



**STATE OF HAWAII  
DEPARTMENT OF HEALTH**

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**Testimony in SUPPORT on SCR0126/SR0074  
AUTHORIZING THE FORMATION OF A CANCER PRESUMPTIVE  
LAW TASK FORCE TO MAKE RECOMMENDATIONS REGARDING  
A POTENTIAL CANCER PRESUMPTIVE LAW FOR FIREFIGHTERS**

**SENATOR JOSH GREEN, CHAIR  
SENATE COMMITTEE ON HEALTH**

Hearing Date: April 1, 2015

Room Number: 414

1 **Fiscal Implications:** None.

2 **Department Testimony:** Firefighters are potentially exposed to various mixtures of  
3 particulates, gases, mists, and fumes of an organic and/or inorganic nature that may have acute,  
4 toxic and carcinogenic effects.

5 There are nearly 2,000 state and county firefighters in nearly 100 fire stations throughout  
6 Hawaii, and for some, the long-term health consequences of workplace exposure to harmful  
7 toxicants may only become apparent after retirement. With the mounting literature and evidence  
8 of the potential increased risk inherent in the nature of employment for firefighters, the  
9 Department of Health supports Senate Concurrent Resolution No.126, and is willing to  
10 participate in the proposed Firefighter Cancer Presumptive Law Task Force to develop  
11 recommendations for the enactment of a cancer presumptive statute.

12 Thank you for the opportunity to testify.



STATE OF HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS  
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March 31, 2015

To: The Honorable Josh Green, Chair,  
The Honorable Glenn Wakai, Vice Chair, and  
Members of the Senate Committee on Health

Date: Wednesday, April 01, 2015  
Time: 2:00 p.m.  
Place: Conference Room 414, State Capitol

From: Elaine N. Young, Acting Director  
Department of Labor and Industrial Relations (DLIR)

**Re: S.C.R. No. 126 Authorizing the Formation of a Cancer Presumption Law Task Force to Make Recommendations Regarding a Potential Cancer Presumptive Law for Firefighters**

**I. OVERVIEW OF PROPOSED HOUSE CONCURRENT RESOLUTION**

SCR No. 126 proposes to convene a Cancer Presumptive Task Force to evaluate current health and safety issues to firefighters in the State, including the increased risk of developing cancer and to make recommendations regarding the necessity and potential contents of a law establishing a rebuttable presumption that the nature of firefighting is the cause of certain illnesses, such as cancer, for purposes of determining service-connected disability benefits and insurance coverage. The Task Force is to provide a report of its findings and recommendations, including proposed legislation, to the Legislature no later than twenty days prior to the convening of the Regular Session of 2016.

The Department supports the intent of the resolution.

**II. CURRENT LAW**

Section 386-3, Hawaii Revised Statutes, (HRS), defines injury and provides that the employee's employer shall pay compensation to the employee or the employee's dependents as provided in chapter 386 if an employee suffers personal injury either by accident arising out of and in the course of the employment, or by disease proximately caused by or resulting from the nature of

the employment.

Section 386-85, HRS, provides that there is a presumption that a claim for compensation is for a covered work injury. Section 386-85, HRS, provides that in any proceeding for the enforcement of a claim for compensation under this chapter, it shall be presumed, in the absence of substantial evidence to the contrary:

- (1) That the claim is for a covered work injury;
- (2) That sufficient notice of such injury has been given;
- (3) That the injury was not caused by the intoxication of the injured employee;  
and
- (4) That the injury was not caused by the willful intention of the injured employee to injure oneself or another.

### **III. COMMENTS ON THE HOUSE CONCURRENT RESOLUTION**

The department supports the intent of the resolution, and the representative from the Disability Compensation Division looks forward to serving on the Task Force to provide input to proposed revisions to the Workers' Compensation statute.

DAVID Y. IGE  
GOVERNOR



JAMES K. NISHIMOTO  
DIRECTOR

RANDY BALDEMOR  
DEPUTY DIRECTOR

**STATE OF HAWAII**  
**DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT**  
235 S. BERETANIA STREET  
HONOLULU, HAWAII 96813-2437

March 30, 2015

**TESTIMONY TO THE  
SENATE COMMITTEE ON HEALTH**

For Hearing on Wednesday, April 1, 2015  
2:00 p.m., Conference Room 414

BY

JAMES K. NISHIMOTO  
DIRECTOR

**Senate Resolution No. 74 and  
Senate Concurrent Resolution No. 126  
Authorizing the Formation of a Cancer Presumptive Law  
Task Force to Make Recommendations Regarding  
a Potential Cancer Presumptive Law for Firefighters**

**WRITTEN TESTIMONY ONLY**

TO CHAIRPERSON JOSH GREEN AND MEMBERS OF THE SENATE COMMITTEE  
ON HEALTH:

Thank you for the opportunity to provide comments on S.R. 74 and S.C.R. 126.

S.R. 74 and S.C.R. 126 both would authorize the formation of a cancer presumptive law task force to make recommendations regarding a potential cancer presumptive law for firefighters.

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. In that regard, DHRD respectfully submits these comments on the resolutions.

