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Chair Lee, Vice Chair San Buenaventura, and Members of the Committee:

The Hawai'i Labor Relations Board (HLRB or Board) provides the following **comments regarding HB 766** for your consideration.

The HLRB is a quasi-judicial agency that oversees two areas of laws in the State of Hawai'i: (1) collective bargaining and unfair labor practices under Chapters 89 and 377 of the Hawai'i Revised Statutes (HRS), and (2) contests involving citations or orders of the Director of Labor and Industrial Relations involving occupational safety and health laws set forth in Chapter 396, HRS. As an administrative agency, the HLRB is also subject to the administrative procedures set forth in HRS Chapter 91.

The Board defers to the legislature regarding the contents of the bill. However, the Board would ask that the legislature exempt HRS Chapters 89, 377, and 396 from the bill, as the Board has already adopted an electronic filing service, as provided by its rules, and another bill, HB 913 (House Companion SB 1146), explicitly amends HRS § 377-9 to permit electronic filing.

Thank you for your time and consideration of the HLRB's comments regarding HB 766.

HB-766

Submitted on: 1/31/2019 11:15:49 AM

Testimony for JUD on 2/1/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Daniel Peters	Individual	Support	No

Comments:

I strongly support authorizing service of legal documents between civil litigants by email. Email service will reduce time and costs. Most attorneys prefer email service as it is quicker and easier, and will agree amongst themselves to accept service by email even though current court rules require either hand or mail delivery. Please pass this long overdue amendment. Mahalo.

HB-766

Submitted on: 1/31/2019 2:06:23 PM

Testimony for JUD on 2/1/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Eddy Cash-Dudley	Individual	Support	No

Comments:

Email should be considered as a viable method of service of process. Courts frequently require and expect counsel to provide copies of pleadings by email. It is as reliable, if not more so, than fax service. It makes more than two days to get mail from off island. Allowing two days for service by mail does not allow adequate time to respond. Other states recognize the need to add five days for mailing.

HB 766 Late



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2019**

LATE

ON THE FOLLOWING MEASURE:

H.B. NO. 766, RELATING TO SERVICE IN NON-CRIMINAL PROCEEDINGS.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY

DATE: Friday, February 1, 2019

TIME: 2:00 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Clare E. Connors, Attorney General, or
Robyn Chun, Deputy Attorney General

Chair Lee and Members of the Committee:

The Department of the Attorney General offers the following comments on this bill.

The purpose of House Bill No. 766 is to amend the procedure for service of a complaint and other legal documents in civil proceedings in district, circuit, and family courts, as well as administrative proceedings, by allowing service by electronic mail. In addition, this bill increases the time prescribed by statute or the Hawai'i Rules of Civil Procedure for a party to respond or take some other action following service.

With respect to service by electronic mail, this bill provides that service is complete upon transmission of the electronic mail between 8:00 a.m. and 5:00 p.m. on a business day and "the return to the sender of a delivery receipt by the intended electronic mail service provider." See page 4, lines 1-7. Although the sender may request a receipt to confirm delivery of an email, the recipient may have set up his or her electronic mail program to decline or refuse to return a delivery receipt. As a result, a recipient may evade confirmation of service by electronic mail and this may lead to confusion and disputes among parties. There are also questions as to whether electronic mail needs to be encrypted or otherwise secured and whether all agencies are set up to receive documents by electronic mail.

The foregoing issue can be addressed by amending the bill to delete the portions of the bill that permit service by electronic mail.

Thank you for the opportunity to express our concern about House Bill No. 766.