

HB 111

LINDA LINGLE
GOVERNOR



RUSS K. SAITO
Comptroller
BARBARA A. ANNIS
Deputy Comptroller

**STATE OF HAWAII
DEPARTMENT OF ACCOUNTING
AND GENERAL SERVICES
P.O. BOX 119
HONOLULU, HAWAII 96810-0119**

WRITTEN COMMENTS
OF
RUSS K. SAITO, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
SENATE COMMITTEE
ON
WAYS AND MEANS
ON
April 3, 2009

H.B. 111, S.D. 1

RELATING TO STATE SALARIES.

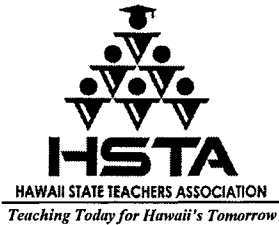
Chair Kim and members of the Committee, thank you for the opportunity to comment on H.B.111, S.D. 1.

The Department of Accounting and General Services (DAGS) appreciates the intent of this bill. However, DAGS has concerns that this bill's amendment of Section 78-12(f), Hawaii Revised Statutes that proposes to restrict recovery of salary overpayments to those discovered within two years of the overpayment occurrence, may unnecessarily limit State agencies in their collection of overpayments to its current and former employees.

Discovery of salary overpayments may occur during periodic audits of leave records. Any limit on when an overpayment can be collected should allow a reasonable amount of time to recover amounts due the State. DAGS suggests that the restriction be five years with the proviso that there will be no time limitation if the overpayment is due

to fraud. Even within the time limitations of five years, 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 comment on this matter.



1200 Ala Kapuna Street λ Honolulu, Hawaii 96819
Tel: (808) 833-2711 λ Fax: (808) 839-7106 λ Web: www.hsta.org

Roger K. Takabayashi
President

Wil Okabe
Vice President

Karolyn Mossman
Secretary-Treasurer

Mike McCartney
Executive Director

**TESTIMONY BEFORE THE SENATE COMMITTEE ON
WAYS AND MEANS**

RE: HB 111, SD1 – RELATING TO STATE SALARIES.

April 3, 2009

**ROGER TAKABAYASHI, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION**

Chair Kim and Members of the Committee:

The Hawaii State Teachers Association (HSTA) strongly supports Section 1 of HB 111, SD1, which establishes a two-year statute of limitations for recovering the overpayment of state salaries.

The current law does not have a statute of limitations for the employer for recovering the overpayments of state salaries, which gives the employer unlimited time when it was the employer that made the mistake.

Conversely, in current law, the employee has a two-year statute of limitations if the employee was underpaid, despite the fact that the employer was at fault.

HB 111 levels the playing field by giving the employer the same two-year statute of limitations as the employee.

Thank you for the opportunity to testify.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

RANDY PERREIRA
Executive Director
Tel: 808.543.0011
Fax: 808.528.0922

NORA A. NOMURA
Deputy Executive Director
Tel: 808.543.0003
Fax: 808.528.0922

DEREK M. MIZUNO
Deputy Executive Director
Tel: 808.543.0055
Fax: 808.523.6879

The Twenty-Fifth Legislature, State of Hawaii
Hawaii State Senate
Committee on Ways and Means

Testimony by
Hawaii Government Employees Association
April 3, 2009

H.B. 111, S.D. 1 – RELATING
TO STATE SALARIES

The Hawaii Government Employees Association supports the purpose and intent of H.B. 111, S.D. 1. 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.

There should be a statute of limitation to recover the overpayment, and two 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,

Nora A. Nomura
Deputy Executive Director

TESTIMONY IN SUPPORT OF
PROPOSED H.B.111 S.D. 1

SENATE COMMITTEE ON WAYS AND MEANS
Sen. Donna Mercado Kim Chair
Sen. Shan S. Tsutsui, Vice Chair

Friday, April 3, 2009, 9:45 a.m.
State Capitol, Conference Room 211

My name is Jason L. Palmer, CPA, Managing Director of Willis Management (Hawaii), a division of Willis, the third largest global insurance broker in the world. Willis Management (Hawaii) serves as a consultant and captive manager to several captive insurance companies domiciled in Hawaii and in other US jurisdictions. In addition, I am a Director and President of the Hawaii Captive Insurance Council (“HCIC”) and a Director and/or Officer of several captive insurance companies licensed in Hawaii.

