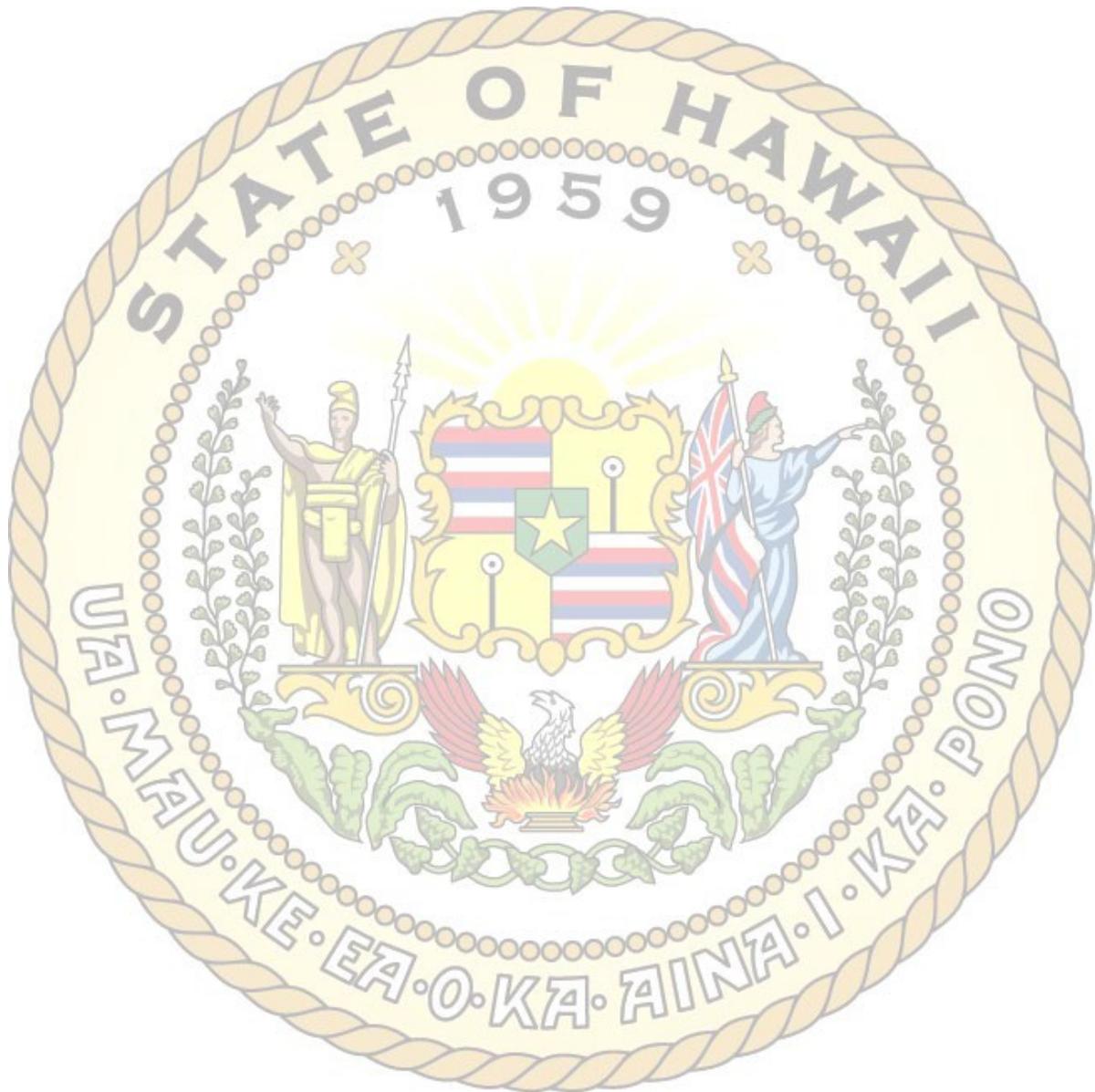


**DEPARTMENT OF LABOR AND INDUSTRIAL  
RELATIONS' ANNUAL REPORT  
FY 2021-2022**



**Jade T. Butay**  
Director

**William G. Kunstman**  
Deputy Director



The Department of Labor and Industrial Relations protects the economic security, physical, and social well-being of workers and supports good labor-management relations. This includes developing and disseminating labor market information and assisting job seekers, workers, and employers to facilitate workforce development.

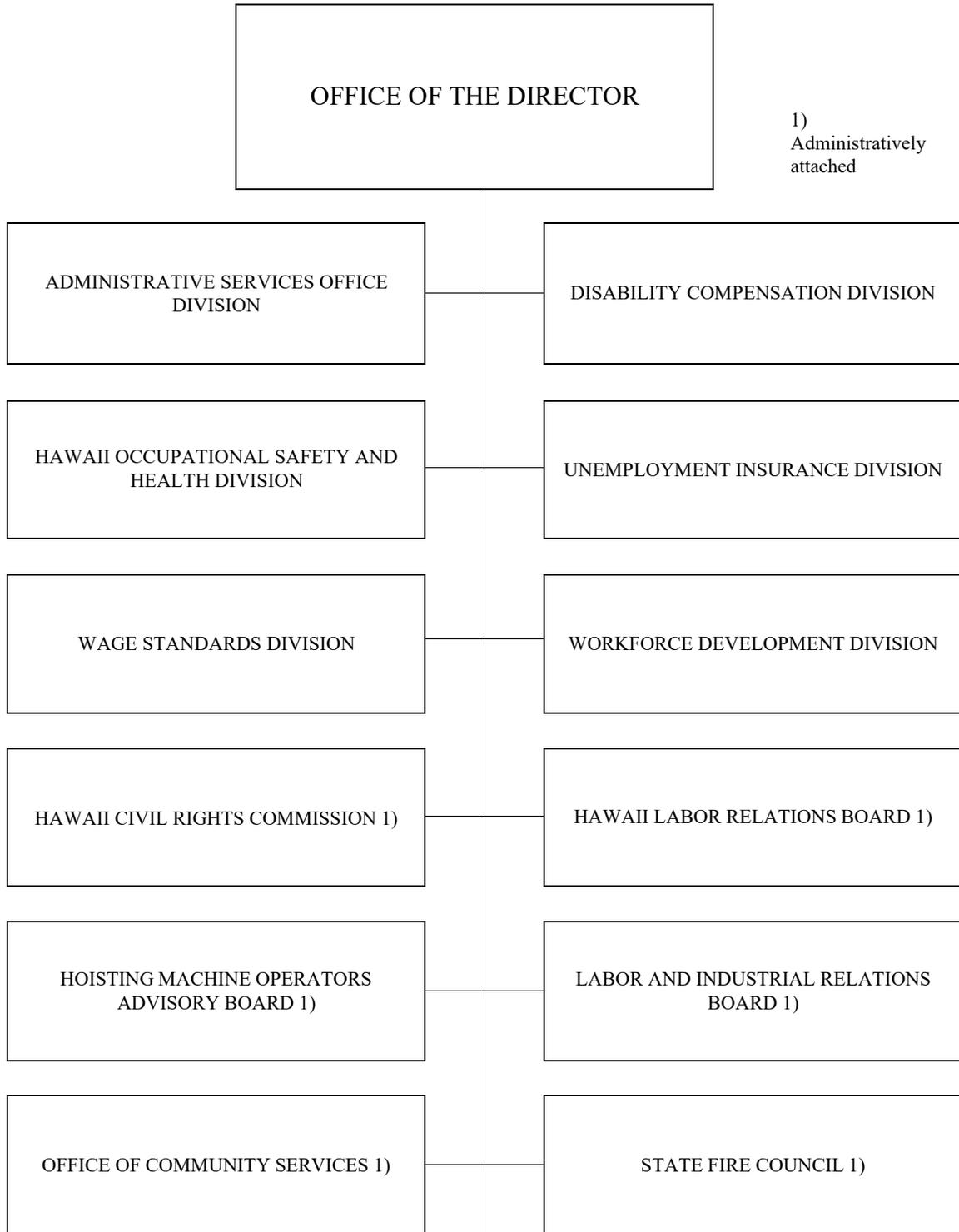
Equal Opportunity Employer/Program  
Auxiliary aids and services are available upon request to individuals with disabilities.  
TTY/TDD Dial 711 then ask for (808) 586-8866

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STATE OF HAWAII  
 DEPARTMENT OF LABOR & INDUSTRIAL RELATIONS  
 ORGANIZATION CHART



# Disability Compensation Division

The Disability Compensation Division (DCD) administers the Workers' Compensation (WC) law, the Temporary Disability Insurance (TDI) law, and the Prepaid Health Care (PHC) law. All employers with one or more employees, whether working full-time or part-time, are directly affected.

The purpose of the Workers' Compensation law is to provide wage loss compensation and medical care to those employees who suffer work-related injuries. Workers' Compensation is an employer paid insurance program that provides economic relief for employees injured on the job. WC benefits include medical and hospital expenses, lost wages, permanent disability disfigurement, and vocational rehabilitation.

