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STATE OF HAWAII | KA MOKU'ĀINA O HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
KA 'OIHANA HO'OMŌHALA LIMAHANA
235 S. BERETANIA STREET
HONOLULU, HAWAII 96813-2437

Statement of
BRENNA H. HASHIMOTO
Director, Department of Human Resources Development

Before the
HOUSE COMMITTEE ON LABOR
Tuesday, February 10, 2026
9:30AM
State Capitol, Conference Room 309

In consideration of
HB1659, Relating to Collective Bargaining

Chair Sayama, Vice Chair Lee, and the members of the committee:

The Department of Human Resources Development (HRD) opposes HB1659, which repeals the prohibition on employees exempt from civil service law from grieving a suspension or discharge and would allow any employee who is a member of an appropriate bargaining unit to grieve a suspension or discharge. We respectfully oppose this measure for the following reasons:

- **Inconsistent with At-Will Employment** - Granting the right to grieve any disciplinary action, including a suspension or disciplinary discharge, to employees exempt from civil service is not consistent with the nature of their employment, which is considered "at will." Unlike civil service employees, exempt employees are not hired based on the merit principles, and their employment is contingent upon the appointing authority's discretion. Therefore, we believe attempts to make exempt employees equitable to civil servants is simply not fair to civil service employees who, unlike exempts, were required to meet the minimum qualifications for their job, had to compete for their job, were likely paid at the entry level upon hire, are required to serve a probationary period, and are required to have their performance formally evaluated, amongst other things. Furthermore, exempt employees are, at the time of hire, informed of their at will status. HRD's P&P instructs departments to clearly indicate in exempt job announcements, the employment is "at will" and to provide exempt employees a written notice of their at will status.
- **Existing Legal Protections** - While "at will" employment allows for discharge at the employer's prerogative, all actions taken against exempt employees must still comply with federal and state employment laws. This ensures protection against unlawful employment practices.

- **Contrary to Current Collective Bargaining Agreements (CBA)** – The current BU 3, 4, 13 and 14 CBAs address discipline for exempt employees, including allowing them to grieve if they meet certain conditions. Under HRS §89-19, the CBA “. . .shall take precedence over all conflicting statutes . . . and shall preempt all contrary local ordinances, executive orders, legislation, or rules adopted by the State, a county, or any department or agency thereof . . .”. Therefore, utilizing the legislative process to address matters which are negotiable subjects of collective bargaining is contrary to HRS §89-9; and undermines the collective bargaining process. This subject should continue to be addressed through negotiations.
- **Broad Application of “Discharge”** - Under Act 253, SLH 2000, the term “discharge” replaced “dismissal” and “termination” and applies broadly, covering both misconduct-related and administrative separations such as at the conclusion of a temporary appointment, at the end of a not-to-exceed (NTE) period, or resignation. Although this measure would limit the right to grieve to disciplinary discharges, it is highly likely that exempt employees will allege their discharge is disciplinary, even if there is no evidence of progressive discipline or misconduct, leading to unnecessary expense and a waste of time and resources.
- **Job Security Distinctions** - Exempt employees should not be afforded the same job protections as civil service employees, as outlined in HRS §76-1. While we acknowledge the use of exempt positions may have strayed from its original intent and the number of exempt employees has grown, we do not believe that the increased number of exempt employees justifies affording them the same job protections as civil service employees. The civil service system is designed to provide job security based on the merit principle, which does not apply to exempt appointees.

HRD respectfully requests that the Committee hold this measure. We are available to answer any questions or provide further information as needed.

**DEPARTMENT OF HUMAN RESOURCES
KA 'OIHANA HO'OMOHALA LIMAHAHA
CITY AND COUNTY OF HONOLULU**

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February 9, 2026

The Honorable Jackson D. Sayama, Chair
The Honorable Mike Lee, Vice Chair
and Members of the House Committee on Labor
The House of Representatives
State Capitol, Room 309
415 South Beretania Street
Honolulu, Hawai'i 96813

Dear Chair Sayama, Vice Chair Lee and Members of the Committee:

SUBJECT: House Bill No. 1659
Relating to Collective Bargaining

The Department of Human Resources, City and County of Honolulu, respectfully **opposes** House Bill No. 1659.

House Bill No. 1659 would repeal the prohibition placed on certain employees exempt from civil service law from grieving a suspension or discharge, unless the relevant collective bargaining agreement specifically provides otherwise, and allow any employee who is a member of an appropriate bargaining unit to grieve any disciplinary action, including but not limited to a suspension or disciplinary discharge.

This matter is currently a subject of collective bargaining. Historically, the Legislature has preferred to allow issues subject to collective bargaining to remain subject to collective bargaining, rather than taking legislative action. The current law **does not prohibit** exempt employees from grieving a suspension or discharge; instead, it allows the exclusive representative and the employer group to negotiate whether such matters should be subject to grievance.

Further, exempt employees are not hired using the same competitive process as civil service employees. Civil service employees qualify for their positions under the personnel system based on the merit principle specified by Hawai'i Revised Statutes (HRS) § 76-1 and Revised Charter of the City and County of Honolulu §6-1102. Accordingly, civil service employees are afforded additional job protections based on their qualifications. Exempt employees should not receive those additional benefits without having undergone the same process.

The Honorable Jackson D. Sayama, Chair
The Honorable Mike Lee, Vice Chair
and Members of the House Committee on Labor
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As a final note, even if the relevant collective bargaining agreement does not currently allow an exempt employee from grieving a disciplinary action, all employees are still protected by applicable federal and state employment laws.

We thank you for giving us the opportunity to submit our testimony in opposition to this matter.

