326,158 to initiate the automation process with consultants and one FTE IT position. Consultants contracted to

study and analyze the DCD program recommended three major initiatives to further streamline and automate division processes. The three initiatives were:

- Electronic Data Interchange (EDI) Intake (i.e. electronic claims intake);
- Business Process Automation and Case Management (i.e. business process workflow); and
- Self-Service Portal (online services for claimants and providers).

DCD implemented these initiatives in 2017 with seven sub-projects spanning Fiscal Years 2018-2021. The contracts are structured, so the development of the system is in an Agile fashion with the segmentation of the contracts for validation at each stage of the project. The sub-projects and the fiscal years are:

- FY2018—Assessment of the DCD systems.
- FY2019—eCMS (Electronic Case Management System) Foundation and DocuShare Data Migration.
- FY2020—Lotus Notes Data Migration.
- FY2021—Mainframe Migration and Portal Development for Stakeholders; Migration of Paper-based cases into the eCMS.

For this biennium, the DCD is requesting \$2,565,469 in FY2020 and \$1,772,998 in FY2021 for IT Consultants, Software and Hardware to finish the Modernization

Project. This phase will allow Hawaii's injured workers to receive faster medical care and benefit payments through quicker case processing and case management. Importantly, the project will enable a service-oriented, online environment through a portal for all stakeholders involved in the workers' compensation program.

2. Disability Compensation Division (DCD, LBR183)—Independent Verification and Validation (IV&V)

The IV&V services for DCD's Modernization Project is being sought this biennium (\$225,000 per year) in accordance with the Legislature's mandate for independent review of large IT projects. DCD has begun the procurement process to acquire a contractor who will provide services that will ensure quality assurance and control efforts for the DCD Modernization Project. The IV&V will help DCD ensure that the Agile system development progresses in appropriate segments and periodic, appropriate validation.

3. Unemployment Insurance Division (UI, LBR171)—Modernization

UI's system for benefits, tax, and quarterly wage reporting is 32 years old and housed at ETS on the mainframe. The system has been updated with front-end enhancements over the years to enable the system to meet changing reporting

and data tracking requirements, but the system itself has not been upgraded and still resides on a mainframe. Due to the increasing costs associated with maintaining an old platform and equipment, along with diminishing resources to support it, UI is looking to modernize the system to a cloud platform. The migration from the mainframe will assure operations continue unhindered while improving data security at less cost.

DLIR is actively pursuing joining a small state consortium led by Idaho to piggyback on the core system developed by Idaho with an estimated cost to Hawaii of \$4 million. This system will house UI's benefit, tax, and quarterly wage applications.

4. Disability Compensation Division (DCD, LBR183)—Program Specialist I, SR24

DCD is requesting the restoration of one of the three previous positions abolished due to budgetary constraints. This position in DCD administration was providing legislative, labor relations, and vocational rehabilitation support to DCD and was being redescribed to oversee the State's Vocational Rehabilitation (VR) program at the time of its abolishment.

HCR105 (SLH, 2017) identified numerous challenges that the VR Unit continues to face and required the Department to submit a report to the Legislature on its efforts to keep its commitment to work with vocational rehabilitation stakeholders, address the issues raised in the Resolution, and recommendations made to improve the performance of the VR Unit. If restored, this position will further efforts to improve administration of the VR program.

5. Unemployment Insurance Division (UI, LBR171)—Neighbor Island Programs

Due to the low unemployment rate federal funds for the UI offices in Hilo, Kona, Maui, and Kauai have been supplemented from the Special Unemployment Insurance Administration (SUIA) for the past two years. UI has used \$4.1 million dollars to maintain levels of service on the Neighbor Islands during that time. The SUIA fund is nearing depletion to address the reduced federal funding and funds would be used for the projected Federal fund shortfall during the continued robust economic environment with record low unemployment.

6. Labor and Industrial Relations Appeals Board (LIRAB, LBR812) Staff Attorney, Exempt

LIRAB is requesting funding for a staff attorney position to address the case backlog and will help with complex controverted cases that take significant amounts of time to resolve. An attorney would enable the Board to settle more cases without going to trial and reduce the time it takes to issue a written decision after trial.

In FY17, LIRAB settled 190 cases and 175 cases in FY18. An additional staff

attorney can help the Board hold more settlement conferences and devote more time to facilitate settlements. With more cases settled, there would be less decisions for the Board to write. The Board currently receives 400+ new appeals a year. A goal of settling or resolving 200 or more appeals a year would be attainable with an additional staff attorney position.

In FY17, the average time it took for a case that went to trial to be closed by a written decision was 27 months from the receipt of post-trial briefs. In FY18, the average time was 29 months. One of the reasons for the delay is that the Board spends a significant amount of time per week in hearings or trials. The Board is also required by law to review and approve attorney's fee requests, an often tedious and time-consuming task that takes time away from writing decisions.

Recent court decisions have increased the attorney's fee requests workload by requiring LIRAB to provide more specific justification and explanation for adjusting fees. Additional legal support would greatly assist the Board in this area as well as with drafting written decisions. Written decisions could be issued much sooner than the current average of 29 months. A goal of issuing a written decision within 9-12 months after the receipt of post-trial briefs would be attainable if the Board receives an additional staff attorney position.

7. Hawaii Civil Rights Commission (HCRC, LBR153)—Program Specialist, SR22

The HCRC currently has one Program Specialist V, who has coordinated the HCRC's voluntary mediation program. From 2016-2018, the Program Specialist V played a key role in the planning, implementation, and development of an HCRC Fair Housing Mediation Pilot Program. In addition to developing policies, procedures, and forms with the Department of Housing and Urban Development (HUD) guidance and approval, the Program Specialist V mediates the fair housing cases in-house, due to the exacting requirements of the new program.

The fair housing mediation pilot program has been a great success, allowing parties to achieve just resolution without resort to enforcement (investigation, conciliation, and litigation). The success of the program has required the Program Specialist V to devote substantial time to that work, to the detriment of existing work coordinating the non-housing mediation program.

Establishment of a new Program Specialist IV will allow for continued development of the fair housing mediation program, establishing it as an ongoing program that is no longer a "pilot" program, while increasing capacity to effectively coordinate and expand the existing mediation program for non-housing cases. This will result faster resolution and less expense as well as reduce the costs of investigating and litigation. HCRC estimates that the requested addition of a Program Specialist V could increase the number of cases

referred to voluntary mediation by as much as 50%.

8. Wage Standards Division (WSD, LBR152)—Labor Law Enforcement Specialist, SR22, Hearing Branch.

Currently, the WSD Hearings Branch has one position (Hearings Branch Chief) that conducts hearings for employees who were fired due to a worker's compensation injury, appeals of contested prevailing wage claims, wage claims, and Hawaii Family Leave Law complaints. The Branch Chief handles all the cases single handedly including taking all branch phone calls, correspondences, document review, filing and recording, status conferences, pre-hearings, hearings, and record requests from DCD and UI.

The requested hearings officer would independently conduct hearings and informal pre-hearing conferences for simple to moderately difficult cases. The position will also handle all preliminary matters prior to status conferences, pre-hearings, and hearings, to enable the Hearings Branch Chief to avoid ex-parte communication with parties.

Moreover, Act 135 (SLH, 2017) requires a new administrative penalty for violations of wage payment law (Chapter 388, HRS) that is deposited into the Labor Law Enforcement Special Fund (Act 187, SLH 2018). 25% of penalties from wage payment claims are now appealed. If approved, the new hearings officer will focus on these appeals along with duties described above.

Thank you for the opportunity to testify on these important matters.