Temporary Disability Insurance benefits partially replace wages lost when an employee is unable to work because of an off-the-job sickness or injury, if the employee meets the qualifying conditions of the law. TDI is an employer provided insurance that supplies partial wage loss benefits to employees who suffer off-the-job injuries or illnesses.

The PHC law requires that employers provide employees adequate medical coverage for non-work-related illness or injury if employees meet the qualifying conditions of the law. Coverage includes hospitalization, surgery, physician office

visits, diagnostic tests, and maternity benefits. Hawaii is the only state to adopt a prepaid health care law and continues to be a leader in providing universal health care coverage.

The DCD's mission is to provide economic security and stability for Hawaii's workforce through education, enforcement, and adjudication of the WC, TDI, and PHC laws. Its primary objectives include ensuring efficient processing of claims; timely provision of medical services and payment of benefits to injured workers; employer compliance with WC, TDI, and PHC insurance coverage requirements and monitoring health plans to ensure employees are provided with the benefits that are required under the PHC law.

DCD plans, directs, and coordinates statewide activities relating to interpretation, implementation, and administration of WC, TDI and PHC laws, rules, regulations, policies, and procedures. The division's staff of 87 employees is organized into three (3) program offices (WC, TDI/PHC, and Program Support) and five (5) operational branches (Plans, Enforcement, WC Claims, Hearings, and Vocational Rehabilitation). The main office is in Honolulu with district offices on the Neighbor islands (Wailuku- Maui, Kealahou-Hawaii, Hilo-Hawaii, and Lihue- Kauai).



## HIGHLIGHTS 2021

### STATE OF HAWAII

**REPORTED CASES: 15,798**  
**PROCESSED CASES: 35,816**  
**PROCESSED CASES WITH COST: 25,548**  
**TOTAL COST: \$374,116,127**  
**COST PER CASE: \$14,644**  
**MEDICAL COST: \$162,770,383**  
**DAYS LOST: 1,324,141**  
**REPORTED FATALITIES: 32**



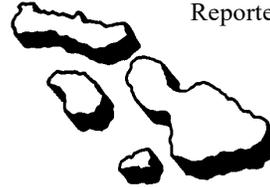
#### **Kauai County**

Reported Cases: 926  
Processed Cases: 1,875  
Processed Cases with Cost: 1,277  
Total Cost: \$14,421,825  
Cost Per Case: \$11,294  
Medical Cost: \$5,496,591  
Days Lost: 52,562  
Reported Fatality: 1



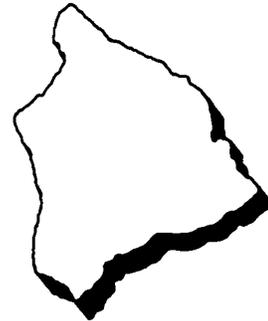
#### **Maui County**

Reported Cases: 2,413  
Processed Cases: 4,614  
Processed Cases with Cost: 3,300  
Total Cost: \$40,793,092  
Cost Per Case: \$12,362  
Medical Cost: \$17,512,646  
Days Lost: 133,731  
Reported Fatality: 4



#### **Oahu**

Reported Cases: 10,533  
Processed Cases: 24,770  
Processed Cases with Cost: 17,599  
Total Cost: \$264,408,888  
Cost Per Case: \$15,024  
Medical Cost:  
\$115,380,860  
Days Lost: 915,595  
Reported Fatality: 20



#### **Hawaii County**

Reported Cases: 1,926  
Processed Cases: 4,557  
Processed Cases with Cost: 3,372  
Total Cost: \$54,492,322  
Cost Per Case: \$16,160  
Medical Cost: \$24,380,285  
Days Lost: 222,253  
Reported Fatality: 7

Note: Cost may not add due to rounding.

# Hawaii Occupational Safety and Health

The Hawaii Occupational Safety and Health Division (HIOSH) ensures compliance with two laws:

- Chapter 396, HRS, The Hawaii Occupational Safety and Health Law, which states that every employee in the State should have safe and healthful working conditions; and
- Chapter 397, HRS, The Hawaii Boiler and Elevator Safety Law, which mandates the safe operation and use of boilers, and pressure systems; elevators, lifts, kindred equipment, and amusement rides.



Occupational Safety and Health (OSH) Program (Chapter 396, HRS) staff engages in the following activities, with the goal of encouraging voluntary compliance with the law and administrative rules:

- The HIOSH enforcement staff conducts programmed inspections of high hazard workplaces, and responds to accidents, complaints, and referrals. VPP evaluations are done to identify and recognize exemplary employers.
- HIOSH consultants conduct workplace audits to improve employers' safety and health management systems in response to requests from employers. This service is free and confidential. SHARP evaluations are done to identify and recognize small employers with effective safety and health programs.
- Certifications are issued to qualified individuals in the following areas: explosives and pyrotechnics; certified safety and health professionals; and hoisting machine operators.

## Promulgation of OSHA Standards

HIOSH is required to adopt "as effective as" administrative rules within 6 months of OSHA's adoption. These safety and health standards state

what employers must do to ensure safe and healthful workplaces for their employees.

HIOSH receives 50% federal funding for the compliance program and 90% federal funding for the on-site consultation program. OSHA does not permit federal funds to be used for the certification programs that are 100% state funded, except for the hoisting machine operators' certification that is 100% special funded. The U.S. Occupational Safety and Health Administration (OSHA) provides oversight of the program, requiring benchmark staffing levels as well as performance and timeliness criteria for mandated activities. The Boiler and Elevator (BE) Inspection Branch staff (Chapter 397, HRS) staff conducts the following activities with the goal of public safety through voluntary compliance with the law and administrative rules:

- Inspections of equipment at specific intervals to assure its safe operation and use. Equipment determined to be satisfactory are issued permits to operate.
- Investigations of accidents and some complaints.
- Review of installation and alteration plans to ensure that the equipment is being constructed/installed/alterd in accordance with safety codes. A permit to install/alter is issued to initiate the construction work.
- Certifications are issued to special boiler inspectors to enable them to perform third party inspections of boilers and pressure systems.
- Reviews and audits of companies authorized by the National Board of Boiler and Pressure Vessel Inspectors to enable Hawaii companies to perform necessary repairs and alterations to critical equipment in the State.

HIOSH only met 82% of its Fiscal Year 2022 Federal grant objectives due to the loss of staff and received approval of its Fiscal Year 2023 Federal grants. The Boiler/Elevator Branch has filled 9 of its 11 elevator inspector positions, and lost three positions that were abolished in Act 88, SLH 2021. Recruitment, filling vacant positions, and retention of staff are ongoing concerns for all HIOSH's branches.

# Unemployment Insurance Division

The Unemployment Insurance (UI) program provides temporary partial wage replacement to eligible workers and stabilizes the economy during recessions. Administrative costs to operate the UI program are funded 100% by federal (FUTA) taxes paid by employers. UI benefits paid to eligible jobless persons are paid by state unemployment taxes assessed on businesses.

While the UI system is administered under state statutes, the U.S. Department of Labor regulates conformity with federal laws and oversees compliance with performance standards for state to be certified to receive federal grants to operate the UI system and to qualify for FUTA tax offsets. This includes having an independent appeal process to review UI determinations, which is conducted by the Employment Security Appeals Referees' Office (ESARO).

Eligibility for jobless benefits is contingent upon meeting specific legal requirements under Chapter 383, Hawaii Revised Statutes, including involuntary unemployment, workforce attachment and ability to/availability for work. For Calendar Year (CY) 2023, individuals can collect up to a maximum of \$763 per week for 26 weeks. Nearly 100% of all applications and weekly certifications are processed through an online filing system, which provides flexibility, security, and convenience for claimants. Access to the web-based system is possible by computers or mobile devices. UI payments are transmitted through direct deposits to claimant bank accounts.

Improved customer service and program integrity continue to be UI priorities that influence changes to business models to meet clients' expectations. Upgrades and stabilization to current UI automated systems are steps being taken to increase program efficiency and effectiveness.

Major future and ongoing automation projects in 2023 include:

- Employer Online Web Application online access for employers to query their accounts, to register as new employers, to file quarterly wage reports, to pay VJ contributions, and to receive credit refunds launched in February 2019.
- Limited English Proficiency (LEP) - enhancement of the web claim filing system to provide Chinese translations for LEP individuals launched in June 2019. As the department compiles data on Limited English Proficiency (LEP) populations served and determined Cantonese as the most widely used foreign language. In line with the department's ongoing policy to provide meaningful access to its customers, the claimant web application was enhanced to offer Simplified Chinese to this population.
- Fraud Detection application – a software solution which improves the integrity of the UI program and prevents improper payments from the UI trust fund.
- Expanding online features to include self-check in and real time notification of an appeals decision to the UI Division, thereby allowing faster payment when due as well as earlier detection of potential overpayments.

On November 30, 2022, the balance of the Hawaii UI trust fund was \$233,778,050.00.