I strongly support proposed H.B. No.111, S.D. 1, which would help Hawaii continue to be a leading captive insurance domicile worldwide. Our testimony is limited to the proposed amendment would increase the maximum salary limit of the Captive Insurance Administrator/Deputy Insurance Commissioner (“Captive Insurance Administrator”). With Craig Watanabe’s departure as Captive Administrator in January, the eyes of the captive industry in the U.S. and throughout the world are on Hawaii.

I believe that this proposed amendment is necessary in order to attract the best possible candidate to fill this recently vacated position. The Captive Administrator is the face of the Hawaii captive industry to the world, and thus warrants this special consideration.

While I understand the difficult economic environment that is upon us, I offer the following support directly related to this proposed amendment:

- The Captive Administrator position is **special funded** by statute and, therefore, any changes to the salary for this position would not impact the State general fund.
- In order for the Hawaii captive industry to grow nationally, and internationally, the Captive Administrator needs to have certain specialized qualities, including but not limited to, expertise in the establishment and on-going regulation of specialized insurance vehicles (captives) and the ability to effectively promote Hawaii as a premier captive domicile. As it is rare to find qualified individuals possessing these qualities, it is critical that the person’s compensation is commensurate to his or her abilities.

Willis

- The advancement of the Hawaii captive industry directly contributes to Hawaii's economy and future tax revenues in the following ways: one, increases professional jobs created in Hawaii in the finance, insurance, legal and accounting industries; two, increases billions of dollars on deposit with local financial institutions; and three, supports tourism by increasing the number of business visitors to our State.

Although Hawaii is the second largest captive insurance domicile in the United States, the State faces increasing competition from other states that have recognized the value of implementing captive insurance enabling regulations. While there were only a handful of captive insurance domiciles when Hawaii licensed its first captive insurance company in 1987, there are now over 30 U.S. jurisdictions that have enacted captive insurance legislation. The selection of a new Captive Administrator gives Hawaii, as a captive domicile, the ability to show the world that despite regulator turnover, Hawaii can attract a top quality candidate and continue business as usual: something some other US captive domiciles have failed to do.

This is a critical time for Hawaii's captive insurance industry. By passing this bill you will ensure that Hawaii's captive industry will continue to thrive and develop in an increasingly competitive marketplace. I am in strong support of this bill and urge the Committee to pass H.B. No. 111, S.D. 1. Thank you for this opportunity to testify in support of this measure.

Respectfully submitted,



Jason L Palmer, CPA
Managing Director
Willis Management (Hawaii)
Pauahi Tower, Suite 1220
Honolulu, HI 96813
Phone (808) 521-0730

Willis

TESTIMONY IN SUPPORT OF
H.B. NO. 111, S.D. 1
RELATING TO STATE SALARIES

SENATE COMMITTEE ON WAYS AND MEANS
Sen. Donna Mercado Kim, Chair
Sen. Shan S. Tsutsui, Vice Chair

Friday, April 3, 2009, 9:45 a.m.
State Capitol, Conference Room 211

My name is George W. Sumner III, a Director and Chairman of the Hawaii Captive Insurance Council (HCIC), a nonprofit trade organization of captive insurance companies and service providers who comprise and support Hawaii's captive insurance industry.

HCIC strongly supports H.B. No. 111, S.D. 1, with respect to Section 2. Our testimony will be limited to Section 2, which would increase the maximum salary limit of the Captive Insurance Administrator/Deputy Insurance Commissioner ("Captive Administrator"), a position that is currently vacant following the recent departure of the person who held that position for almost 10 years.

