



LINDA LINGLE
GOVERNOR

MARIE C LADERTA
CHIEF NEGOTIATOR

STATE OF HAWAII
OFFICE OF COLLECTIVE BARGAINING
EXECUTIVE OFFICE OF THE GOVERNOR
235 S. BERETANIA STREET, SUITE 1201
HONOLULU, HAWAII 96813

January 29, 2010

TESTIMONY to the
HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
For Hearing on Friday, January 29, 2010
9:30 a.m., Conference Room 309

By

MARIE C. LADERTA
CHIEF NEGOTIATOR

**House Bill No. 1877
Relating to Public Employees**

WRITTEN TESTIMONY ONLY

CHAIRPERSON RHOADS AND MEMBERS OF THE HOUSE COMMITTEE ON
LABOR AND PUBLIC EMPLOYMENT:

The purpose of H. B. No. 1877 is to exempt employees whose positions are fully or partially funded by non-general funds from furloughs and reductions in force.


The Office of Collective Bargaining **opposes** the proposed amendments to Chapter 78, HRS.

This bill would split our valued public employees into two groups, depending on the source of funding for their position. Under Chapter 89, HRS, both general and non-general funded positions are included in the 13 different bargaining units represented by the 5 public employee unions. The State has negotiated collective bargaining agreements with the various public employee unions which contain RIF procedures. The State has also negotiated or arbitrated furloughs with HSTA, HGEA, and UPW in

their new collective bargaining agreements. Should this bill pass, it would raise serious questions as to the validity of these negotiated/arbitrated agreements and the authority of the public unions to represent non-general funded employees with respect to furloughs and RIFs. We note that this bill makes no mention of amending Chapter 89 to address these issues.

Thank you for the opportunity to testify on this measure.

Respectfully Submitted,


for MARIE C. LADERTA

ERD

DEPARTMENT OF HUMAN RESOURCES
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 10th Floor
 HONOLULU, HAWAII 96813

MUFI HANNEMANN
 MAYOR



NOEL T. ONO
 ACTING DIRECTOR

January 28, 2010

The Honorable Karl Rhoads, Chair
 and Members of the Committee on Labor and
 Public Employment
 The House of Representatives
 State Capitol
 Honolulu, Hawaii 96813

Dear Chair Rhoads and Members:

Subject: House Bill No. 1877
 Relating to Public Employees

The Department of Human Resources, City & County of Honolulu, **respectfully opposes** H.B. 1877, which seeks to exempt from furloughs and reductions in force all public employees whose positions are funded in full or in part by funds other than the general fund of the State of Hawaii.

The primary concern is that HB 1877, as written, would severely interfere with the City's ability to address the looming financial crisis through labor costs savings. Moreover, the bill would unnecessarily interfere with subjects that have already been, or are in the process of being, negotiated to by the City and the public unions.

The City would not be opposed to this measure if H.B. 1877 were amended to read:

\$78- Exemption from furloughs and reduction in force.

All permanent and temporary public employees, who are employed by the State of Hawaii, whose positions are funded. . .

Without limiting this measure to State of Hawaii employees, the City strongly opposes H.B. 1877.

Thank you for the opportunity to testify.

Yours truly,

Noel T. Ono
 Acting Director

Date: 01/29/2010

Committee: House Labor & Public
Employment

Department: Education

Person Testifying: Kathryn Matayoshi, Interim Superintendent of Education

Title of Bill: HB 1877 RELATING TO PUBLIC EMPLOYEES.

Purpose of Bill: Exempts public employees whose positions are fully or partially funded by non-general funds from furloughs and reductions in force.

Department's Position: The Department of Education opposes this bill as it interferes with the collective bargaining process. Matters pertaining to wages, hours, and other terms and conditions of employment are subject to collective bargaining pursuant to Chapter 89 of Hawaii Revised Statutes. Although the decision as to whether reductions in force or furloughs should be imposed rests with the employer, the procedures concerning implementation, seniority, bumping, retention, and re-employment are subject to negotiations. Employees in non-general funded positions may still be bumped according to bargaining unit procedures. Inequitable treatment of employees will result. If civil service or other types of classified and certificated employees are exempt from furloughs and reductions in force (RIF) based upon the funding source of the position they hold, the principles of the merit system as well as tenure and permanency rights governed by collective bargaining agreements may be impacted. For example, a tenured or permanent employee with less seniority may be exempt from furloughs or RIF due to full or partial funding whereas a more senior employee whose position is funded with general funds may be subject to furloughs or RIFs. Transfers or even demotions could potentially increase in that employees would seek positions based

upon funding source in order to obtain job and pay security. There are operational, program, and safety concerns if certain positions are exempt from furloughs or RIFs due to funding source; it may negatively affect the operations of the school, complex or State Office. Many positions require support from or provide support to other positions. To have certain positions eliminated or furloughed may harm the program or the children if the determination of furlough or RIF is based upon funding. Additional operational, safety, and cost concerns would arise if a school or office were to remain open for only a handful of employees. Partial funding with non-general funds would nevertheless require the remaining wages and benefits to be paid from general funds, thereby reducing cost savings.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