# Wage Standards Division



The mission of the Wage Standards Division (“WSD”) is "Service with Aloha to Improve the Quality of Work-Life in Hawaii."

The WSD protects Hawaii’s workers by administering and enforcing six different labor laws related to wages in the Hawaii Revised Statutes (HRS). The laws operate to keep young workers safe in the workplace (Child Labor Law, Chapter 390, HRS); ensure employees are paid their wages due (Wage and Hour Law, Chapter 387, HRS; Payment of Wages and Other Compensation Law, Chapter 388, HRS; Wages and Hours of Employees on Public Works Law, Chapter 104, HRS), and provide job protection when family members need care (Hawaii Family Leave Law, Chapter 398, HRS) or an employee is discharged or discriminated against because of a lie detector test, a workers’ compensation injury, or taking an on-site drug screening (Employment Practices Law, Part II – Lie Detector Test and Part III – Unlawful Suspension or Discharge).

## Highlights and Activities

The Compliance Branch resolved 159 cases this fiscal year. This included issuing 2 *Notifications of Violation* to contractors on public works projects that violated the Prevailing Wage Law under Chapter 104, HRS, and ordered \$11,863 in Chapter 104, HRS, penalties to be the State General Fund.

In June 2022, the Compliance Branch resumed issuing *Orders of Wage Payment Violation* to employers in violation of Chapter 388, HRS. Two *Orders of Wage Payment Violation* were issued. Penalties for employees and the *Labor Law Enforcement Special Fund* totaled \$2,177.52. The Compliance Branch identified \$162,993 in back wages due for 71 workers.

The Hearings Branch disposed of 34 unlawful termination due to work injury claims and resolved 5 *Orders of Wage Payment Violation* appeals and 1 *Notification of Violation* appeal.

The Intake and Certification Branch processed 238 complaints, conducted 1 Chapter 104 workshop, presented 1 workshop covering all laws enforced by the WSD, made 4 presentations on the Child Labor Law, resolved 25 child labor investigations, and responded to 2,498 inquires.

The number of child labor permits issued was 11,560. There were 61 variances and addendums granted to television and film productions such as "Magnum P.I.," "NCIS Hawaii," "Doogie Kamealoha," "Ke Nui Road," "Necrus," and other films and television commercials, to permit minors under age 16 to work beyond the hours permitted under the Child Labor Law

# Workforce Development Division

The Workforce Development Division (WDD)

- Plans, coordinates, and implements a statewide, customer-driven workforce development system with partner agencies.
- Delivers employment and training services to job applicants, workers, and industries.
- Services include a referral and placement service that links qualified job seekers with employers at no cost to the public.

Partners include but are not limited to the DOE Adult Education; DHS Division of Vocational Rehabilitation (DVR); Community Colleges, State Workforce Development Council (WDC), Counties, business associations, labor organizations, community-based organizations, and other agencies.

## Partner Agencies



In partnership with Research Improving People's Lives (RIPL), DLIR developed the Hawaii Career Acceleration Navigator (HI CAN) to provide job seekers with a career recommendation engine to secure employment or boost their income. HI CAN uses Machine Learning (ML), Artificial Intelligence (AI), state administrative data, and cloud computing to generate custom recommendations and job matches, it has been a powerful tool and necessary addition to leverage WDD's resources. By combining technology with a human-centered approach, HI CAN provides jobseekers personalized, data-driven job and training recommendations. Referrals to supportive services are also integrated into HI CAN to inform jobseekers about financial assistance programs available to assist them while conducting their career search.



HireNet Hawaii is the state's electronic job board, database and case management system found at [www.hirenethawaii.com](http://www.hirenethawaii.com). HireNet Hawaii was sponsored through a collaboration between the WDD and Workforce Development Council (WDC) to

connect employers and jobseekers at all American Job Centers (AJC's) statewide. At least 16,221 participants who used HireNet Hawaii received individualized services during the period of July 1, 2021 to June 30, 2022. HireNet Hawaii is accessible to jobseekers and employers at no cost. Those with internet access and a computer can self-register and benefit from online services, while those who need individualized service can contact their nearest AJC.

Through a competitive sealed proposal, Geographic Solutions was awarded the contract with the State of Hawaii's DLIR for the period of February 3, 2020 through June 30, 2026. HireNet Hawaii is now integrated with the Hawaii Workforce Informer (HIWI) for labor market information and features an Eligible Training Provider (ETP) module for reporting ETP's with the Workforce Innovation and Opportunity Act (WIOA).

HireNet Hawaii will be receiving new enhancements in April 2023 as part of the Sapphire 22 version upgrade. Included in this upgrade will be:

- Planned additional security measures.
- Updating fraud prevention and detection software.
- Improving accessibility features to assist individuals with barriers to employment.
- Providing additional tools for staff and individuals to meet the remote workforce needs (i.e. virtual job fairs, remote signature, virtual interviews etc.).
- Improving the quantity and quality of jobs listed on the job board.

## Trade Adjustment Act (TAA)

Trade Adjustment Assistance (TAA), the federal program established under the Trade Adjustment Assistance Reauthorization Act of 2015 that provides aid to workers who lose their jobs or whose hours of work and wages are reduced because of increased imports. A co-enrollment policy for joint TAA and Dislocated Worker co-enrollment was issued by Hawaii requiring co-enrollment when affected workers meet eligibility requirements under each program. The TAA case manager makes the referral, and the participant agrees to be enrolled in the DW program. Maui and Hawaii Counties provided services to active

# WDD

participants, of which several were successful in finding full-time employment. Notably, the new jobs provided participants with significant pay raises in comparison to previous jobs.



## Services to Military Veterans

Jobs for Veterans Services Grant (JVSG) Disabled Veterans Outreach Program (DVOP) Specialists provided individualized career services and case management to veterans with significant barriers to employment that included those at risk of homelessness, with a VA-certified disability, low-income status, or were previously incarcerated. DVOPs partnered with the Veteran’s Administration, Homeless Veterans Reintegration grantees, WIOA, and other resources to facilitate the veteran’s transition to stable employment. The JVSG-funded Local Veterans Employment Representatives (LVER) on Oahu continued to work with businesses statewide to help them fill their workforce needs with suitable veterans. An LVER has been a member of the Oahu AJC Business Services Team and participated in Job Fairs and special recruitments.



## Registered Apprenticeship Program (RAP)

This year (2022) marks the 85th anniversary of the National Apprenticeship Act also known as the “Fitzgerald Act” which established the Registered Apprenticeship system. Through the years, registered apprenticeships continue to evolve, expand, and diversify in Hawaii and throughout the nation.

During the last legislative session, DLIR secured additional state funds from the State Legislature that will be used to hire additional staff to assist in the apprenticeship program. Apprenticeships in Hawaii continue to expand in non-traditional occupations, particularly in Healthcare, Hospitality, and Agriculture. Apprenticeship is heavily concentrated and based on Oahu, but there is now an increased awareness of apprenticeship in the other counties' industries, with employers gaining interest in developing their apprenticeship programs.

In PY 2021-2022, there were 900 new registered and reinstated apprentices, with 550 apprentices completing various apprenticeship programs. As of June 30, 2022, there are 6,035 active apprentices.



# WDD

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## **Workforce Information Grants to States (WIGS) & Hawaii Workforce Infonet (HIWI)**

The WDD began managing the Workforce Information Grants to States (WIGS) in 2021. WIGS allowed Hawaii to design, develop, and disseminate essential state and local Labor Market Information (LMI) with goals to include maintenance of its database and website, development of employment projections to determine in-demand jobs, and staff training.

HIWI is a database created to publish the results through a public-facing portal and is embedded into HireNet Hawaii. Annual economic analysis reports are the deliverables for the WIGS grant. Data from WIGS was presented in the modification of the WIOA Unified State Plan for the State of Hawaii (2020-2024). It was also instrumental in WIOA Title I activities requiring local LMI such as completing the WIOA Statistical Area Model (SAM), determining performance measures, as well as allocations.

## **Work Opportunity Tax Credit (WOTC)**

The Work Opportunity Tax Credit Program is jointly administered by the U.S. Department of Labor and the U.S. Department of Treasury. Federal statute authorizes the State Workforce Agencies (SWAs) in each state to administer their respective program. Since the program's inception, the tax credit has proven to be a successful job placement tool to advance the employment opportunities for individuals with employment barriers, including veterans, the economically disadvantaged, the disabled, ex-felons, and the long-term unemployed. Through memorandums of agreement, Hawaii government departments and the Department of Veteran Affairs share participant data to certify requests for tax credits of \$2,400 to \$9,600 per new hire. Some of the recognizable names of participating employers include Hawaiian Airlines, ALTRES Staffing, Hilton Resorts, Macy's, Walmart, and Zippy's. For Fiscal Year 2021, the SWAs received \$18,485,000 to support the administration of WOTC. Hawaii's share was \$66,000 plus an additional one-time disbursement of \$100,000. This additional amount was provided to assist Hawaii in reducing its WOTC processing backlog totaling 30,299 requests for certification.

