

HB 1206

**RELATING TO THE HAWAII LABOR
RELATIONS BOARD**

LAB, JUD

HB1206



Submit Testimony

Measure Title: RELATING TO THE HAWAII LABOR RELATIONS BOARD.

Report Title: Hawaii Labor Relations Board; Decisions and Orders

Description: Allows the Hawaii Labor Relations Board (Board) to request parties appearing before the board to submit proposed findings of fact and conclusions of law and a draft decision on any motion or issue of law.

Companion:

Package: None

Current Referral: LAB, JUD

Introducer(s): HOLT (Introduced by request of another party)

<u>Sort by Date</u>		Status Text
1/24/2017	H	Pending introduction.
1/25/2017	H	Pass First Reading
1/30/2017	H	Referred to LAB, JUD, referral sheet 6
2/6/2017	H	Bill scheduled to be heard by LAB on Thursday, 02-09-17 10:00AM in House conference room 309.

S = Senate | **H** = House | **D** = Data Systems | **\$** = Appropriation measure | **ConAm** = Constitutional Amendment
Some of the above items require Adobe Acrobat Reader. Please visit [Adobe's download page](#) for detailed instructions.

A BILL FOR AN ACT

RELATING TO THE HAWAII LABOR RELATIONS BOARD.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 89, Hawaii Revised Statutes, is amended
2 by adding a new section to be appropriately designated and to
3 read as follows:
4 "§89- Proposed findings and conclusions; request for
5 draft decision on issue of law. (a) The board may require the
6 party who prevails after the presentation of evidence in a
7 hearing to submit proposed findings of fact and conclusions of
8 law. The party required to prepare proposed findings of fact
9 and conclusions of law shall have fourteen days, unless the time
10 is extended by the board, to draft the same and secure the
11 approval as to form of opposing parties thereon. If the form of
12 the proposed findings of fact and conclusions of law has not
13 been approved, a party served with the proposed findings and
14 conclusions may, within seven days after service of the proposed
15 findings of fact and conclusions of law, serve and deliver to
16 the prevailing party and the board objections and a copy of the
17 objecting party's proposed findings and conclusions. The board



1 shall determine the findings of fact and conclusions of law to
2 be entered.

3 If after the conclusion of all testimony in the case, and
4 after the submission thereof, the board does not indicate which
5 party has prevailed in the action, the respective parties
6 involved may be requested to submit proposed findings of fact
7 and conclusions of law.

8 (b) The prevailing party shall deliver the original to the
9 board, or, if not so approved, serve a copy thereof upon each
10 party who has appeared in the action and deliver the original to
11 the board.

12 (c) Whenever the board proposes to file a written decision
13 on any motion or issue of law, it may at any time order one or
14 more of the parties to submit to the board and serve on all
15 other parties a draft decision within fourteen days of the
16 order. In such event, the board shall advise all parties of its
17 action. The opposing parties shall have seven days to present
18 comments with respect thereto to the board and serve on the
19 drafting party. The failure of any party to submit comments
20 with respect to any such draft shall not affect the right of



1 such party to appeal from any judgment incorporated in or based
2 on the decision as issued."

3 SECTION 2. Chapter 377, Hawaii Revised Statutes, is
4 amended by adding a new section to be appropriately designated
5 and to read as follows:

6 "§377- Proposed findings and conclusions; request for
7 draft decision on issue of law. (a) The board may require the
8 party who prevails after the presentation of evidence in a
9 hearing to submit proposed findings of fact and conclusions of
10 law. The party required to prepare proposed findings of fact
11 and conclusions of law shall have fourteen days, unless the time
12 is extended by the board, to draft the same and secure the
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19 objecting party's proposed findings and conclusions. The board
20 shall determine the findings of fact and conclusions of law to
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16 comments with respect thereto to the board and serve on the
17 drafting party. The failure of any party to submit comments
18 with respect to any such draft shall not affect the right of
19 such party to appeal from any judgment incorporated in or based
20 on the decision as issued."



1 SECTION 3. Chapter 396, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§396- Proposed findings and conclusions; request for
5 draft decision on issue of law. (a) The appeals board may
6 require the party who prevails after the presentation of
7 evidence in a hearing to submit proposed findings of fact and
8 conclusions of law. The party required to prepare proposed
9 findings of fact and conclusions of law shall have fourteen
10 days, unless the time is extended by the appeals board, to draft
11 the same and secure the approval as to form of opposing parties
12 thereon. If the form of the proposed findings of fact and
13 conclusions of law has not been approved, a party served with
14 the proposed findings and conclusions may, within seven days
15 after service of the proposed findings of fact and conclusions
16 of law, serve and deliver to the prevailing party and the
17 appeals board objections and a copy of the objecting party's
18 proposed findings and conclusions. The appeals board shall
19 determine the findings of fact and conclusions of law to be
20 entered.



1 If after the conclusion of all testimony in the case, and
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17 board and serve on the drafting party. The failure of any party
18 to submit comments with respect to any such draft shall not
19 affect the right of such party to appeal from any judgment
20 incorporated in or based on the decision as issued."