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

**Testimony by
Hawaii Government Employees Association
January 29, 2010**

**H.B. 1877 – RELATING TO
PUBLIC EMPLOYEES**

The Hawaii Government Employees' Association, AFSCME Local 152, AFL-CIO opposes H.B. 1877 – Relating to Public Employees, which exempts both permanent and temporary employees who are not funded via the general fund from furloughs and reductions-in-force.

While we appreciate the reasoning and intent of this proposed legislation, we assert that since furloughs reduce an employee's hours and wages, the terms and conditions of their employment are affected, therefore making furloughs a mandatory subject of collective bargaining. In a recent ruling, the First Circuit Court maintained our position regarding furloughs.

Reductions-in-force are also a mandatory subject of collective bargaining under Chapter 89, HRS. Exempting certain bargaining unit employees from a reduction-in-force will change the terms of our existing collective bargaining agreements. Disputes between the employer and the exclusive employee representative over negotiable items, such as furloughs and reductions-in-force, must be resolved through the collective bargaining process.

We appreciate the opportunity to testify in opposition of H.B. 1877.

Respectfully submitted,

Nora A. Nomura
Deputy Executive Director





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Interim Executive Director

**TESTIMONY BEFORE THE HOUSE COMMITTEE ON
LABOR AND PUBLIC EMPLOYMENT**

RE: HB 1877 – RELATING TO PUBLIC EMPLOYEES.

January 29, 2010

**WIL OKABE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION**

Chair Rhoads and Members of the Committee:

Although we believe we understand the intent to HB 1877, the Hawaii State Teachers Association has concerns about the operational and collective bargaining implications for our members. Without more information, we cannot support HB 1877 at this time.

Thank you for the opportunity to testify.

LATE

WRITTEN ONLY

TESTIMONY BY GEORGINA K. KAWAMURA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
ON
HOUSE BILL NO. 1877

January 29, 2010

RELATING TO PUBLIC EMPLOYEES

House Bill No. 1877 exempts employees whose positions are fully or partially funded by non-general funds from furloughs and reductions in force.

We oppose this bill because the present collective bargaining agreements do not make distinctions between employees based on the means of financing of their positions.

Implementation would be problematic, particularly in situations where these employees funded by different means of financing are working side-by-side.

We note that allowing non-general funded positions to be exempt from furloughs and reductions in force would severely hamper management's flexibility to respond to unforeseen revenue decreases or other funding disruptions such as the termination of the non-general funding source. It would appear that the State would be forced to consider using general funds to offset the loss of non-general fund revenues to forestall any furlough or reductions in force of these non-general funded positions.



LATE

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

ON THE FOLLOWING MEASURE:
H.B. NO. 1877, RELATING TO PUBLIC EMPLOYEES.

BEFORE THE:
HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

DATE: Friday, January 29, 2010 **TIME:** 9:30 a.m.

LOCATION: State Capitol, Room 309

TESTIFIER(S): Mark J. Bennett, Attorney General, or
Deputy Attorney General Julian White

Chair Rhoads and Members of the Committee:

The Department of the Attorney General opposes this bill.

This bill exempts from furloughs and reductions in force all public employees whose positions are funded in full or in part by funds other than the state general fund. The Department has several concerns.

First, if this bill is enacted, it will conflict with the management rights provision in section 89-9(d), Hawaii Revised Statutes. It will conflict with the right of the Governor to direct employees and determine the methods, means, and personnel by which the State's operations are to be conducted.

Second, connected costs associated with positions, not just the cost of salaries, must be considered. For instance, supervisors and line employees may not be funded with the same funding source. In addition, funding sources may cover only part of some salaries.

Third, this bill contains an ambiguity. If a position is funded by a source other than the general fund and the funding source is reduced or eliminated, it is unclear whether the employee in the position will still be exempt from furlough.

Fourth, it is unclear why general funds are the sole focus. Positions funded by non-general funds, including special funds or revolving funds, also result in a cost to the state.

Finally, if this bill is passed despite these concerns, it should be amended so that it does not affect collective bargaining contracts that are currently in effect.

We respectfully ask the Committee to hold this bill.