

NEIL ABERCROMBIE
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January 27, 2011

TESTIMONY TO THE
HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
For Hearing on Friday, January 28, 2011
9:00 a.m., Conference Room 309

BY

SUNSHINE P.W. TOPPING, INTERIM DIRECTOR

House Bill No. 467
Relating to Whistleblowers' Protection

WRITTEN TESTIMONY ONLY

TO CHAIRPERSON RHOADS AND MEMBERS OF THE COMMITTEE:

The purpose of H. B. No. 467 is to provide additional protection to public employees who report violations of the law, and other improper activities such as waste, fraud, and misconduct occurring in state and local government.

The Department of Human Resources Development **has concerns** about this measure and believes that existing whistleblower protections provide sufficient coverage to public employees. While we appreciate the intent of protecting public employees who report government waste or inefficiency, the bill is overly broad in the kinds of public employer actions that could be covered. An individual employee may perceive an action to be wasteful or inefficient without understanding the public policy basis for such actions. The concepts of waste and inefficiency are subjective and often a matter of individual opinion.

We are also concerned with the need to balance whistleblowers' protection with the public employer's right to take non-retaliatory and non-discriminatory personnel

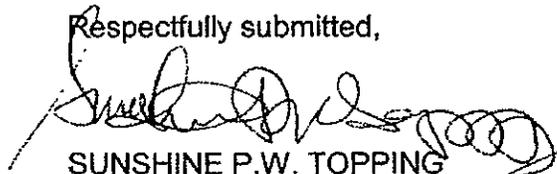
actions for legitimate reasons, as provided by other statutes or applicable collective bargaining agreements. Public employers should be allowed to take such personnel actions without being exposed to liability under this bill. Notably, this bill does not provide an exception for an employee who intentionally or knowingly files a false complaint.

We believe that the existing provisions in the statute for relief and damages are adequate and that allowing civil action for punitive damages could be costly and lead to excessive litigation.

In addition, we find the language for the notice posting requirement to be vague and suggestive that the notices must be posted outside the worksite. The language in the existing statute is clear and provides sufficient notice to employees of their protections under this law.

Thank you for the opportunity to testify on this matter.

Respectfully submitted,



SUNSHINE P.W. TOPPING
Interim Director

ERD



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

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

Testimony by
Hawaii Government Employees Association

January 28, 2011

H.B. 467 – RELATING TO
WHISTLEBLOWERS' PROTECTION

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly supports the intent and purpose of H.B. 467 – Relating to Whistleblowers' Protection. This bill provides additional protection to public employees who report violations of the law and significant threats to health or safety; and expands their ability to seek relief and damages. The bill also appropriately expands the Department of Labor and Industrial Relations' responsibilities regarding whistleblowers' protection with respect to public employees.

Many state and county employees are directly responsible for protecting public health and safety through the administration of statutory requirements and enforcement rules and regulations. H.B. 467 will help public employees uphold appropriate standards in their area of expertise. Thank you for the opportunity to testify in support of H.B. 467.

Sincerely,

Nora A. Nomura
Deputy Executive Director