## **Employment and Training Fund (ETF)**

From its inception, ETF has helped employers train over ninety thousand workers to learn invaluable new skills for their jobs. With these new skills, employees are now able to better perform in their jobs and seek out increased pay or promotions. Hawaii's companies and the State of Hawaii saw record unemployment. Within the fiscal year, the DLIR extended the 2019 two-year Micro Contract for the Employment Training Fund (ETF) with the uncertainty of tax revenues at the time. As the economic outlook and revenues improved, the DLIR moved forward with the RFP process for the next ETF contract period. Thirteen providers were selected to provide training in the ETF program for the next two-year contract period. From July 1, 2021 to June 30, 2022, a combination of providers from the extended contract period and providers beginning the new contract period saw 1001 course registrations offered which served over 661 employee participants from 155 businesses statewide. More details are provided in a separate ETF Annual report.

## **Partnership with the Department of Human Services**

Through a partnership agreement with the State Department of Human Services, WDD staff provided job development for all counties for individuals who received benefits through the Temporary Assistance to Needy Families (TANF) via the program First-to-Work. In the counties of Hawaii, Maui, and Kauai, WDD also provided job readiness workshops for participants to prepare them for work.

Due to COVID-19, DHS offices remained closed for part of 2021-2022, but were slowly re-opened to participants to conduct intakes and assessments. Job Readiness Training (JRT) staff moved to a hybrid model for their JRT classes, making them available simultaneously in-person and online via video platforms eventually moving to solely in-person classes in some counties. Job Developers (JD) continued to engage with businesses and employers by phone or with online meetings, as well as more and more in-person.

# WDD

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## **Senior Community Service Employment Program (SCSEP)**

SCSEP provides unemployed, low-income individuals who are 55 years and older and who have poor employment prospects with the opportunity to engage in training through part-time community service assignments. Through these assignments, participants will be able to develop skills and experiences which they may be able to utilize to transition into unsubsidized employment. Hawaii SCSEP continued efforts in recruitment, eligibility, and selection of eligible individuals throughout the State. There is a total of four (4) SCSEP Operators providing SCSEP services Statewide. During PY 21, 126 seniors were served by the program Statewide out of 127 available slots. WDD Program staff worked closely with the SCSEP operators to collect feedback to plan and adjust service delivery models for the State SCSEP to enhance and assist in meeting goal objectives for the program. Discussions are ongoing to implement a seamless service delivery model with the WIOA Title I programs for fund leveraging and for co-enrollments.



## **Reemployment Services and Eligibility Assessment (RESEA) in Partnership with UID**

Wagner-Peyser (WP) Act Employment Services continued its partnership with the Unemployment Insurance (UI) system in PY 21. The MOU between WDD and UI which allowed WDD to provide Reemployment Services and Eligibility Assessments (RESEA) services in conjunction with WP under the UI RESEA Grant State Plan, continued with WDD

providing all RESEA services including re-employment services as well as eligibility assessment. Innovations such as mandated virtual and hybrid in person and online classes widened availability of services to Job Seekers. Overall, there were 1,859 distinct individuals who completed initial RESEA services (group and individual). Out of those 1,657 completed subsequent services.

## **Workforce Development Council (WDC)**

The WDC is an advisory council composed of both public and private-sector representatives, who assist the Governor in the development, implementation, and modification of the 4-year State plan and review statewide policies, programs, and recommendations on actions that must be taken to align workforce development programs. The WDC meets quarterly and is comprised of the following subcommittees:

- The Employer Engagement Committee
- The Military and Veteran Affairs Committee
- Sector Strategies and Career Pathways Committee
- Youth Services Committee
- Performance Measures and Financial Accountability Committee
- Special Projects Committee

# Hawaii Civil Rights Commission

The State of Hawaii has a strong commitment to the protection of civil rights. Article I, Section 5 of the Hawaii Constitution provides that “no person shall be denied the enjoyment of civil rights or be discriminated against in the exercise thereof because of race, religion, sex or ancestry.” The legislature gave meaning to this commitment by creating the Hawaii Civil Rights Commission (HCRC), through enactment of Act 219 in 1988 and Acts 386 and 387 in 1989.

The HCRC was organized in 1990 and officially opened its doors in January 1991. The HCRC enforces state laws prohibiting discrimination in employment (H.R.S. Chapter 378, Part I), housing (H.R.S. Chapter 515); public accommodations (H.R.S. Chapter 489), and access to state and state-funded services (H.R.S. §368-1.5). The HCRC receives, investigates, conciliates, and adjudicates complaints of discrimination. The HCRC has five (5) uncompensated volunteer Commissioners. They are appointed by the Governor, with the consent of the Senate, based on their knowledge and experience in civil rights matters and commitment to preserve the civil rights of all individuals.

By law the Commission may hold hearings and make inquiries, as it deems necessary, and has the authority to administer oaths and affirmations, conduct depositions, compel the attendance of parties and witnesses and the production of documents by the issuance of subpoenas, examine parties and witnesses under oath, require answers to interrogatories, and delegate these powers to any member of the commission or any person appointed by the commission for the performance of its functions.

Furthermore, the law authorizes the Commission to enforce the State’s anti-discrimination statutes or any of its orders, conciliation agreements, or predetermination settlements by commencing civil action in circuit court; by issuing “right to sue” authority to complainants; or by ordering appropriate legal and equitable relief or affirmative action when violations are found.

By law, the Commission is authorized to appoint an executive director, deputy executive director, hearings examiners, investigators, and other necessary support personnel, as well as attorneys to represent the commission in litigation.



# Hawaii Labor Relations Board

## Composition of the Hawaii Labor Relations Board (HLRB or Board)

The HLRB is comprised of three Board Members appointed by the Governor, and confirmed by the Senate, to six-year terms of office. The Board members function as administrative law judges.

## The Goal of the HLRB

The Board seeks to provide just, fair, and timely resolution of the issues brought before it, consistent with public policy to provide for collective bargaining in the public and private sectors, and to assure employee health and safety in the workplace.

## Missions of the Board

The HLRB is charged with the implementation and administration of:

- HRS Chapter 89, a law implementing the right of public employees to organize for the purpose of collective bargaining.
- HRS Chapter 377, the Hawaii Employment Relations Act, which provides for certification of unions and collective bargaining in the private sector where the National Labor Relations Board has declined jurisdiction, particularly in the agricultural sector.

In addition, the HLRB acts on appeals under:

- HRS Chapter 396, the Hawai'i Occupational Safety and Health Law, from citations issued by the Director of the Department of Labor and Industrial Relations through the Hawai'i Occupational Safety and Health Division (HIOSH.)

The Board fulfills its statutory missions through making determinations, judgments, and providing resolution in matters related to:

- The certification of unions as exclusive representatives for bargaining units created through HRS Chapter 89 and by elections under HRS Chapter 377.

- The placement of individuals into appropriate bargaining units under HRS Chapter 89 and Chapter 377.
- Impasses in negotiations under HRS Chapter 89 and by elections under HRS Chapter 377.
- Prohibited Practice charges filed by unions, employers, and individual bargaining unit members under HRS Chapter 89 and Unfair Labor Practice charges filed under HRS Chapter 377.
- Requests for Declaratory Rulings made under Chapters 89 and 377, and any other statute over which the Board has jurisdiction.
- Appeals of citations and penalties issued through HIOSH to employers and employees.

## Objectives and Challenges of the HLRB in FY2022

In 2013, the Board began offering a free electronic filing service through File and ServeXpress (*FSX*) for public labor, HRS 377 & 89 cases and expanded it to include HIOSH, HRS 396 cases in 2014. At the end of FY2016, ninety-five percent (95%) of all the parties appearing before the Board were utilizing *FSX*.

At the onset of the COVID-19 Pandemic and in compliance with the Governor's Emergency Declarations, the Board has required use of the *FSX* service. Only a few Self Represented Litigants ("SRLs") process their cases using conventional paper filings and the United Postal Service. The Board has established a system and process that allows both in-person, remote/*Zoom* based, and hybrid (in-person/remote) hearings.

The Board will continue to work on issuance of decisions and orders, which have been filed in previous fiscal years, while addressing in a timely fashion new cases and appeals filed in FY2022. In FY 2017, the old cases (those older than 12 years) were reduced to 96 cases, and by the close of FY 2018, there were 70 old cases on its docket. At close of FY 2021, less than four (4) old cases remain open and close of FY 2022, only two (2) cases remain open. The Board continues to make

# HLRB

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significant strides in addressing the backlog by vigorous oversight of pending cases and through status conferences and other procedural devices.

The Board has updated and continues to update most of its forms to make them consistent with its electronic filing and electronic service protocol. These new online forms were converted to fillable *pdf* forms which are more user friendly for Self-Represented Litigants (“SRLs”). The Board will continue to improve and refine the forms pursuant to the feedback and needs of the parties and Board.

