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MARIE C. LADERTA
CHIEF NEGOTIATOR

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OFFICE OF COLLECTIVE BARGAINING
EXECUTIVE OFFICE OF THE GOVERNOR
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February 1, 2010

TESTIMONY to the
HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
For Hearing on Tuesday, February 2, 2010
9:00 a.m., Conference Room 309

By

MARIE C. LADERTA
CHIEF NEGOTIATOR

House Bill No. 2858
Relating to Furloughs

WRITTEN TESTIMONY ONLY

CHAIRPERSON RHOADS AND MEMBERS OF THE HOUSE COMMITTEE ON
LABOR AND PUBLIC EMPLOYMENT:

The purpose of H. B. No. 2858 is to specify that a "furlough" relates to an employee's wages and hours of employment and constitutes a term or condition of employment that is subject to collective bargaining.

The Office of Collective Bargaining is **strongly opposed** to the proposed amendments to Chapter 89, HRS.

Employee furlough is a management right and should not be a negotiable subject of bargaining when the State is undertaking efforts to address an unprecedented budget deficit. Furlough is one means of addressing the budget deficit in a timely manner while maintaining the best possible service to the public under the current fiscal

circumstances. Also, furlough provides a workable and immediate alternative to employee layoffs.

Thank you for the opportunity to testify on this measure.

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THE JUDICIARY, STATE OF HAWAII

Testimony to the House Committee on Labor & Public Employment

The Honorable Karl Rhoads, Chair

The Honorable Kyle T. Yamashita, Vice Chair

Tuesday, February 2, 2010, 9:00 a.m.
State Capitol, Conference Room 309

by

Sharen M. Tokura

Human Resources Director

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 2858, Relating to Furloughs

Purpose: Defines a "furlough" as a mandatory reduction of wages in return for a reduction of hours or work attendance or paid leave and specifies that a "furlough" shall be a term or condition of employment that is subject to collective bargaining.

Judiciary's Position:

The Judiciary opposes House Bill No. 2858, which specifies furloughs as a mandatory subject of collective bargaining.

The proposed legislation, as written, is overly broad and does not distinguish between the employer's right to furlough versus the impact to negotiating employees' wages and conditions of employment resulting from a furlough.

We believe that the proposed legislation is contrary to the authority afforded public employers to manage its resources and operations. For example, §89-9(d), HRS excludes from negotiations any proposal that would interfere with the rights and obligations of a public employer to: (1) Direct employees; . . . (5) Relieve an employee from duties because of lack of work or other legitimate reasons; . . . (7) Determine the methods, means, and personnel by which the employer's operations are to be conducted; and (8) Take such actions as may be necessary to carry out the missions of the employer in cases of emergencies.

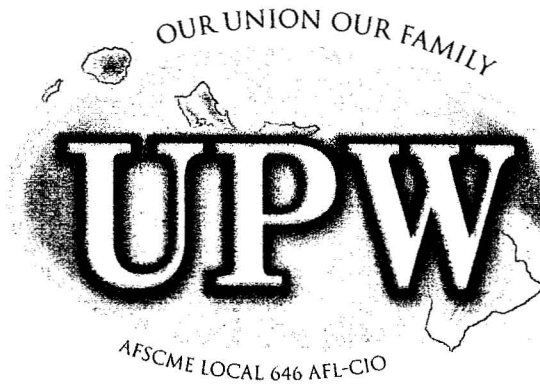


House Bill No. 2858, Relating to Furloughs
House Committee on Labor & Public Employment
February 2, 2010
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This proposed legislation will severely interfere in the employer's ability to manage its operations and resources by requiring negotiations of furloughs. By making furloughs a mandatory subject of bargaining, the employer's ability to effectuate a furlough in a timely manner in order to provide meaningful cost savings could be stalled through the negotiations process. For example, if the union chose not to entertain the employer's proposal for furloughs, the employer means to address labor savings may not be realized. We believe this legislation will impede our ability to manage our resources to address the budgetary deficit that we face today.

Further, the proposed definition is too narrow and may adversely impact employees if subject to this narrow definition involving "mandatory reduction in wages." The employer simply seeks to not pay for days not worked. There should be no language which can be construed to mean a reduction of the base rate. Employees should retain their applicable base rate of pay and be paid at that rate for the days worked, inclusive of holidays and paid leaves. In other words, the paycheck is reduced, not the wage rate.

Thank you for the opportunity to provide written testimony on this bill.



House of Representatives
The Twenty-Fifth Legislature
Regular Session of 2010

Committee on Labor & Public Employment
Rep., Karl Rhoads, Chair
Rep. Kyle T. Yamashita, Vice Chair

DATE: Tuesday, February 2, 2010
TIME: 9:00 a.m.
PLACE: Conference Room 309

**TESTIMONY OF THE UNITED PUBLIC WORKERS, LOCAL 646, ON HB 2858,
RELATING TO FURLONGHS**

HB 2858 specifies that a "furlough" relates to an employee's wages and hours of employment and constitutes a term or condition of employment that is subject to collective bargaining.

The UPW strongly supports this measure. We believe that the unilateral order of furloughs by an administration is a violation of the Constitutional right to organize for collective bargaining and the separation of powers with the state legislature, which has the authority to appropriate state money.

In support of this position, the July 2, 2010 circuit court ruling by Judge Karl Sakamoto determined that furloughs alter the hours and wages of state workers and are subject to collective bargaining by the Constitution.

We urge the passage of HB 2858.

DEPARTMENT OF HUMAN RESOURCES
CITY AND COUNTY OF HONOLULU

850 SOUTH KING STREET, 10th Floor
HONOLULU, HAWAII 96813

LATE

MUFU HANNEMANN
MAYOR



NOEL T. ONO
ACTING DIRECTOR

February 1, 2010

The Honorable Karl Rhoads, Chair
and Members of the Committee
on Labor & Public Employment
The House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Rhoads and Members:


Subject: House Bill No. 2858
Relating to Furloughs

The Department of Human Resources, City & County of Honolulu, opposes
HB 2858.

We disagree that furloughs constitute a term or condition of employment that is subject to collective bargaining. Such a determination by the legislature would infringe upon a public employer's rights to manage its employees.

Thank you for giving us the opportunity to testify.

Sincerely,


Noel T. Ono
Acting Director



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The Twenty-Fifth Legislature, State of Hawaii
Hawaii State House of Representatives
Committee on Labor & Public Employment

Testimony by
Hawaii Government Employees Association
February 2, 2010

H.B. 2858 – RELATING TO
FURLOUGHS

The Hawaii Government Employees' Association, AFSCME Local 152, AFL-CIO would like to offer comments on H.B. 2858 – Relating to Furloughs. H.B. 2858 specifies that a "furlough" relates to an employee's wages and hours and constitutes a term and condition of employment, subject to collective bargaining under Chapter 89, HRS. The definition of a furlough as proposed in H.B. 2858 applies to a reduction of hours or paid leave. Paid leave includes vacation and sick leave, and should be separate from a furlough.

While we appreciate the reasoning and intent of this proposed legislation, the First Circuit Court issued a ruling that since furloughs reduce an employee's hours and wages, it is a mandatory subject of collective bargaining. Furthermore, the employer representatives and the union negotiated a memorandum of agreement that defined and implemented furloughs.

Therefore, we question the need to adopt furlough language in the Hawaii Revised Statutes. We appreciate the opportunity to provide comments on H.B. 2858.

Respectfully submitted,

Kevin Mulley

Nora A. Nomura
Nora A. Nomura
Deputy Executive Director