

## ACT 191

S.B. NO. 2896

A Bill for an Act Relating to the Prevention of Unfair Labor Practices.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 377-9, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Any party in interest may file with the board a written complaint, on a form provided by the board, charging any person with having engaged in any specific unfair labor practice. The board shall serve or require the complainant to serve a copy of the complaint upon the person charged, hereinafter referred to as the respondent. If the board has reasonable cause to believe that the respondent is a member of or represented by a labor union, then service upon an officer of the union shall be deemed to be service upon the respondent. Service may be by delivery to the person, or by mail or ~~by telegram.~~ electronic service

through a company designated by the board, to the person's last known address. Any other person claiming interest in the dispute or controversy, as an employer, an employee or their representative, shall be made a party upon proof of the interest. The board may bring in additional parties by service of a copy of the complaint. Only one complaint shall issue against a person with respect to a single controversy, but any complaint may be amended in the discretion of the board at any time prior to the issuance of a final order based thereon. The respondent may file an answer to the original or amended complaint but the board may find to be true any allegation in the complaint in the event either no answer is filed or the answer neither specifically denies nor explains the allegation nor states that the respondent is without knowledge concerning the allegation. The respondent shall have the right to appear in person or otherwise give testimony at the place and time fixed in the notice of hearing. The hearing on the complaint shall be before either the board or a hearings officer of the board, as the board may determine.

The board shall fix a time for the hearing on the complaint, which shall be not less than ten nor more than forty days after the filing of the complaint or amendment thereof~~], and notice shall be given to each party by service on the party personally or by mailing a copy thereof to the party at the party's last known post office address at least ten days before the hearing].~~ Notwithstanding section 91-9.5, in any hearing conducted by the board, all parties shall be given written notice of the hearing by first class mail or by electronic service through a company designated by the board at least fifteen days before the scheduled date of the hearing. In case a party in interest is located without the State and has no known ~~[post-office]~~ address within the State~~], and no known electronic mail address,~~ a copy of the complaint and copies of all notices shall be filed in the office of the lieutenant governor and shall also be sent by ~~[registered]~~ first class mail to the last known ~~[post-office]~~ address of the party. Such filing and mailing shall constitute sufficient service with the same force and effect as if served upon a party located within the State. The hearing may be adjourned from time to time in the discretion of the board and hearings may be held at such places as the board shall designate.

In all proceedings under this chapter before the board, each member of the board may issue subpoenas and administer oaths. Depositions may be taken in the manner prescribed by law. No person shall be excused from attending and testifying or from producing books, records, correspondence, documents, or other evidence in obedience to the subpoena on the ground that the testimony or evidence required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture under the laws of the State, but such person shall not be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which the person may testify or produce evidence, documentary or otherwise, in such proceedings. Such person so testifying shall not be exempt, however, from prosecution and punishment for perjury committed in so testifying.

Any person who wilfully and unlawfully fails or neglects to appear or to testify or to produce books, papers, and records as required, shall, upon application to a circuit judge, be ordered to appear before the board, ~~[there to testify or produce evidence if so ordered,]~~ and failure to obey the order may be punished as a contempt of court.

Each witness who appears before the board by subpoena shall receive for the witness' attendance the fees and mileage provided for witnesses in civil cases in courts of record, which shall be audited and paid by the State in the same manner as other expenses are audited and paid, upon the presentation of properly verified vouchers approved by the board."

**SECTION 2.** Statutory material to be repealed is bracketed and stricken.  
New statutory material is underscored.

**SECTION 3.** This Act shall take effect upon its approval.  
(Approved July 1, 2016.)