Since 2018, the Board began to hold hearings on the Neighbor Islands to comply with HRS 89-5(j) “whenever it is more cost efficient in consideration of the parties and witnesses involved” and in an effort to promote just and fair consideration of HRS Chapter 89 and Chapter 377 cases when they occur outside of the island of Oahu. This same policy has also been applied to Discrimination/Whistleblower complaints under HRS 396.

Since March 2020, in recognition of COVID-19 restrictions, however, the Board has discontinued conducting hearings on the Neighbor Islands and instead used the *Zoom* platform to conduct interactive hearings. The Board has received favorable responses from Neighbor Island litigants and attorneys and personal representatives, but with COVID-19 restrictions lifted, could resume Neighbor Island hearings pursuant to parties’ requests and cost efficiency.

The Board has obtained approval of its new administrative rules governing cases under HRS 89, 377, and 396, wherein the current Hawaii

Administrative Rules (“HAR”), Chapters 41 and 42, are repealed and the revised new rules promulgated as HAR Chapter 43. These new rules became effective October 21, 2022.

The Board is in the process of printing and distributing copies of the new rules, HAR the first quarter of 2023. distributing copies of the new rules, HAR Chapter 43, to interested parties and the public, in the first quarter of 2023.

The Board has established its own Twitter page, at <https://twitter.com/hawaiihrb> and posts its most recent decisions and orders of interest.

The Board will complete its draft of its Frequently Asked Questions (FAQ) and make it available to the public in 2023. The Board believes that many stakeholders will find the FAQ a useful guide to both SRLs and new attorneys to the HLRB’s administrative hearing processes.



# HLRB

**Case Statistics:** The following represents the cases filed and pending before the HLRB in FY2022:

**Chapters 89/377  
Backlog Cases  
Fiscal Year 2022/21 (July 1, 2021 to June 30, 2022)**

<b>Type of Case</b>	<b>Backlog Cases Active</b> <small>(Cases opened prior to 6/30/15 that were active at the beginning of FY22)</small>	<b>Backlog Cases Closed</b> <small>(Cases opened prior to 6/30/15 that were closed during FY22)</small>	<b>Pending Backlog Cases</b> <small>(Cases opened prior to 6/30/15 that remain pending at the end of FY22)</small>
<b>Chapter 377</b>			
Unfair Labor Practice Against Union - (CU)	<b>0</b>	<b>0</b>	<b>0</b>
Unfair Labor Practice Against Employer - (CE)	<b>0</b>	<b>0</b>	<b>0</b>
<b>Chapter 89</b>			
Prohibited Practice Against Employer - (CE)	<b>4</b>	<b>3</b>	<b>1</b>
Prohibited Practice Against Union - (CU)	<b>2</b>	<b>1</b>	<b>1</b>
Prohibited Practice Against Employee - (CEE)	<b>0</b>	<b>0</b>	<b>0</b>
Impasse - (I)	<b>0</b>	<b>0</b>	<b>0</b>
Declaratory Ruling - (DR)	<b>0</b>	<b>0</b>	<b>0</b>
Unit Clarification - (RA)	<b>0</b>	<b>0</b>	<b>0</b>
<b>Total 89/377 Cases</b>	<b>6</b>	<b>4</b>	<b>2</b>

**Chapters 89/377  
Old Cases  
Fiscal Year 2022/21 (July 1, 2021 to June 30, 2022)**

Type of Case	Old Cases (Cases opened between 7/1/16 to 6/30/21 that were active at beginning of FY22)	Old Cases Closed FY21 (Cases opened between 7/1/16 to 6/30/21 that were closed during FY22)	Pending Old Cases FY21 (Cases opened between 7/1/16 to 6/30/21 that remain pending at the end of FY22)
<b>Chapter 377</b>			
Unfair Labor Practice Against Union - (CU)	0	0	0
Unfair Labor Practice Against Employer - (CE)	0	0	0
<b>Chapter 89</b>			
Prohibited Practice Against Employer - (CE)	28	9	19
Prohibited Practice Against Union - (CU)	20	5	15
Prohibited Practice Against Employee - (CEE)	0	0	0
Impasse - (I)	15	0	15
Declaratory Ruling - (DR)	0	0	0
Unit Clarification - (RA)	1	1	0

**Chapters 89/377  
New Cases  
Fiscal Year 2022/21 (July 1, 2021 to June 30, 2022)**

Type of Case	New Cases (Cases opened between 7/1/21 and 6/30/22)	New Cases Closed FY21 (Cases opened between 7/1/21 and 6/30/22 closed during FY22)	Pending New Cases (Cases opened between 7/1/21 and 6/30/22 that remain pending at the end of FY22)
<b>Chapter 377</b>			
Unfair Labor Practice Against Union - (CU)	0	0	0
Unfair Labor Practice Against Employer - (CE)	0	0	0
<b>Chapter 89</b>			
Prohibited Practice Against Employer - (CE)	23	1	22
Prohibited Practice Against Union - (CU)	6	1	5
Prohibited Practice Against Employee - (CEE)	0	0	0
Impasse - (I)	0	0	0
Declaratory Ruling - (DR)	1	1	0
Unit Clarification - (RA)	0	0	0
<b>Total 89/377 Cases</b>	<b>30</b>	<b>3</b>	<b>27</b>

**Chapter 396 (HIOSH)  
Old Cases  
Fiscal Year 2022/21 (July 1, 2021 to June 30, 2022)**

<b>Type of Case</b>	<b>Old Cases</b> (Cases opened before FY21 that were active at beginning of FY22)	<b>Old Cases Closed FY22</b> (Cases opened before FY21 that were closed during FY22)	<b>Pending Old Cases FY22</b> (Cases opened before FY21 that remain pending at the end of FY22)
<b>Chapter 396</b>			
<b>Contested Cases</b>	1	0	1
<b>Discrimination</b>	1	0	1
<b>Total 396 (HIOSH) Cases</b>	2	0	2

**Chapter 396 (HIOSH)  
New Cases  
Fiscal Year 2022/21 (July 1, 2021 to June 30, 2022)**

<b>Type of Case</b>	<b>New Cases</b> (Cases opened between 7/1/21 and 6/30/22)	<b>New Cases Closed FY21</b> (Cases opened between 7/1/21 and 6/30/22 that were closed during FY22)	<b>Pending New Cases</b> (Cases opened between 7/1/21 and 6/30/22 that remain pending at the end of FY22)
<b>Chapter 396 (HIOSH)</b>			
<b>Contested Citation</b>	5	3	2
<b>Discrimination</b>	3	0	3
<b>Total 396 (HIOSH) Cases</b>	8	3	5

# Hoisting Machine Operators Advisory Board

The Hoisting Machine Operators Advisory Board (HMOAB) operates as an ‘attached agency’ within the State Department of Labor and Industrial Relations and is administered through the Hawaii Occupational Safety and Health Division. Since 1998, HMOAB has been charged with assuring construction crane operators across the Islands operate hoisting machines in a safe and lawful manner on behalf of the citizens of Hawaii.

## Annual Summary

Fiscal year, 2021-2022, was a year of examining the role of the Board after the US Occupational Safety and Health Administration adopted final rules on crane operator certification.

The State of Hawaii has the option of enacting stronger rules than those required by OSHA. HMOAB decided to work towards this option by expanding these rules to also include Hawaii crane operators in general industry. The Board felt that since the safety of workers and the general public are also affected by cranes in general industry, it was important to ensure that operators of these cranes were also properly trained and certified.

The Board prepared draft amendments to the Hawaii Revised Statutes and Administrative Rules and began reaching out to industry partners to discuss these drafts, but this effort was tabled after more discussion.

HMOAB certified 104 crane operators this fiscal year—a decrease from the 190 certifications issued in the prior fiscal year. Online applications increased from 63 to 120 in this period, as more applicants used the Online application feature of the HMOAB website.

## Advisory Board

**John P. Mihlbauer, Jr.** serves as Chairperson of HMOAB. Mr. Mihlbauer is the president of All Ship & Cargo Surveys, Ltd. and is registered as a licensed Mechanical Engineer in Hawai‘i and California. Mr. Mihlbauer serves on as an Alternate on the ASME B30.8 and ASME B30.24 sub-committees. Mr. Mihlbauer retired after 29 years in Federal Service as a Mechanical Engineer with the US Navy and the US Army Corps of Engineers. Mr. Mihlbauer’s term on

the Board expires June 30, 2025.

**Don “Doc” Bailey** has over 30 years of experience in the crane industry. He is the C.E.O and President of Doc Bailey Cranes & Equipment Inc. which he founded in 1986. The company specializes in Crane Rentals, Crane Repair, Crane & Winch Sales, Hi-Rail, and Specialized Construction Equipment. Mr. Bailey expanded his business to California in 1995, to Las Vegas in 2015, and to Guam in 2019. Mr. Bailey is serving his second term on the Board which expires June 30, 2024.