First, as a public employer which is self-insured and self-administered for its workers' compensation liabilities, including those for firefighters employed by the State Department of Transportation, Airports Division, the State has a clear and substantial

interest in the analyses and recommendations of the putative task force, including but not limited to: 1) revisions to the workers' compensation laws to improve and expedite workers' compensation benefits for firefighters who are diagnosed with cancer; 2) a cost estimate to the State and counties based on projected increases of workers' compensation benefits for firefighters diagnosed with cancer; and 3) recommendations on administrative rules that can improve the workers' compensation benefits for firefighters diagnosed with cancer. Since the resolutions as presently constituted do not include the State, we respectfully suggest that the enumerated list of task force members in the resolutions be amended as follows to expressly include the State as a member: "A representative from the Department of Human Resources Development."

Second, in light of the apparently strong interest in having a cancer presumption specific to firefighters in the workers' compensation law—as proposed in S.B. 675, H.D. 2 and other bills—we believe having a task force of stakeholders to first study the issue and make the appropriate recommendations—would be a prudent course before any changes are made to the existing statute and administrative rules.



# UNIVERSITY OF HAWAII SYSTEM

## Legislative Testimony

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### WRITTEN TESTIMONY ONLY

Submitted to the  
Senate Committee on Health  
Wednesday, April 1, 2015 at 2:00 pm  
by

Jerris Hedges, MD, MS, MMM  
Dean, John A. Burns School of Medicine  
Interim Director, University of Hawai'i Cancer Center  
University of Hawai'i at Mānoa

SR 74/SCR 126 – AUTHORIZING THE FORMATION OF A CANCER PRESUMPTIVE  
LAW TASK FORCE TO MAKE RECOMMENDATIONS REGARDING  
A POTENTIAL CANCER PRESUMPTIVE LAW FOR  
FIREFIGHTERS

Chair Green, Vice Chair Wakai, and Members of the Committee:

The University of Hawai'i provides the following comments regarding this resolution.

The UH Cancer Center's mission is to reduce the burden of cancer through research, education, and patient care with an emphasis on the unique ethnic, cultural, and environmental characteristics of Hawai'i and the Pacific. We are one of only 68 institutions in the United States that hold the prestigious National Cancer Institute (NCI) designation, and the only NCI-designated center in the Pacific. The NCI designation provides greater access to federal funding and research opportunities, and gives the people of Hawai'i and the Pacific region access to innovative and potentially life-saving clinical trials without the necessity of traveling to the mainland.

Our perspective on health-related legislative matters is informed by scientific literature, including research conducted by our own faculty. While we have not yet formed an opinion on whether a cancer-presumptive law for firefighters should be enacted in Hawai'i, we appreciate the opportunity to participate in the proposed task force.

TESTIMONY BY KANOE MARGOL  
INTERIM EXECUTIVE DIRECTOR, EMPLOYEES' RETIREMENT SYSTEM  
STATE OF HAWAII

TO THE SENATE COMMITTEE ON HEALTH  
ON

SENATE CONCURRENT RESOLUTION NO. 126  
AND  
SENATE RESOLUTION NO. 74

APRIL 1, 2015; 2:00 P.M.

AUTHORIZING THE FORMATION OF A CANCER PRESUMPTIVE LAW TASK FORCE TO  
MAKE RECOMMENDATIONS REGARDING A POTENTIAL CANCER PRESUMPTIVE LAW  
FOR FIREFIGHTERS

Chair Green, Vice Chair Wakai and Members of the Committee,

SCR 126 and SR 74 authorize a task force to evaluate current health and safety issues related to firefighters in the State, including the increased risk of developing cancer and to make recommendations regarding the necessity and potential contents of a law establishing a rebuttable presumption that the nature of firefighting is the cause of certain illnesses, such as cancer, for the purposes of determining service-connected disability benefits and insurance coverage.

As presented, the cancer presumptive law task force will include a representative of the Employees' Retirement System (ERS) and one of its main purposes is to apply the cancer presumptive law in the determination of service-connected disability benefits. To clarify that the reference to "service-connected disability benefits" would not include service-connected disability retirement benefits pursuant to Chapter 88, Hawaii Revised Statutes (HRS), the ERS respectfully requests that the scope of the proposed task force be limited to workers' compensation and insurance coverage.

Currently, Section 88-79, HRS, provides for service-connected disability benefits for a member who is permanently incapacitated for duty as the natural and proximate result of an accident occurring while in the actual performance of duty or as the cumulative result of an occupational hazard. Section 88-79, HRS, already includes a rebuttable presumption that firefighters, police officers and sewer workers who are permanently incapacitated for duty as a result of any disease of the heart, lungs, or respiratory system, contracted such disease while in the performance of duty and as the result of the inherent occupational hazard of exposure to smoke inhalation, toxic gases, chemical fumes, and other toxic vapors.

Service-connected disability retirement benefits are typically higher than regular retirement benefits and have no minimum age or service requirements. By crafting legislation to obtain higher benefits with additional cancer presumptive causes, the task force's mandate would

result in the enhancement of benefits. This would be contrary to Act 29, Session Laws of Hawaii 2011, which placed a moratorium on retirement benefit enhancements until the ERS becomes fully funded. Any benefit enhancement would increase the ERS' \$8.6 billion unfunded liability, increase employer contributions and would lengthen the period required for the ERS to become fully funded. The ERS Board of Trustees will oppose any legislation which provides for enhanced retirement benefits.

Thank you for the opportunity to provide testimony on these resolutions.