

TESTIMONY

HB 1868 HD 1

LINDA LINGLE
GOVERNOR OF HAWAII



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STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
HONOLULU, HAWAII 96813-2437

March 8, 2010

TESTIMONY TO THE
SENATE COMMITTEE ON LABOR
For Hearing on Tuesday, March 9, 2010
2:45 p.m., Conference Room 224
BY
MARIE C. LADERTA, DIRECTOR

(WRITTEN TESTIMONY ONLY)

House Bill No. 1868, HD1 Relating to Civil Service

TO CHAIRPERSON DWIGHT TAKAMINE AND MEMBERS OF THE COMMITTEE:

The stated purpose of HB 1868, HD1 is to add a new section in Chapter 76 to prohibit employees from taking a leave of absence from their civil service positions to serve in certain appointive positions for more than one year.

The Department of Human Resources Development (DHRD) opposes this bill for the following reasons:

- (1) Depending on the effective date of this proposal, any change to existing collective bargaining agreements (CBAs) pertaining to leaves of absence should be handled through the collective bargaining negotiation process because Section 89-19, Hawaii Revised Statutes (HRS), provides that the CBAs as negotiated pursuant to Chapter 89, HRS, will take precedence over any conflicting statute or legislation. Therefore, the proposed measure is unnecessary and if passed, would be unenforceable.

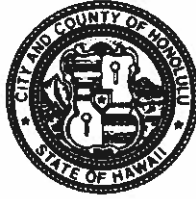
- (2) The measure would also be in conflict with Chapter 89C, HRS, which provides excluded employees with adjustments that are no less than their included counterparts and would be unenforceable because the chapter takes precedence over any statute or legislation. Further, the measure is contrary to Chapter 78-23, HRS, which provides that leaves of absence with or without pay be negotiated under Chapter 89, HRS, or adjusted under Chapter 89C, HRS.
- (3) The one-year cap on leaves of absence for the purpose of serving in higher level appointed positions limits the opportunity for career civil servants to contribute in leadership capacities and become an effective part of government.

Accordingly, we respectfully oppose this measure and urge the Committee to hold this bill.

DEPARTMENT OF HUMAN RESOURCES
CITY AND COUNTY OF HONOLULU

850 SOUTH KING STREET, 10TH FLOOR
HONOLULU, HAWAII 96813

MUFI HANNEMANN
MAYOR



NOEL T. ONO
DIRECTOR

March 9, 2010

The Honorable Dwight Takamine, Chair
and Members of the Committee on Labor
The Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chair Takamine and Members:

Subject: House Bill No. 1868, HD1
Relating to Civil Service

The **City and County of Honolulu opposes House Bill No. 1868, HD1**, as the measure will have a negative impact on civil service employees.

The bill would prohibit the granting of a leave of absence for civil servants accepting appointed positions for which the term is more than one year. The City and County of Honolulu's Civil Service Rules currently allow an appointing authority to grant a leave of absence without pay for tenured civil servants who are appointed to exempt positions. This includes exempt administrative positions in the Executive Branch, for which the appointment is usually four years.

These appointments provide a well-deserved opportunity for included and excluded career civil servants to offer their wealth of knowledge and experience in an exempt position. At the same time, appointing a civil servant to an exempt position is useful in ensuring that executive positions are staffed by individuals who have expertise regarding an agency's duties and functions. However, the number of civil servants willing to take these types of appointments would be severely reduced should this measure be enacted.

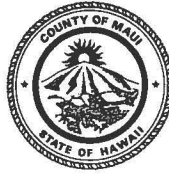
We respectfully oppose this bill and request that this HB 1868, HD1 be held by this committee.

Thank you for the opportunity to testify.

Yours truly,

A handwritten signature in black ink, appearing to read "Noel T. Ono", is written over a yellow rectangular background.

Noel T. Ono
Director



COUNTY OF MAUI
DEPARTMENT OF PERSONNEL SERVICES

200 S. HIGH STREET • WAILUKU, MAUI, HAWAII 96793-2155
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March 5, 2010

The Honorable Dwight Y. Takamine, Chair
and Members of the Committee on Labor
The Senate
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

Dear Chair Takamine and Committee Members:

RE: **H.B.1868**, HD 1, Relating to Civil Service

I am **Lynn G. Krieg, Director of Personnel Services for the County of Maui**, writing in **opposition** of this measure as written.

While this measure would not affect the county jurisdictions because we are not covered by HRS §76-16(b), it is still bad legislation in that it appears to create divisiveness among the ranks of public employees. As written, those employees covered under collective bargaining would be allowed a more beneficial term and condition of employment than that of their fellow civil service excluded counterparts. Clearly, this would appear to be in violation of HRS §89C-2(4) and HRS §89C-3(b)(2). Both of these sections provide for excluded employees to receive adjustments that are at least equal to employees covered by collective bargaining. "Adjustment" is defined in HRS §89C-1.5 as "...a change in wages, hours, benefits, or other term and condition of employment." (Emphasis added.)

Another negative impact of this legislation is that it disrespects the career ladder concept and discourages the seasoned and experienced employees from taking leadership positions with any new administration. Without the same benefit of "return rights" these experienced managers will forego the offer of an appointed position, in favor of job security, and what will result is that these excluded managers will remain in their positions only to become subordinate to their current subordinates who have the contractual privilege of "return rights."

If the intent of this measure is to limit the length of time an incumbent temporarily vacates a position, I can support the concept, but by all means the terms should be fairly applied to all civil service employees. As it stands, this measure does not and must be opposed.

Thank you for the opportunity to offer testimony.

Sincerely,

A handwritten signature in black ink, appearing to read "Lynn G. Krieg". The signature is fluid and cursive, with a large initial "L" and "K".

LYNN G. KRIEG
Director of Personnel Services

cc: Mayor Charmaine Tavares
Marian Feenstra, Executive Assistant



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

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The Twenty-Fifth Legislature, State of Hawaii
Hawaii State Senate
Committee on Labor

Testimony by
Hawaii Government Employees Association
March 9, 2010

**H.B. 1868, H.D. 1 – RELATING TO
CIVIL SERVICE**

The Hawaii Government Employees' Association, AFSCME Local 152, AFL-CIO supports the purpose and intent of H.B. 1868, H.D. 1. H.B. 1868 was amended to prohibit a leave of absence for a civil service employee who accepts an appointed position with a term of more than one year, with the exception of any employee whose collective bargaining agreement provides for a longer leave of absence.

The amendment resolves a prior conflict with our collective bargaining agreements, article entitled Other Leaves of Absence, which contains a provision on "Leave Without Pay to Work in Certain Appointive Positions," for Bargaining Units 02, 03, 04, 09 and 13.

Thank you for the opportunity to testify in support of H.B. 1868, H.D. 1.

Respectfully submitted,

Nora A. Nomura
Deputy Executive Director