**Thomas Jacobs** has over 26 years of experience in construction safety and is the ESH Project Safety Manager for Layton Construction Company. Mr. Jacobs is a member of the American Society of Safety Engineers as well as the General Contractors Association Safety Committee, and is a certified Construction Health and Safety Technician and Occupational Health and Safety Technologist. He has conducted numerous safety trainings, including OSHA 10- and 30- hour certification training, scaffolding training, excavation and trenching safety, and aerial lift platform safety. Mr. Jacobs is serving his first term on the Board which expires June 30, 2024.

**Ryan Price** is new member to the Board. He is currently the HSE Coordinator for Nordic PCL Construction, Inc. Mr. Price’s term expires June 30, 2025.

**Greg Scher** has been voted and confirmed for membership to the Board. Mr. Scher has 48 years of experience operating tower, overhead and mobile cranes. Mr. Scher is an active retiree of Operating Engineers. He is currently awaiting appointment.

**Lohekamakaula Stephen Kaaloa** was recently hired by the HMOAB as the new Executive Assistant, replacing Tracy Takano.

## Agency Funding

HMOAB was established in 1998 with its own Special Fund, relying solely on user fees to cover personnel and operating expenses. This Special Fund was abolished in the 2021 Legislative session, and the agency currently operates on a budget appropriated by the Legislature.

## Certifications Summary

Since its inception, HMOAB has certified over one thousand crane operators statewide. During Fiscal Year 2021-2022, the agency certified 104 operators, which includes both new certifications as well as renewals. Statewide, there are approximately 303 crane operators with current HMOAB certification.

	2019-20	2020-21	2021-22
New Applicants	57	72	38
Renewals	115	118	66
Total Certifications Processed	172	190	104

## History, Purpose, and Administrative Governance

HMOAB was established by the Hawaii State Legislature under Act 165 in 1998. HMOAB operates as an attached agency of the State of Hawaii Department of Labor and Industrial Relations.

The Board certifies operators of all construction cranes and tower machines in the state having a lifting capacity of one ton or more. This authority derives from Section 12-50-2 of the Hawaii Administrative Rules (HAR). Under Sections 19 and 20 of the State Occupational Safety and Health Law and Chapter 396 of HAR, HMOAB requires all operators using equipment covered by the American Society of Mechanical Engineers (ASME) B30.5 (mobile and locomotive cranes) to be medically qualified, pass written and practical training examinations, and possess practical experience in order to safely operate hoisting machines in the state. These requirements ensure a minimum competency level of operators, assure employers that potential workers comply with relevant state and federal standards, and help ensure safety for the public. Enforcement is covered in Section 12-110-50 of HAR.

Prospective and renewing operators are required to submit an application for certification and pay a fee of one hundred dollars (\$100) for each year of HMOAB certification. New applicants must also pay a one-time, non-refundable application fee of fifty dollars (\$50). Replacement or reissued cards are supplied to current operators at no cost.

HMOAB operates with a five-member board comprised of industry experts and organized labor who are appointed by the Governor for four-year, staggered terms, subject to approval by the State Senate. Between meetings of the Board, administrative and financial business for the agency are completed by an Executive Assistant, who serves at the direction of the Board.

## For Further Contact

HMOAB can be reached by calling (808) 586-8146 or emailing the office at [hmoab@hawaii.gov](mailto:hmoab@hawaii.gov). The Board meets publicly, usually on the second Wednesday of the month (except December) at 1:30 p.m. During the COVID-19 pandemic, all Board meetings have been conducted by teleconference.



# Labor and Industrial Relations Appeals Board

The Labor & Industrial Relations Appeals Board (LIRAB) is a quasi-judicial agency that is attached to the Department of Labor & Industrial Relations (DLIR) for administrative and budgetary purposes only. LIRAB adjudicates appeals from decisions rendered by the Director of Labor & Industrial Relations (Director) via the Disability Compensation Division relating to workers' compensation matters (Chapter 386, Hawaii Revised Statutes) and decisions rendered by the Director relating to the Boiler and Elevator Safety Law (Chapter 397, Hawaii Revised Statutes). Proceedings before LIRAB are subject to Chapter 91 of the Hawaii Administrative Procedures Act and other applicable administrative rules and laws.

## Program Objective

LIRAB's program objective is to provide prompt, just and efficient adjudication of appeals from decisions of the Director of Labor & Industrial Relations relating to Workers' Compensation and Boiler and Elevator Safety.

## LIRAB Members

LIRAB is comprised of one Chairperson and two Board Members appointed by the Governor of the State of Hawaii and confirmed by the Hawaii State Senate for 10-year terms. The Chairperson is required by law to be an attorney licensed to practice in all Hawaii courts.

## LIRAB Staff

The three-member Board is supported by a staff of 7: Executive Officer, Hearings Officer, Paralegal, Researcher, Chief Clerk, Secretary, and Office Assistant.



## LIRAB Accomplishments and Challenges

LIRAB continues to assist with the DLIR-Disability Compensation Division on a multi-phase modernization project to digitally transform the Workers' Compensation system from a paper-based system to an electronic one. The implementation to electronic based filing and operations will have a positive impact on injured workers, employers, and insurance carriers when claims and appeals of benefit awards can be processed more efficiently and when the parties have 24/7 access to their Workers' Compensation records.

With the opening of the DLIR building on or about September 7, 2021, LIRAB developed policies to ensure that its visitors were fully compliant with changing building restrictions (e.g., vaccination, COVID testing, communication of current building entrance requirements) and to address health and safety considerations of its staff and stakeholders. LIRAB continued to implement an appointment system to safely manage in-person visitors, maintained 100% telework capacity, utilized telephonic and videoconferencing appearances for conferences and hearings, and accommodated electronic filing of documents.

To accommodate stakeholders requesting in-person hearings/conferences and others who preferred the remote participation in the same hearings/conferences, LIRAB implemented video and audio technology and retrofitted its hearings room to include "sneeze-guard" partitions to host "hybrid" hearings and conferences where the participants could elect to appear remotely or in-person at the same hearing/conference.

LIRAB faces the challenge of addressing the pandemic-related backlog as well as the backlog of cases and delays associated with the testing and implementation of the DLIR-DCD's modernization project. The challenge for LIRAB in the coming months also entails filling its vacant position(s) and addressing an anticipated increase in caseload as the economy recovers.

# LIRAB

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## LIRAB Activities for FY 2022

<b>Workers' Compensation Cases</b>	
New LIRAB appeals received in FY 2022	224
Cases disposed of or closed by settlement, dismissal, Decision and Order, or other means in FY 2022	266
Cases pending as of June 30, 2022	324
Pre-hearing conferences (initial, settlement and status conferences) held in FY 2022	637
Motions/Orders to Show Cause /Oral Arguments heard in FY 2022	83
Trials held in FY 2022	43
Percentage of appeals resolved within 15 months of receipt in FY 2022	66%
Decisions & Orders issued	30
Number of cases awaiting written decision and order in FY 2022	107
<b>Boiler &amp; Elevator Safety Cases</b>	
Cases pending as of June 2022	0
New appeals filed during FY 2022	0

# Office of Community Services

The **Office of Community Services (OCS)** was established by Act 305 (SLH, 1985) to facilitate the development, delivery, and coordination of human service programs. These programs are aimed to assist low-income individuals and families, refugees, and immigrants so they can live healthier lives and achieve greater economic self-sufficiency.

Administratively attached to DLIR, OCS has been working diligently to become a model for grant administration in the State of Hawaii. OCS' goal is to improve the effectiveness and efficiency of administering grants by using sound fiscal management, maximizing the utilization of grant funds, improving contract and on-site monitoring, and improving overall contract performance.

OCS administers many of the HRS Chapter 42F Grants-in-Aid (GIA) appropriated by the Hawaii State Legislature to non-profit agencies for which DLIR is the expending agency. In Fiscal Year (FY) 2022 OCS managed a portfolio of 58 grants totaling more than \$18.5 million, of which approximately \$17.7 million was for capital improvement projects and \$0.8 million was for operating grants. The Hawaii State Legislature did not award any GIAs during the 2020 and 2021 legislative sessions and the 58 grants were awarded from prior legislative sessions. These grants remained active during FY 2022.

During the 2022 Hawaii State Legislative Session, OCS was designated as the administrative agency for all 188 GIAs that were awarded, totaling over \$48 million. OCS anticipates that all GIAs that are not transferred to other state departments to be contracted with OCS by the end of FY 2023, to meet the encumbrance deadline, established by Act 248, SLH 2022.

OCS also administers a state-funded employment services program that helps Hawaii's low-income individuals and legal permanent residents gain employment skills, find and retain jobs. The total appropriation in FY 2022 was \$1.3 million.



In FY 2022, OCS also administered eight recurring federal grant programs through contracts with non-profits totaling more than \$6 million. The following were the federal programs administered by OCS during the fiscal year:

**Community Services Block Grants (CSBG)** support Hawaii's four Community Action Agencies (Honolulu Community Action Program, Inc., Hawaii County Economic Opportunity Council, Maui Economic Opportunity, Inc., and Kauai Economic Opportunity, Inc.) with funding to underwrite a broad array of services that range from job training and job placement to Head Start, housing assistance, transportation services, food assistance, shelter assistance, and financial literacy. The FY 2022 grant award was \$3,936,915. In addition to the FY 2022 CSBG grant, OCS continued to utilize CSBG CARES Act Supplemental Funds (\$3,627,506) to allocate to CSBG Community Action Agencies. The purpose of CSBG CARES Act Supplemental Funds is to prevent, prepare for, and respond to the effects of COVID-19 within low-income communities and populations.