We believe that Section 2 is necessary to attract the best possible candidate to fill this recently vacated position. We believe our proposal warrants special consideration as the Captive Administrator is the key contact to the world from the government/regulatory side of the Hawaii captive insurance industry. While we understand the difficult economic environment facing the State of Hawaii, we believe Section 2 is necessary for the following reasons:

- The Captive Administrator position is by statute funded by a special fund through premium taxes, assessments, and fees from licensed captive insurance companies. The salary for this position would not impact the State general fund.
- The advancement of the Hawaii captive industry directly contributes to Hawaii's economy and future tax revenues, not only through premium taxes, assessments, and fees, but more so in jobs created in the professional sector, billions of dollars on deposit with local financial institutions, increased tourism, and the multiplier effect of Hawaii income, general excise, and other taxes from or related to these sources, such that the increase in the number of captive insurance companies domiciled in this State will increase that revenue and tax base.
- To grow Hawaii's captive industry, Hawaii needs a well-qualified Captive Administrator with substantial knowledge, experience, and expertise in the establishment and ongoing regulation of specialized insurance vehicles (captives) and the ability to effectively promote Hawaii as a premier captive domicile. The universe of qualified individuals is small, and research has shown that the salaries of similar administrative positions in other leading, competitor captive domiciles in the U.S. are substantially higher than the current statutory maximum for the Captive Administrator.

The March 9, 2009 *Business Insurance* ratings of the world's top captive domiciles showed Hawaii is barely holding on to its rating as the 9th largest captive domicile in the world (and 2nd in the US) with 165 captives in 2008, and South Carolina following close behind us with 163 captives. Although Hawaii has been

the second largest captive insurance domicile in the United States for many years, the State faces increasing competition from other states that have recognized the value of implementing captive insurance enabling regulations. While there were only a handful of captive insurance domiciles when Hawaii licensed its first captive insurance company in 1987, there are now over 30 U.S. jurisdictions that have enacted captive insurance legislation. The selection of a new Captive Administrator gives Hawaii the opportunity to demonstrate that our State can attract a top quality candidate and continue business as usual.

Thank you for this opportunity to submit testimony on this measure.

Respectfully submitted:

George W. Sumner III
Director and Chairman
Hawaii Captive Insurance Council

HOUSE OF REPRESENTATIVES
THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2009

THE SENATE
THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2009

COMMITTEE ON WAYS AND MEANS
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

DECISION MAKING

DATE: Friday April 3, 2009
TIME: 9:45 a.m.
PLACE: Conference Room 211
State Capitol
415 South Beretania Street

IN SUPPORT OF HB 111 RELATING TO STATE SALARIES

TESTIMONY OF: Ken Austin, DCSW, Private Citizen (Victim)

Good morning Senator Donna Mercado Kim, Chair, Senator Shan S. Tsutsui, Vice Chair, Committee Members and attending citizens of the State Of Hawaii.

I am Ken Austin, DCSW, retired December 30, 1998 as a PSD MH Clinical Social Worker with 8 years of service at OCCO on the Mental Health Team. I submitted written testimony in support of HB 1979 during the 2008 Legislative session. That bill was passed out of the House and assigned to the Senate, where it died. I'm making this verbal statement to this Committee and the Public in attendance to once again state my position on this issue.

It seems inconceivable to me that the State of Hawaii has forever to pursue overpayments to its employees, but imposes a 2 year statute of limitation upon the employee to recover underpayments. This bill simply establishes Parity on this issue. Once again, I ask, how much money are we dealing with here? What is the total amount the state is recovering in this unfair and inequitable practice? I asked THESE QUESTIONS last year and never got answers. I wonder if I'll hear any this year?

In the meantime, I'm making \$25.00 monthly repayments to the State for the \$2,493.00 that I was overpaid in 1998, which the State did not discover until 2006. This is truly ridiculous and, even if this bill passes and becomes law, I'll be paying on this debt for eight more years. This is hard to take in tough times and I pray this bill becomes law so that none of my fellow State Employees have to suffer this inexcusable injustice in the future.

