

#### ON THE FOLLOWING MEASURE:

S.B. NO. 2367, S.D. 1, RELATING TO OCCUPATIONAL SAFETY AND HEALTH.

### **BEFORE THE:**

SENATE COMMITTEE ON JUDICIARY

**DATE:** Tuesday, February 27, 2018 **TIME:** 9:30 a.m.

**LOCATION:** State Capitol, Room 016

TESTIFIER(S): WRITTEN TESTIMONY ONLY.

(For more information, contact Amy Chan, Deputy Attorney General, at (808) 586-1450)

Chair Taniguchi and Members of the Committee:

The Department of the Attorney General provides the following comments.

The purpose of this bill is to allow the Hawaii Labor Relations Board (HLRB) to deliver its decisions and orders electronically, in addition to the current available means of, by hand and by the United States Postal Service mail with delivery confirmation.

Section 2 of the bill on page 3, line 6, proposes that section 91-12, HRS, be amended to include the following phrase: "Except as provided under section 396-11.5(b)" to the existing requirement that decisions be in writing or stated on the record with findings of fact and conclusions of law. The proposed amendment to section 91-12, HRS, raises two concerns. First, we believe that it would cause undue confusion and create potential inconsistencies with other statutes. Because chapter 91 applies to all administrative agency hearings, not just administrative hearings before HLRB, this proposed amendment could potentially negatively affect other agencies and other statutes. Second, the exception is misplaced because the amendment to section 396-11.5(b), HRS, deals with delivery of the decision, which is addressed in the third and final sentence of section 91-12, HRS, but the exception for section 396-11.5(b) is being added to the first sentence of section 91-12. Thus, the proposed amendment to section 91-12, HRS, does not correspond with the amendment to section 396-11.5(b), HRS. Therefore, we recommend that section 91-12, HRS, not be amended.

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We respectfully ask that the recommended deletion be made if the Committee decides to pass this bill.

DAVID Y. IGE GOVERNOR

DOUG S. CHIN LIEUTENANT GOVERNOR

LEONARD HOSHIJO DIRECTOR, DLIR



MARCUS R. OSHIRO

SESNITA A.D. MOEPONO HLRB MEMBER

> J N. MUSTO HLRB MEMBER

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February 26, 2018

To: The Honorable Brian T. Taniguchi, Chair,

The Honorable Karl Rhoads, Vice Chair, and

Members of the Senate Committee on Judiciary

Date: Tuesday, February 27, 2018

Time: 09:30 a.m.

Place: Conference Room 016, State Capitol

From: Hawaii Labor Relations HLRB (HLRB)

Dept. of Labor and Industrial Relations (DLIR)

Re: S.B. No. 2367, S.D. 1 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 <u>strongly supports</u> 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 <u>adds another delivery option by electronic service through a company designated by the HLRB</u>.

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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.