21 SECTION 4. New statutory material is underscored.



H.B. NO. 1206

1 SECTION 5. This Act shall take effect upon its approval.

2 INTRODUCED BY: D. L. Holt (BR)

JAN 24 2017



H.B. NO. 1206

Report Title:

Hawaii Labor Relations Board; Decisions and Orders

Description:

Allows the Hawaii Labor Relations Board (Board) to request parties appearing before the board to submit proposed findings of fact and conclusions of law and a draft decision on any motion or issue of law.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



holt1 - Joyleanne

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 6, 2017 5:25 PM
To: LABtestimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HB1206 on Feb 9, 2017 10:00AM*

HB1206

Submitted on: 2/6/2017

Testimony for LAB on Feb 9, 2017 10:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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HB 1206

Late testimony

LATE

LATE

LATE

DAVID Y. IGE
GOVERNOR

SHAN S. TSUTSUI
LIEUTENANT GOVERNOR

LINDA CHU TAKAYAMA
DIRECTOR, DLIR

LEONARD HOSHIJO
DEPUTY DIRECTOR, DLIR



(VACANT)
CHAIR

SESNITA A.D. MOEPONO
BOARD MEMBER

J. N. MUSTO
BOARD MEMBER

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD
830 PUNCHBOWL STREET, ROOM 434
HONOLULU, HAWAII 96813

TELEPHONE 586-8610/ FAX 586-8613

E-MAIL dlir.laborboard@hawaii.gov

February 8, 2017

To: The Honorable Aaron Ling Johanson, Chair,
The Honorable Daniel Holt, Vice Chair, and
Members of the House Committee on Labor & Public Employment

Date: Thursday, February 9, 2017
Time: 10:00 a.m.
Place: Conference Room 309, State Capitol

From: Hawaii Labor Relations Board
Department of Labor and Industrial Relations (DLIR)

Re: H.B. No. 1206 Relating to The Hawaii Labor Relations Board

I. OVERVIEW OF PROPOSED LEGISLATION

This proposal seeks to amend chapters 89, 377 and 396, Hawaii Revised Statutes (HRS), by adding new permissive language to allow the Hawaii Labor Relations Board (Board) to request a party or parties to prepare an Order or Decision/Order.

II. CURRENT LAW

Current law in chapter 89, 377 and 396, HRS is silent on this action.

III. COMMENTS ON THE SENATE BILL

This bill is patterned after Rules 21-23 of the Rules of the Circuit Courts, State of Hawaii. In certain situations, these procedures will permit the HLRB to request a party to draft proposed findings of fact and conclusions of law, decision or order and allow an opposing party to submit objections. This promotes greater efficiency.

HLRB supports the intent of HB1206 and urges passage of this bill with the attached minor amendments for clarification purposes.

20170209HB1206 LBR HLRB LAB

A BILL FOR AN ACT

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If after the conclusion of all testimony in the case, and after the submission thereof, the board does not indicate which party has prevailed in the action, the respective parties involved may be requested to submit proposed findings of fact and conclusions of law.

(b) The prevailing party shall deliver the original to the board, or, if not so approved, serve a copy thereof upon each party who has appeared in the action and deliver the original to the board.

(c) Whenever the board proposes to file a written decision on any motion or issue of law, it may at any time order one or more of the parties to submit to the board and serve on all other parties a draft decision within fourteen days of the order. In such event, the board shall advise all parties of its action. The opposing parties shall have seven days to present comments with respect thereto to the board and serve on the drafting party. The failure of any party to submit comments with respect to any such draft shall not affect the right of such party to appeal from any judgment incorporated in or based on the decision as issued."

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SECTION 3. Chapter 396, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§396- Proposed findings of fact and conclusions of law; request for draft decision [on issue of law]. (a) The appeals board may require the party who prevails after the presentation of evidence in a hearing to submit proposed findings of fact and conclusions of law. The party required to prepare proposed findings of fact and conclusions of law shall have fourteen days, unless the time is extended by the appeals board, to draft the same and secure the approval as to form of opposing parties thereon. If the form of the proposed findings of fact and conclusions of law has not been approved, a party served with the proposed findings and conclusions may, within seven days after service of the proposed findings of fact and conclusions of law, serve and deliver to the prevailing party and the appeals board objections and a copy of the objecting party's proposed findings and conclusions. The appeals board shall determine the findings of fact and conclusions of law to be entered.

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Chamber of Commerce HAWAII
The Voice of Business

**Testimony to the House Committee on Labor & Public Employment
Thursday, February 9, 2017 at 10:00 A.M.
Conference Room 309, State Capitol**

**RE: HOUSE BILL 1206 RELATING TO THE
HAWAII LABOR RELATIONS BOARD**

Chair Johanson, Vice Chair Holt, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **opposes** HB 1206, which allows the Hawaii Labor Relations Board (Board) to request parties appearing before the board to submit proposed findings of fact and conclusions of law and a draft decision on any motion or issue of law.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,600+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber opposes this bill because (1) Findings of Facts (FOFs) and Conclusions of Laws (COLs) are an unnecessary added cost since the Board still has to review the record to determine which FOFs and which COLs to adopt, (2) it delays the issuance of a decision because the Board has to review multiple sets of FOFs and COLs instead of just drafting its own single set of FOFs and COLs and (3) adopting one party's FOFs and COLs will lead to more judicial reversals because each party will always slant its FOFs and COLs to support its position and thereby ignore facts or conclusions that are supported by the record.

We ask that this bill be deferred. Thank you for the opportunity to testify.