



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-FIFTH LEGISLATURE, 2010**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 1868, RELATING TO CIVIL SERVICE.

**BEFORE THE:**

HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

**DATE:** Tuesday, February 16, 2010    **TIME:** 11:00 a.m.

**LOCATION:** State Capitol, Room 309

**TESTIFIER(S):** Mark J. Bennett, Attorney General, or  
James E. Halvorson, Deputy Attorney General, or  
Richard H. Thomason, Deputy Attorney General

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Chair Rhoads and Members of the Committee:

The purpose of the bill is to provide that no leaves of absence shall be granted to employees who leave positions covered under chapter 76 for positions that are exempt from chapter 76 under section 76-16(b)(7), (8), (9), (10), or (16), Hawaii Revised Statutes, and whose terms of appointment are not less than one year.

Most collective bargaining agreements provide for return rights of up to four years. Accordingly, this bill may unconstitutionally impair such current contracts. This defect may be remedied by making the effective date July 1, 2011, when the current contracts expire.

LINDA LINGLE  
GOVERNOR OF HAWAII



MARIE C. LADERTA  
DIRECTOR

CINDY S. INOUE  
DEPUTY DIRECTOR

STATE OF HAWAII  
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT  
235 S. BERETANIA STREET  
HONOLULU, HAWAII 96813-2437

February 15, 2010

TESTIMONY TO THE  
HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT  
For Hearing on Tuesday, February 16, 2010  
11:00 a.m., Conference Room 309  
BY  
MARIE C. LADERTA, DIRECTOR

**(WRITTEN TESTIMONY ONLY)**

**House Bill No. 1868, Relating to Civil Service**

TO CHAIRPERSON KARL RHOADS AND MEMBERS OF THE COMMITTEE:

The stated purpose of HB 1868 is to add a new section in Chapter 76 to prohibit employees from taking a leave of absence from their civil service positions to serve in certain appointive positions for more than one year.

The Department of Human Resources Development (DHRD) **opposes** this bill for the following reasons:

(1) Enactment of this proposal will impair collective bargaining agreements (CBAs) with public worker unions in effect until June 30, 2011 because it will modify the State's contractual obligations to provide union employees up to four years of leave of absence without pay to accept certain appointive positions with return rights to their former positions. Under Section 89-19, Hawaii Revised Statutes, the CBAs as negotiated pursuant to Chapter 89, HRS, will take precedence over any conflicting statute or legislation and the proposed measure, if passed, would be unenforceable.

(2) The one-year cap on leaves of absence for the purpose of serving in higher level appointed positions limits the opportunity for career civil servants to contribute in leadership capacities and become an effective part of government.

Accordingly, we respectfully oppose this measure and urge the Committee to hold this bill.



888 Mililani Street, Suite 601  
Honolulu, Hawaii 96813-2991

Telephone: 808.543.0000  
Facsimile: 808.528.4059

[www.hgea.org](http://www.hgea.org)

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

Testimony by  
Hawaii Government Employees Association  
February 16, 2010

H.B. 1868 – RELATING TO  
CIVIL SERVICE

The Hawaii Government Employees' Association, AFSCME Local 152, AFL-CIO supports the purpose and intent of H.B. 1868. However, we suggest amending the bill so that it does not conflict with a contract article in our civil service collective bargaining agreements (Units 02, 03, 04, 09 and 13). The article, entitled Other Leaves of Absence, contains a provision on "Leave Without Pay to Work in Certain Appointive Positions."

It allows bargaining unit employees, upon approval from the appointing authority, to work ... "as a department head, agency head, deputy department head, as a secretary to a department head or a deputy department head, or as an appointee to any other position within the jurisdiction that is mutually agreeable between the Employer and the Union." Employees are allowed to work up to four years and three months in these positions and retain return rights to their former civil service position. If they request and are granted an additional four years of leave without pay to work in an appointive position, they can be placed into their former position if vacant, or in a comparable vacant position. In both situations, the employee is compensated as if they remained in that position continuously.

We suggest amending the bill so that it only applies to civil service employees who are outside the respective bargaining unit. These are known as excluded – managerial employees. Thank you for the opportunity to testify in support of H.B. 1868 with the suggested amendment.

Respectfully submitted,

*Kevin Madsen*

for  
Nora A. Nomura  
Deputy Executive Director





**Testimony to the Twenty-Fifth Legislature, Regular Session of 2010**  
House Committee on Labor and Public Employment  
The Honorable Karl Rhoads, Chair  
The Honorable Kyle Yamashita, Vice Chair

Tuesday, February 16, 2010, 11:00 a.m.  
State Capitol, Conference Room 309

by  
Wade Hiraishi  
President, HGEA MCEC

**WRITTEN TESTIMONY ONLY**

**Bill No. and Title:** House Bill No. 1868, Relating to Civil Service

**HGEA MCEC's Position:** The HGEA MCEC strongly opposes this bill.

The HGEA Managerial and Confidential Employees Chapter (MCEC) represents approximately 1,350 employees who work for the State of Hawaii, City and County of Honolulu, and Maui, Kauai and Hawaii Counties, who are excluded from collective bargaining but elect to join the HGEA MCEC. Although by law we cannot bargain or negotiate a contract on their behalf, we provide representation to our members in filing appeals relating to matters affecting their terms and conditions of employment. We advocate for the rights and benefits of excluded employees who have no voice regarding these matters. As such, we strongly oppose HB 1868, Relating to Civil Service, which would prohibit civil service employees who accept an appointed position from returning to their civil service positions more than one year later.

The majority of the employees who are members of our Chapter are civil service employees and are loyal, hard working employees for many, many years. Many have worked a lifetime gaining the valuable knowledge and skills required to perform the complex duties and responsibilities of their positions. These dedicated civil service employees should not be penalized if they are called upon and accept an appointed position. It is an honor, privilege and recognition of their dedication and hard work when civil service employees are asked to accept an appointed position.

**American Federation of State, County and Municipal Employees, AFL-CIO**

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Therefore, the HGEA MCEC respectfully requests your committee to oppose HB 1868.

Thank you for this opportunity to present our testimony.