

LINDA LINGLE
GOVERNOR



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Comptroller

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**STATE OF HAWAII
DEPARTMENT OF ACCOUNTING
AND GENERAL SERVICES**
P.O. BOX 119
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TESTIMONY
OF
RUSS K. SAITO, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
ON
H.B. No. 1979
ON
JANUARY 25, 2008

RELATING TO STATE SALARIES.

Chair Sonson and members of the Committee, thank you for allowing me to testify on H.B.1979. DAGS opposes this bill because the amendment to Section 78-12(f), Hawaii Revised Statutes that it proposes would restrict recovery of salary overpayments to those discovered within three years of the overpayment occurrence.

Discovery of salary overpayments may occur when final audits of leave records are performed. Imposing a time limit on when an overpayment can be collected will prevent recovery of amounts due the State. We believe that upon discovery, collection should be attempted. If collection is unsuccessful, procedures issued by the Attorney General can then be followed to write off uncollectible amounts.

Thank you for the opportunity to testify on this matter.



Working Together for Hawaii

The Twenty-Fourth Legislature, State of Hawaii
Hawaii State House of Representatives
Committee on Labor and Public Employment

Testimony by
Hawaii Government Employees Association
January 22, 2008

H.B. 1979 – RELATING TO STATE SALARIES

The Hawaii Government Employees Association supports H.B. 1979. Collecting overpayments from public employees is an unpleasant task, especially when it occurs through no fault of the employee, which is often the case. Depending on the amount of overpayment involved, it can be a real hardship for employees to repay it.

There should be a statute of limitation to recover the overpayment and three years seems to be a reasonable length of time. It is unfair for an employer to discover an inadvertent error five or ten years after the fact and then attempt to recover the overpayment from an employee. Thank you for the opportunity to testify in support of this measure.

Respectfully submitted,

A handwritten signature in black ink that reads "Kevin Mulligan".

for Nora A. Nomura
Deputy Executive Director



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TESTIMONY BEFORE THE HOUSE COMMITTEE ON
LABOR & PUBLIC EMPLOYMENT

Roger K. Takabayashi
President

Wil Okabe
Vice President

Karolyn R. Mossman
Secretary-Treasurer

Mike McCartney
Executive Director

RE: HB 1979 – RELATING TO STATE SALARIES

JANUARY 22, 2008

ROGER TAKABAYASHI, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Sonson and Members of the Committee:

The Hawaii State Teachers Association (HSTA) **strongly supports** HB 1979 which establishes a three year statute of limitation for recovering the overpayment of state salaries.

The current law does not have a statute of limitation for the **employer** for recovering the overpayments of state salaries which gives the employer unlimited time when, in essence, the employer made the mistake.

There is a current law where the **employee** has a three years statute of limitation if the employee was underpaid when, in essence, the employer made the mistake.

What HB 1979 does is level the playing field for both the **employer** as well as the **employee** who both will have the same statute of limitation of three years.

Thank you for the opportunity to testify.



HOUSE OF REPRESENTATIVES
THE TWENTY-FOURTH LEGISLATURE
REGULAR SESSION OF 2008

CHAIRPERSON: Rep. Alex M. Sonson
VICE CHAIRPERSON: Rep. Bob Nakasone
COMMITTEE: LABOR & PUBLIC EMPLOYMENT
TESTIMONY OF: Ken Austin, DCSW, Private Citizen (Victim)
DATE: Friday, January 25, 2008
TIME/PLACE: 8:00 a.m./Conference Room 309
IN SUPPORT OF HB 1979: RELATING TO STATE SALARIES
(With reservations) Establishes a 3 year statute of limitation for recovering the overpayment of state salaries.

I did not know that the State of Hawaii, Department of Public Safety had miscalculated the unpaid salary due to me when I retired in December of 1998. I never questioned the back pay amount I received on August 19, 1999 because it was for compensation earned, but not paid in 1997-98. This erroneous computation resulted in an overpayment of \$2,628.00 to me on August 19, 1999. In short, the State underpaid me for a year, then miscalculated the amount of the underpayment and overpaid me.

This error went undiscovered until May of 2006, when the Hawaii State Retirement System requested a breakdown of the payment I received on August 19, 1999, which resulted in the PSD Fiscal Office discovering the error and ordering a set off of my '06 HI State Income Tax Refund check to apply to this overpayment. I was never notified that I had been overpaid. I discovered it when I did not receive my HI State '06 Income Tax Refund check in a timely manner and called the Hawaii State Department of Taxation to enquire about it on Wednesday, May 9, 2007. They told me my refund had been paid and that the State of Hawaii Department of the Attorney General had offset the Check. That same day, I called the AG's Office and was told they had no case on me. Then, two hours later, I received a call from Annette Chock, Deputy AG, informing me that they DID have a case on me and that I owed PSD \$2,628.00. I was shocked! This error occurred in 1998, and now, 9 years later, my HI State Income Tax Refund is confiscated, without notice. On Friday, May 11, 2007, I received a written notice of this action from Ms Chock, responding to my call. This is no way to do business and clearly demonstrates this State Government's utter disregard for the rights of its citizens – especially retirees once employed by the State.

For many years the State of Hawaii has displayed an annoying disdain for its employees with this unjustifiable practice of collecting overpayments made to them due to errors in the State's salary computations, regardless of the elapsed time between the overpayment and the time of its discovery. At the same time, the State has limited the time an employee has to claim an underpayment to two years. This is a blatantly unfair and indefensible labor practice. What is good for the employee is good for the State. If an underpaid employee is not able to claim reimbursement of lost wages after two years, why should the State be able to pursue overpayment reimbursements, with no Statute of limitation? HB 1979 finally addresses this problem and limits the time the State has to pursue reimbursement of a salary overpayment to an employee. But the State still gets a year longer to pursue an overpayment than it gives the employee to pursue an underpayment and I question, "Why should this be?"