**The Emergency Food Assistance Program (TEFAP)** provides shelf-stable and frozen foods such as canned vegetables and various meat and poultry products to supplement the diets of low-income individuals at no cost. TEFAP is by far our largest food program, serving an estimated monthly average of 61,102 people through funding from the U. S. Department of Agriculture (USDA)'s Food and Nutrition Service (FNS) branch. FY 2022 grant award included \$370,701 in funding. In FY 2022, TEFAP also received Farm to Foodbank funds (\$29,192) and Build Back Better funds (\$386,955), which provided Hawaii with even more administrative funding and additional TEFAP food deliveries in 2022.

**Commodity Supplemental Food Program (CSFP)** provides one box per month of pre-selected canned and packaged foods to each of 3,685 low-income seniors through the USDA's FNS branch. A typical box contains a cross-section of foods, including canned fruits and vegetables; dry goods such as flour, rice, and cereals; and beverages such as fruit juices and milk. The FY 2022 grant award was \$ 312,287.

**Seniors Farmers' Market Nutrition Program (SFMNP).** In FY 2022, this USDA-FNS program provided about 9,000 low-income seniors with food coupons to purchase locally grown fruits and vegetables from farmers, farmers' markets and other outlets. The FY 2022 grant award was \$497,820.

**Legal Advocacy, Outreach, and Referral Services to Protect the Rights of Children and Their Families.** Two programs that

collectively serve approximately 2,000 children under this grant funded by the U. S. Department of Health and Human Services (DHHS) provide legal services to children in low-income households to address myriad issues ranging from family violence, abuse, and neglect to child support and access to education and social safety-net services. The FY 2022 grant awards were \$132,000 and \$135,000.



**Weatherization Assistance Program (WAP)** provides funding from the U. S. Department of Energy for energy conservation education and the installation of weatherization measures to low-income households to reduce their energy costs. Among the weatherization measures approved for installation under this grant are solar water heaters, hybrid heat pumps, energy-efficient refrigerator or air conditioner replacements, compact fluorescent lights (CFLs) or light emitting diodes (LEDs), advanced power strips, and low-flow faucet aerators and shower heads. The FY 2022 grant award was \$280,638.

**Low-Income Home Energy Assistance Program (LIHEAP)** is funded by the U.S. DHHS through Hawaii's State Department of Human Services. It is used in conjunction with WAP funding to install energy-saving appliances or measures to reduce energy costs for low-income households. The OCS portion of LIHEAP FY 2022 grant was \$471,938.90.



**Refugee and Entrant Assistance Program** provides refugees and asylees with two types of services under this formula grant from the U. S. Department of Health and Human Services, Office of Refugee Resettlement:

- (1) Social services for employment and other social services for up to five years after arrival into the U.S. or granting of status; and
- (2) Cash and medical assistance for up to twelve months from arrival into the U.S. or granting of status. The FY 2022 grant awards were (1) \$51,419 and (2) \$33,344.

# State Fire Council

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The SFC is administratively attached to the State of Hawaii's (State) Department of Labor and Industrial Relations and comprised of the four county Fire Chiefs. The SFC's primary mission is to develop a comprehensive fire service emergency management network for the protection of life, property, and environment throughout the State. The SFC is responsible for adopting a state fire code; coordinating and facilitating federal fire-related training courses; and administering a Reduced Ignition Propensity Cigarette (RIPC) Program. The SFC establishes qualifications for testing and certifying individuals who perform maintenance and testing of portable fire extinguishers, fire protection systems, and fire alarm systems. It advises and assists the county fire departments where appropriate and prescribe standard procedures and forms related to inspections, investigations, and fire reporting. It also advises the Governor and legislature on issues relating to fire prevention and protection, life safety, and any other function or activity for which the various county fire departments are responsible.

## **The National Fire Protection Association (NFPA) 1 Fire Code, 2021 Edition**

The State Fire Code Investigative Committee, which is comprised of one member from each county fire department and an NFPA representative, reviewed and generated amendments to the NFPA 1 Fire Code, 2021 Edition. The 2021 amendment package was forwarded to the State Attorney General for review. The State Fire Code, in conjunction with the county fire codes, comprehensively addresses minimum requirements for the protection of life and property to mitigate and prevent the disastrous effects of fires, explosions, and hazardous materials incidents. The next steps in the amendment process include:

1. Completion of the Deputy Attorney General's review.
2. An open comment period for stakeholders.
3. Review and approval of the 2021 amendment package by the State Fire Council.
4. Review and approval of the 2021 amendment package by the State Building Code Council's Subcommittee of Building Officials.
5. Review and approval of the 2021 amendment package by the State Building Code Council.
6. Publish the 2021 amendment package to the SFC website.

## **State Building Code Council (SBCC)**

The SFC has been a voting member of the SBCC since its inception in 2007. Its 11 voluntary members are comprised of county, State, and private stakeholders who review and approve a comprehensive set of national model building codes and standards for design and construction in the State. These approved codes are used as the basis for the county building codes. The State Department of Accounting and General Services, to which the SBCC is administratively attached, is authorized to adopt the approved State building codes as administrative rules.

The SBCC's investigative committees continued their review of the current editions for the International Building, International Residential Codes, Uniform Plumbing Code (UPC), International Energy Conservation Code, and the International Existing Building Code.

The SFC continues to support the SBCC by attending monthly meetings, providing input on uniform statewide building code amendments for county adoption, and providing adoption updates for the state fire code.

## **SFC Legislative Efforts**

The SFC introduced bills and submitted testimony during the 2022 Legislative Session to improve overall fire safety in Hawaii, including:

# SFC

Bill No.	Short Title	Description	Position	Status
SB 2017	Emergency Medical Services	Authorizes the Hawaii medical board to license emergency ambulance service personnel. Repeals Sec. 543-34(d), HRS, which limits licensure as an emergency medical technician 1 to individuals whose practice is performed in a county with a population of 500K or greater.	Support	Passed
SB 2185	Relating to Fireworks	Requires auditor of fireworks records from each county to submit an annual report on inventory, sales, etc. Effective 7/1/2050 (HD1)	Support	Passed
SB 2923	Relating to Fireworks	Increases the generally applicable fine and fine for homeowner liability under the Fireworks Control Act from \$2K to \$5K. Effective 7/1/2050 (HD1)	Support	Passed
HB 1587	Relating to Intrastate Mutual Aid System	Establishes the intrastate mutual aid system to allow counties to share resources in times of emergency or in preparation for emergencies. Effective 7/1/2050	Monitor	Passed
HB 1644	Relating to Environmental Protection	Bans the manufacture, sale or distribution for sale or use of wraps, liners, plates, food boats, etc. and firefighting foams that contain perfluoroalkyl and polyfluoroalkyl substances. Effective 7/1/2100	Monitor	Passed
SB 449	Relating to Public Safety	Requires property owners of residential real property to disclose whether installed smoke alarms are in accordance with building and residential codes. SFC to create and maintain a guide of approved smoke alarms and post on its website.	Support	Failed
HB 1903	Relating to Data About Snorkels and Masks	Requires first responders to record in the incident report of each water rescue event the type of snorkel and mask, if any, worn by the person who was rescued or recovered.	Monitor	Failed
SB 513	Relating to the Enforcement of Fireworks Laws	Establishes an expeditious adjudication system for the processing of fireworks infractions. Increases the fireworks permit fee and fine for certain violations. Authorizes Sheriff Division to enforce the fireworks control law. Requires AG to establish an explosion detection tech working group. Requires Dept. of Public Safety to develop and implement a web-based reporting tool for illegal fireworks. Appropriates funds. Effective 5/6/2137	Support	Failed
SB 2009	Relating to Fire Protection	Establishes a tax credit of 30% of the actual cost, including installation, water and permitting fees and related charges, of an automatic fire sprinkler system in any one- or two- family residential structure. Sunsets 12/31/2030.	Support	Failed
SB 2010	Relating to Fire Protection	Requires builders to provide cost estimates for residential fire sprinklers to potential buyers of all new one-and two-family dwellings. The SFC shall provide written information on the benefits of a sprinkler system.	Support	Failed