THANK YOU VERY MUCH FOR CONSIDERING MY SAD TESTIMONY!

TESTIMONY IN SUPPORT OF
H.B. NO. 111, S.D. 1
RELATING TO STATE SALARIES

SENATE COMMITTEE ON WAYS AND MEANS
Sen. Donna Mercado Kim, Chair
Sen. Shan S. Tsutsui, Vice Chair

Friday, April 3, 2009, 9:45 a.m.
State Capitol, Conference Room 211

My name is Gerald C. Yoshida, an attorney in the Honolulu law firm of Char Hamilton Campbell & Yoshida. Our firm provides legal services to a number of captive insurance companies currently licensed in the State of Hawaii. I am also Chairman of the Legislative Committee of the Hawaii Captive Insurance Council (HCIC), a nonprofit trade organization of captive insurance companies and service providers who comprise and support Hawaii's captive insurance industry.

On behalf of the HCIC Legislative Committee, we strongly support H.B. No. 111, S.D. 1, with respect to Section 2. We will limit our testimony to Section 2, which would enable Hawaii to maintain its position as a leading captive insurance domicile by increasing the maximum salary limit of the Captive Insurance Administrator/Deputy Insurance Commissioner ("Captive Administrator"), a position that is currently vacant following the recent departure of the person who held that position for almost 10 years.

We believe that Section 2 is necessary to attract the best possible candidate to fill this recently vacated position. As the Captive Administrator is the key contact to the world from the government/regulatory side of the Hawaii captive insurance industry, we believe our proposal warrants special consideration. While we understand the difficult economic environment that is upon us, we offer the following support directly related to Section 2:

- The Captive Administrator position is by statute funded by a special fund through premium taxes, assessments, and fees from licensed captive insurance companies. The salary for this position would not impact the State general fund.
- The advancement of the Hawaii captive industry directly contributes to Hawaii's economy and future tax revenues, not only through premium taxes, assessments, and fees, but more so in jobs created in the professional sector, billions of dollars on deposit with local financial institutions, increased tourism, and the multiplier effect of Hawaii income, general excise, and other taxes from or related to these sources, such that the increase in the number of captive insurance companies domiciled in this State will increase that revenue and tax base.
- In order to grow Hawaii's captive industry, Hawaii needs a well-qualified Captive Administrator with substantial knowledge, experience, and expertise in the establishment and ongoing regulation of specialized insurance vehicles (captives) and the ability to effectively promote Hawaii as a premier captive domicile. The universe of qualified individuals is small, and research has shown that the salaries of similar administrative positions in other leading, competitor captive domiciles in the U.S. are substantially higher than the current statutory maximum for the Captive Administrator.

The March 9, 2009 *Business Insurance* ratings of the world's top captive domiciles showed Hawaii is barely holding on to its rating as the 9th largest captive domicile in the world (and 2nd in the US) with 165 captives in 2008, and South Carolina following close behind us with 163 captives. Although Hawaii has been the second largest captive insurance domicile in the United States for many years, the State faces increasing competition from other states that have recognized the value of implementing captive insurance enabling regulations. While there were only a handful of captive insurance domiciles when Hawaii licensed its first captive insurance company in 1987, there are now over 30 U.S. jurisdictions that have enacted captive insurance legislation. The selection of a new Captive Administrator gives Hawaii, as a captive domicile, the opportunity to show the world that despite regulator turnover, Hawaii can attract a top quality candidate and continue business as usual: something other US captive domiciles have failed to do.

Passage of this bill, will ensure that Hawaii's captive insurance industry will continue to thrive and develop at this critical juncture in this increasingly competitive captive insurance environment. We, therefore, respectfully request the Committee to pass H.B. No. 111, S.D. 1. Thank you for this opportunity to submit testimony on this measure.

Respectfully submitted:

Gerald C. Yoshida
Char Hamilton Campbell & Yoshida
737 Bishop Street, Suite 2100
Honolulu, Hawaii 96813
Ph: 524-3800