Sincerely,

A handwritten signature in black ink that reads "Nola N. Miyasaki". The signature is written in a cursive style with a small flourish at the end.

Nola N. Miyasaki
Director



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TESTIMONY TO THE HAWAI'I HOUSE COMMITTEE ON LABOR

Item: HB 1659 – Relating to Collective Bargaining

Position: Support

Hearing: Tuesday, February 10, 2026, 9:30 am, Room 309

Submitter: Osa Tui, Jr., President - Hawai'i State Teachers Association

Dear Chair Sayama, Vice Chair Lee, and members of the committee,

The Hawai'i State Teachers Association (HSTA) **supports H.B. 1659**. This bill ensures that all public employees who are members of a bargaining unit have the clear right to use the grievance process for any disciplinary action.

HSTA believes that every member covered by a collective bargaining agreement deserves access to a fair and transparent process when facing suspension or discharge. By clarifying these rights, this measure protects workers from arbitrary discipline and ensures that due process is a standard protection for all bargaining unit members.

HSTA supports this effort to provide uniform protections across our bargaining units and respectfully requests the passage of this bill.

Mahalo.



The House Committee on Labor
February 10, 2026
Room 309
9:30 AM

RE: **HB 1659, Relating to Collective Bargaining**

Attention: Chair Jackson D. Sayama, Vice Chair Mike Lee, Members of the
Committee

The University of Hawaii Professional Assembly (UHPA), the exclusive bargaining representative for all University of Hawai'i faculty members across Hawai'i's statewide 10-campus system, **supports HB 1659.**

This measure provides clarity to Chapter 89, HRS, §89-10.8, by affirming that all public employees are afforded the statutory right to due process and the ability to challenge any disciplinary actions taken against them regardless of their exemption from civil service.

UHPA supports the passage of HB 1659.

Respectfully submitted,

Christian L. Fern
Executive Director
University of Hawaii Professional Assembly



UNITED PUBLIC WORKERS

AFSCME Local 646, AFL-CIO

HOUSE OF REPRESENTATIVES THE THIRTY-THIRD LEGISLATURE REGULAR SESSION OF 2026

COMMITTEE ON LABOR
Rep. Jackson D. Sayama, Chair
Rep. Mike Lee, Vice Chair

Tuesday, February 10, 2026, 9:30 AM
Conference Room 309 & Videoconference

Re: Testimony on HB1659 – RELATING TO COLLECTIVE BARGAINING.

Chair Sayama, Vice Chair Lee, and Members of the Committee:

The United Public Workers, AFSCME Local 646, AFL-CIO (“UPW”) is the exclusive bargaining representative for approximately 14,000 public employees, which includes blue collar, non-supervisory employees in Bargaining Unit 1 and institutional, health, and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties.

UPW **supports** HB1659, which repeals the prohibition placed on certain employees exempt from Civil Service Law from grieving a suspension or discharge. Additionally, this bill allows any employee who is a member of an appropriate bargaining unit to grieve any disciplinary action.

While there are currently no exempt positions that would be represented by UPW should this bill become law, we believe that all public employees should have the right to grieve a suspension or discharge in a manner that is consistent with the protections available to civil service employees. Furthermore, this legislation would ensure that all public employees, regardless of their employment status, are treated fairly.

Mahalo for this opportunity to testify in support of this measure.

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HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

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The Thirty-Third Legislature, State of Hawaii
The House of Representatives
Committee on Labor

Testimony by
Hawaii Government Employees Association

February 10, 2026

H.B. 1659 — RELATING TO COLLECTIVE BARGAINING

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly supports the purpose and intent of H.B. 1659, which repeals the prohibition placed on certain employees exempt from Civil Service Law from grieving a suspension or discharge and allows any employee who is a member of an appropriate bargaining unit to grieve any disciplinary action.

The creation of exempt positions within state government was originally intended for services that were deemed unique and/or temporary for the state. Currently, we believe that the use of exempt positions has strayed away from its original intent. Over these past few years, we have seen an increase in the use of exempt positions, which in large part, is due to our lethargic civil service hiring process, and our states inability to increase civil service pay to a competitive rate. According to the Executive Branch Workforce Profile report submitted to this body each year, in 2020 there was 1715 exempt positions within the State Executive Branch under the personnel system administered by DHRD, today there is 2306 exempt positions, which reflects a significant increase in the use of exempt positions. To note, the total number of civil service employees have decreased within that highlighted timeframe. The ugly truth is that positions that have been historically provided by civil servants may now be provided by exempt employees or a combination of both.

Although these employees are covered under their respective collective bargaining agreement's pursuant to Chapter 89 HRS, the statue and applicable collective bargaining agreements (CBA) prohibits these employees from appealing any disciplinary action through the grievance process, effectively making exempt employees "at will" and not subject to just cause. **Since allowing these employees to be covered under just cause may require a change in statute and the applicable CBA's, we respectfully request the following amendment, highlighted bellow, to the first paragraph on page two:**

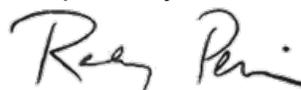
~~[No employee in a position exempted from chapter 76, who serves at the pleasure of the appointing authority, shall be allowed to grieve a suspension or discharge unless the collective bargaining agreement specifically provides otherwise]~~ Any employee who is a

member of an appropriate bargaining unit shall be allowed to grieve any disciplinary action, including but not limited to a suspension or disciplinary discharge unless the collective bargaining agreement specifically provides otherwise; and

We believe this change would provide a clear path for the exclusive representative to negotiate with the employer to allow exempt employees to receive just cause protections.

Thank you for the opportunity to provide testimony in strong support of H.B. 1659.

Respectfully submitted,



Randy Perreira
Executive Director