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SYLVIA LUKE  
LIEUTENANT GOVERNOR



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**HOISTING MACHINE  
OPERATORS ADVISORY  
BOARD**

JOHN MIHLBAUER, JR.  
CHAIRPERSON

DOC BAILEY  
MEMBER

FONOKALAFI MISI  
MEMBER

**HOISTING MACHINE OPERATORS  
ADVISORY BOARD MEETING**

**MINUTES**

**November 13, 2024  
1:30 PM**

**I. Call Meeting to Order**

Chair Mihlbauer called the meeting to order at 1:33 p.m. on Wednesday, November 13, 2024, at the Ke'elikolani Building, Room 321, 830 Punchbowl St., Honolulu, HI 96813.

Quorum (3): Chair John Mihlbauer, Jr., Member Doc Bailey, and Member Fonokalafi Misi.

Others in attendance: Bill Kunstman, DLIR Deputy Director; Alan Yamamoto, Acting HIOSH Administrator; Bronson Luis, OHS Compliance Officer/Branch Safety Manager; Michael Moriyama, Deputy Attorney General; Carey Price, Program Specialist; Tri Pham, DLIR IT.

**II. Public Comment Period for Agenda Items**

Chair Mihlbauer solicited testimony from the public and none was offered at this time. There was no written testimony received for this meeting.

**III. Department of Labor & Industrial Relations Deputy Director's Report**

Deputy Kunstman reviewed the recent history of the Board and that miscommunications between the Department and the Board regarding an appointment during last year's legislative session led to some confusion. Chair Mihlbauer concurred and that this led to some challenges, including resignations by Board Members.

Deputy Kunstman noted that Member Misi has joined the Board by the Governor's interim appointment, which requires approval by the end of the next legislature session, with the State Senate's Advice and Consent. The Governor's Office is still accepting applications for the two remaining vacant Board seats.

Chair Mihlbauer asked to discuss differences between the fed and state requirements and where the state meets or exceeds them. Deputy Kunstman agreed to discuss at a later date.

Deputy Kunstman reviewed additional staffing challenges with the Board. A terminated staff member's position is currently open. An ex-staff member who had been in the executive assistant role previously, provided some support and guidance on business process functions of the Board to the Administrative Services Office and the Occupational Safety and Health Division, and additionally assisted in reducing the backlog of pending certifications.

Chair Mihlbauer requested that Deputy Kunstman elaborate on the relationship between HMOAB and the DLIR. Deputy Kunstman stated that the Hoisting Machine Operator's Advisory Board is administratively attached to the Department of Labor and Industrial Relations, for budgetary and administrative purposes. It is under the umbrella of the DLIR and the Director has some authority over budgetary and personnel matters, pursuant to HRS 26-35. The Board has subject matter functions that fall under the purview of the Board, for example the certification of crane operators is fully under the jurisdiction of the Board. The Board has the full authority of HRS 396-19.

#### **IV. Hawaii Occupational Safety and Health Update**

Bronson Luis stated that there was no formal update for this meeting from the Safety Branch. With the new Acting HIOSH Administrator, Alan Yamamoto, they are getting themselves up-to-date on HMOAB matters. Mr. Luis did clarify that HIOSH is still enforcing the hoisting certification requirement during site inspections.

Chair Mihlbauer requested that Mr. Luis elaborate on the relationship between HMOAB and HIOSH. Mr. Luis stated that HIOSH is the enforcing party for HMOAB's hoisting certification, under the Hawaii Administrative Rules for state projects. If an operator has the national certification but not the HMOAB certification that is a citable offense, but it does not carry a monetary penalty for a first occurrence. If the operator does not have a national certification (and the HMOAB certification) it would be a serious violation. Mr. Luis recommends communicating to contractors and employers on obtaining certification, as they are still encountering employers and operators not aware of the state's certification requirement and a lot of employers are continuing to recruit operators from outside of Hawaii.

Member Bailey noted that no other state has a program like Hawaii where HMOAB validates that an operator has a national accredited certification and a current medical clearance. Chair Mihlbauer added that they additionally do a background check.

Chair Mihlbauer inquired on how HMOAB could assist in helping HIOSH assert the certification rule with a penalty if an operator is not HMOAB certified. Mr. Luis stated that they assess if it's a hazard issue. If an operator is nationally certified but lacks the HMOAB certification, then it's a documentation issue. Chair Mihlbauer, Acting HIOSH Administrator Yamamoto, and Mr Luis discussed whether requiring a penalty for intentionally circumventing the HMOAB certification requirement would or could be codified. Deputy Kunstman advised that HIOSH does not require anything to enforce the standard. HIOSH is enforcing the standard pursuant to their plan with federal OSHA. There are some incongruities between the state and federal plans but nothing that would prevent HIOSH from citing.

Chair Mihlbauer asked about the incongruities and if Fed OSHA has precedence over HIOSH. Acting Administrator Yamamoto stated that the state plan must be at least as stringent as Fed OSHA and currently HIOSH is stricter by requiring the additional state certification. HIOSH has a field operations manual that was mostly adopted from the federal manual and has been approved by Fed OSHA. In terms of violations and citations, they do look at repeat violations and repeat violations do carry a penalty.

**V. Announce the appointment of Fonokalafi Misi**

Chair Mihlbauer announced the appointment of Fonokalafi Misi to the Board which enables a quorum for the Board to conduct business. Chair Mihlbauer gave Member Misi the floor to introduce himself, his background, and professional experience. Deputy Kunstman thanked Member Misi for stepping up to serve in this important, public capacity.

**VI. Discussion and decision-making for the Executive Assistant position**

Chair Mihlbauer made a recommendation of Applicant #1 (of four applicants whose resumes had been distributed to the members) for the HMOAB Executive Assistant position. Upon motion duly made and seconded, Chair Mihlbauer opened up the floor to discussion. Member Bailey noted that Applicant #1 seemed qualified and a better fit for what HMOAB currently needs. Chair Mihlbauer and Member Misi agreed. The Board voted to make an offer to Applicant #1 for the HMOAB Executive Assistant position. Chair Mihlbauer, Member Bailey, and Member Misi voted in favor. Ms. Price will work with the HIOSH office to submit all necessary paperwork for the new hire.

Chair Mihlbauer stated he would like to review the Executive Assistant position description in the future to assess the time expended on the duties outlined.

**VII. Operational Continuity Plan**

Chair Mihlbauer had asked that this agenda item be added to address the Executive Assistant role and what backup plans could be put into effect if this essential role becomes vacant again.

**VIII. Announcements**

A. Next Meeting tentatively rescheduled to December 12, 2024 from December 11, 2024.

**IX. Adjournment**

