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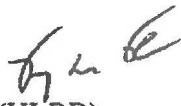
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March 11, 2016

TO: The Honorable Gilbert S.C. Keith-Agaran, Chair
The Honorable Maile S.L. Shimabukuro, Vice Chair
Honorable Members of the Senate Committee on Judiciary and Labor

DATE: March 14, 2016
TIME: 10:00 a.m.
PLACE: Conference Room 016
State Capitol Building

FROM: Kerry M. Komatsubara, Chair 
Hawaii Labor Relations Board (HLRB)

RE: Testimony in Support of H.B. No. 2367, H.D. 1
Relating to the Prevention of Unfair Labor Practices

I. OVERVIEW OF PROPOSED LEGISLATION

The purpose of this bill is to amend Hawaii Revised Statutes (HRS) § 377-9 by clarifying that the HLRB may serve complaints and notices of hearings on parties by first class mail and also allow service by electronic means.

II. COMMENTS

Section 377-9(b), HRS, requires unfair labor practice complaints to be served "by delivery to the person, or by mail or by **telegram**." This proposal deletes the reference to telegram and replaces it with electronic service, to keep up with changes in technology.

Additionally, the proposal provides that notice of the hearing may be provided by written notice by first class mail or by electronic service through a company designated by the HLRB at least fifteen days before the hearing. This revision is similar to the language currently used in section 89-5.1, which governs collective bargaining in public employment, which is the public employment counterpart to the Hawaii Employment Relations Act.

Therefore, if the measure is enacted, the procedures before the HLRB will be identical whether the complaint involves an unfair labor practice under chapter 377, HRS, or a prohibited practice complaint under chapter 89, HRS.

The HLRB has already implemented an electronic filing system to save the HLRB and parties the cost of postage and paper, as well as accommodate parties who are not located on Oahu and who may be disadvantaged by having to mail documents.

Impact on the public: The electronic service of complaints and notices is a faster and less expensive way to provide notice to parties. The HLRB intends to provide in its administrative rules that a party not represented by counsel may elect to continue filing paper documents with the HLRB and continue to serve, and be served, paper copies of documents by mail.

Impact on the department and other agencies: The electronic service of complaints and notices is a faster and less expensive way to provide notice to parties. HLRB and the parties before it, including the legal offices of the governmental agencies practicing before HLRB (e.g., Department of the Attorney General, the corporation counsels of the four counties, the General Counsel of the University of Hawaii and the General Counsel for the Hawaii Health Systems Corporation) will avoid unnecessary postage expenses and gain clerical labor savings.

Difference between H.B. No. 2367, H.D. 1 and S.B. No. 2867, S.D. 1: H.B. 2367, H.D. 1 is similar to S.B. No. 2896, S.D. 1 which was before your committee a few weeks ago. The House version has clarifying language in the second paragraph in HRS Section 377-9(b) to make clear that the 15-day hearing notice is only applicable to the hearing that is the subject of the 40-day requirement described in that paragraph. HLRB supports the House version.

Standards and protocols for use of electronic means of service: HLRB wishes to inform this Committee that we are in the process of revising our administrative rules to establish standards and protocols for the use of electronic means to serve complaints, hearing notices and other document filings. Our draft rules have received comments and

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suggested changes from two divisions (Employment Law Division and Labor Division) within the Department of the Attorney General that regularly appear before HLRB. We have further revised our draft rules and we are in the process of delivering back to them our revisions for final approval. Also please note that HLRB's revised draft rules recognizes and provides for a verification protocol of electronic filings.

III. CONCLUSION

Thank you for allowing HLRB the opportunity to testify on this bill, and HLRB requests your support to pass this bill out of committee. HLRB's representative is available for any questions.