# SFC

<b>SB 2011</b>	Relating to Public Safety	Requires sellers of residential buildings or structures to equip approved smoke alarms in accordance with current state or county building or residential codes.	Support	Failed
<b>SB 2012</b>	Relating to the RIPC Program	Provides the SFC additional flexibility in employing personnel to administer the reduced ignition propensity cigarette program.	Support	Failed
<b>SB 2013</b>	Relating to the RIPC Program	Authorizes additional uses for moneys in the RIPC program special fund to support the State Fire Council and its programs and activities.	Support	Failed
<b>SB 2014</b>	Relating to the RIPC Program	Authorizes additional uses for moneys in the RIPC program special fund to support the State Fire Council and its programs and activities. Appropriates money.	Support	Failed
<b>SB 2015</b>	Relating to Public Safety	Shortens the prohibition on county requirements for automatic sprinkler or sprinkler systems in one- and two-family detached dwelling units and non-residential agricultural and aquaculture structures located outside the urban areas. (Repeals Section 46-19.8, HRS, and Act 53, Session Laws of Hawaii 2017, which prohibited the counties from adopting code and regulations that would require the installation or retrofitting of residential fire sprinklers in one- and two-family dwellings and other types of structures.)	Support	Failed
<b>SB 2016</b>	Relating to Fireworks	Imposes a statewide limitation on consumer fireworks, except by permit for cultural events.	Support	Failed
<b>SB 2209</b>	Relating to Search and Rescue	Makes a person or entity liable for all or a portion of search or rescue expenses when the person or entity knowingly enters state, county, or private property, knowingly enters a hiking trail that is closed to the public, or violates applicable laws, provided that the closure is posted by sign, barricade, or other device that gives reasonable notice of the closure. Requires counties and the state fire council to adopt rules as necessary to pursue reimbursements.	Monitor	Failed

# SFC

## Fire Department Training

The SFC coordinated and facilitated these fire service training courses conducted by lecturers from the National Fire Academy:

Course	Department	Dates
Leadership and Executive Development - Shaping the Future	Honolulu Fire Department	January 20-21
Strategy and Tactics for Initial Company Operations	Honolulu Fire Department	April 7-8
Incident Command for High-Rise Operations	Hawaii County Fire Department	April 13-14
Leadership in Supervision: Frameworks to Success	Maui Fire Department	April 28-29
Health and Safety Program Manager	Kauai Fire Department	July 7-8
Decision-Making for Initial Company Operations	Hawaii County Fire Department	July 18-19
Decision-Making for Initial Company Operations	Maui Fire Department	August 25-26
Incident Command System for Structural Collapse Incidents	Honolulu Fire Department	November 4-5
Decision-Making for Initial Company Operations	Maui Fire Department	Cancelled
Leadership and Executive Development - Shaping the Future	Kauai Fire Department	Cancelled

SFC staff processed numerous inquiries on the administrative rules regarding licensing of individuals for inspection, testing, and maintenance of fire protection systems (FPS). During FY22, the SFC reviewed 65 applications for FPS Certificates of Fitness.

The SFC met quarterly using interactive conference technology in compliance with the Hawaii Revised Statutes §92 to fulfill its statutory duties and responsibilities.

## RIPC Program

The SFC administers the RIPC Program. After the passage of Act 218, 2008 Hawaii Legislative Session, Hawaii became the 36<sup>th</sup> state, along with the District of Columbia, to require only RIPC be sold in the State effective September 30, 2009. By the end of 2011, all 50 states and the District of Columbia had passed RIPC laws. The purpose of this law is to reduce the number of accidental fires involving smoking-related materials and decrease the number of injuries and fatalities. As of July 26, 2022, a total of 807 brand/styles of cigarettes are approved for sale in the State. Retail inspections reveal that closer to 250 of those brand/styles are actually being sold in retail outlets.

Besides providing oversight and managing the day-to-day administrative aspects of Hawaii's RIPC program, this office conducts two other key functions annually. They are:

1. Conduct inspections of retail outlets that sell cigarettes throughout the state to ensure that stores sell only fire standard compliant cigarettes in their establishments.

# SFC

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2. Purchase cigarettes periodically and send them to certified laboratories so they can be tested for RIPC compliance. A previous inquiry by this office noted that only Hawaii and Massachusetts conduct this feature as part of their RIPC programs.

Occasionally, a failed RIPC test report will result. While these failed tests prompt an extensive follow-up procedure for the State of Massachusetts, Hawaii, in consultation with our representative from the Attorney General's office has chosen to take an alternate approach to address this matter. A situation occurred in May 2022 after two Marlboro brand/styles failed RIPC testing. Notification of this test result was sent to a representative of the Altria Group, and a virtual meeting was scheduled. In the interim, Altria Group notified their manufacturing plant officials of the failed test and that an internal review of the machinery responsible for producing the brand/styles in question will be conducted. By the time our meeting was held, the manufacturer had already made changes to address their production flaw, and had conducted more of their own internal testing of both brand/styles. In conclusion, this office noted they would continue their random testing process and would include both brand/styles in question along with other brand/styles purchased. This office also reiterated that they would notify Altria Group of any further failed test results. Altria Group officials stated they would conduct an inquiry with their cigarette paper provider to ensure that the quality of their product would be maintained.

See Table 1 for an overview of RIPC Statistics during fiscal years (FY) 2010 to 2014.

See Table 2 for an overview of RIPC Statistics during FYs 2015 to 2019.

See Table 3 for an overview of RIPC Statistics during FYs 2020 to 2022.



# SFC

**Table 1: RIPC Statistics (FY 2010 to 2014)**

	FY2010	FY2011	FY2012	FY2013	FY2014
<b>Beginning Balance</b>	0	\$367,500	\$401,625	\$503,625	\$664,500
RIPC Specialist Salary	\$0	\$0	\$0	\$0	\$16,221
Office Expenses	\$0	\$0	\$0	\$0	\$0
Public Outreach	0	0	0	0	0
Outreach Expenses	\$0	\$0	\$0	\$0	\$0
Honolulu Inspections	0	0	0	0	0
Outer Island Inspections	\$0	\$0	\$0	\$0	\$0
Honolulu/Outer Islands/Mainland Travel Costs	0	0	0	0	0
Cigarette Samples Purchased for Testing	0	0	0	0	0
Cigarette Purchasing, Shipping, and Testing Costs	\$0	\$0	\$0	\$0	\$0
<b>Subtotal</b>	\$0	\$367,500	\$401,625	\$503,625	\$648,279
Plus Fees Collected	\$367,500	\$34,125	\$102,000	\$160,875	\$33,750
<b>Ending Balance</b>	\$367,500	\$401,625	\$503,625	\$664,500	\$682,029

# SFC

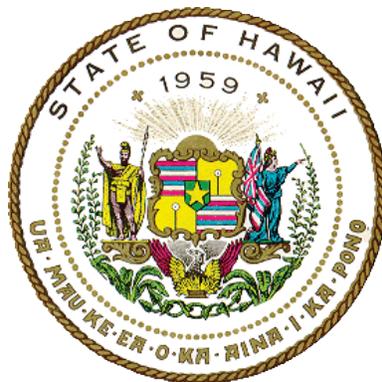
**Table 2: RIPC Statistics (FY 2015 to 2019)**

	FY2015	FY2016	FY2017	FY2018	FY2019
<b>Beginning Balance</b>	\$682,029	\$727,287	\$740,361	\$631,725	\$781,539
RIPC Specialist Salary	\$28,215	\$29,277	\$34,505	\$39,926	\$41,356
Office Expenses	\$1,111	\$3,676	\$1,799	\$4,569	\$3,019
Outreach Expenses	\$0	\$230	\$0	\$0	\$1,032
Honolulu Inspections/Outreach	19	505	525	141	1087
Outer Island Inspections	0	148	281	54	0
Honolulu/Outer Islands/Mainland Travel Costs	\$0	\$3,011	\$10,205	\$4,793	\$773
Cigarette Samples Purchased for Testing	70	218	172	92	198
Cigarette Purchasing, Shipping, and Testing Costs	\$27,041	\$86,857	\$105,627	\$34,523	\$60,104
<b>Subtotal</b>	\$625,662	\$604,236	\$588,225	\$547,914	\$675,255
Plus Fees Collected	\$101,625	\$136,125	\$43,500	\$233,625	\$80,625
<b>Ending Balance</b>	\$727,287	\$740,361	\$631,725	\$781,539	\$755,880

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**Table 3: Current RIPC Statistics (FY 2020-2022)**

	FY2020	FY2021	FY2022		
<b>Beginning Balance</b>	\$755,880	\$703,280	\$973,171		
RIPC Specialist Salary	\$38,805	\$43,351	\$36,677		
Office Expenses	\$7,164	\$1,049	\$23,788		
Public Outreach	0	0	0		
Outreach Expenses	\$0	\$0	\$0		
Honolulu Inspections	587	632	631		
Outer Island Inspections	0	0	0		
Honolulu/Outer Islands/Mainland Travel Costs	\$4,549	\$1,880	\$2,110		
Cigarette Samples Purchased for Testing	320	80	140		
Cigarette Purchasing, Shipping, and Testing Costs	\$111,195	\$3,205	\$90,762		
<b>Subtotal</b>	\$594,167	\$653,795	819,834		
Plus Fees Collected	\$109,113	\$255,567	\$37,671		
FY RIPC Balance	\$0	\$63,809	\$27,605		
<b>Ending Balance</b>	\$703,280	\$973,171	\$885,110		



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