

TESTIMONY

SB 2949



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

February 8, 2010

TESTIMONY TO THE
SENATE COMMITTEE ON LABOR
For Hearing on Tuesday, February 9, 2010
3:00 p.m., Conference Room 224

BY

MARIE C. LADERTA
CHIEF NEGOTIATOR

Senate Bill No. 2949
Relating to Collective Bargaining

WRITTEN TESTIMONY ONLY

CHAIRPERSON TAKAMINE AND MEMBERS THE COMMITTEE:

The purpose of S.B. No. 2949 is to clarify that furloughs are a subject to collective bargaining.

The Office of Collective Bargaining is strongly opposed to the proposed amendments to Chapter 89, HRS.

Employee furlough is a management right and should not be a negotiable subject of bargaining when the State is undertaking efforts to address an unprecedented budget deficit. Furlough is one means of addressing the budget deficit in a timely manner while maintaining the best possible service to the public under the current fiscal circumstances. Also, furlough provides a workable and immediate alternative to employee layoffs.

Thank you for the opportunity to testify in opposition to this measure.



The Judiciary, State of Hawaii

Testimony to the Twenty-Fifth Legislature, Regular Session of 2010

Senate Committee on Labor

The Honorable Dwight Y. Takamine, Chair

The Honorable Brian T. Taniguchi, Vice Chair

Tuesday, February 9, 2010, 3:00 p.m.

State Capitol, Conference Room 224

by

Thomas R Keller

Administrative Director of the Courts

WRITTEN TESTIMONY ONLY

Bill No. and Title: Senate Bill No. 2949, Relating to Collective Bargaining

Purpose: Defines furlough and includes furlough in the scope of negotiation in collective bargaining.

Judiciary's Position:

The Judiciary strongly opposes Senate Bill No. 2949 which defines furlough as a "temporary layoff from work" and makes furloughs a mandatory subject of collective bargaining.

The proposed legislation, as written, is overly broad and does not distinguish between the employer's right to furlough versus the impact to negotiating employees' wages and conditions of employment resulting from a furlough.

We believe that the proposed legislation is contrary to the authority afforded public employers to manage its resources and operations. For example, §89-9(d), HRS excludes from negotiations any proposal that would interfere with the rights and obligations of a public employer to: (1) Direct employees; . . . (5) Relieve an employee from duties because of lack of work or other legitimate reasons; . . . (7) Determine the methods, means, and personnel by which



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the employer's operations are to be conducted; and (8) Take such actions as may be necessary to carry out the missions of the employer in cases of emergencies.

This proposed legislation will severely interfere with the employer's ability to manage its operations and resources by requiring negotiations of furloughs. By making furloughs a mandatory subject of bargaining, the employer's ability to effectuate a furlough in a timely manner in order to provide meaningful cost savings could be stalled through the negotiations process. For example, if the union chose not to entertain the employer's proposal for furloughs, the employer means to address labor savings may not be realized. We believe this legislation will impede our ability to manage our resources to address the budgetary deficit that we face today.

Further, while the purpose of the bill is to mandate negotiation of furloughs, the language of the bill is confusing and appears to give the employer the authority to unilaterally and retroactively effect a furlough in the absence of a negotiated furlough. This would be contrary to the intent of the bill.

Finally, the definition of furlough as "temporary layoff" is totally unacceptable and contrary to the negotiated definition of "layoff." Inherent to "layoff" is the elimination of a position. Once eliminated, there is a separation of the employee from the position; it is not of a temporal nature.

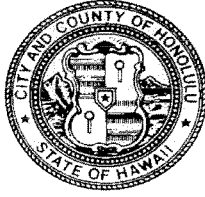
While we remain opposed to this bill, if the Committee is compelled to pass this bill, we urge that the definition be amended to "non-work, non-paid status on specified days."

Thank you for the opportunity to provide written testimony on this bill.

DEPARTMENT OF HUMAN RESOURCES
CITY AND COUNTY OF HONOLULU

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MUFI HANNEMANN
MAYOR



NOEL T. ONO
ACTING DIRECTOR

February 9, 2010

The Honorable Dwight Y. Takamine, Chair
and Members of the Committee on Labor
The Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chair Takamine and Members:

Subject: Senate Bill No. 2949
Relating to Collective Bargaining

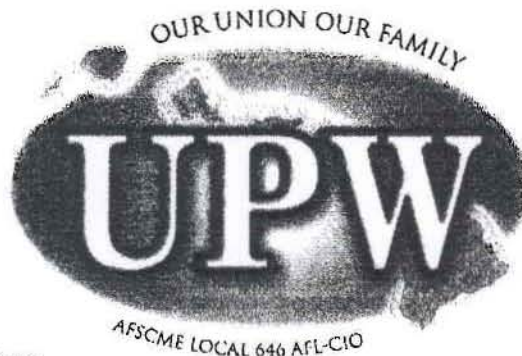
The Department of Human Resources, City & County of Honolulu, **opposes**
SB 2949.

We disagree that furloughs constitute a term or condition of employment that is subject to collective bargaining. Such a determination by the legislature would infringe upon a public employer's rights to manage its employees.

Thank you for giving us the opportunity to testify.

Sincerely,


Noel T. Ono
Acting Director



The Senate
 The Twenty-Fifth Legislature
 Regular Session of 2010

Committee on Labor
 Senator Dwight Takamine, Chair
 Senator Brian Taniguchi, Vice Chair

DATE: Tuesday, February 9, 2010
 TIME: 3:00 pm
 PLACE: Conference Room 224

**TESTIMONY OF THE UNITED PUBLIC WORKERS, LOCAL 646, ON SB 2949,
 RELATING TO COLLECTIVE BARGAINING**

SB 2949 clarifies that furloughs are a subject of collective bargaining.

The United Public Workers, Local 646, supports this measure. We believe that the unilateral order of furloughs by an administration is a violation of the Constitutional right to organize for collective bargaining and the separation of powers with the state legislature, which has the authority to appropriate state money.

In support of this position, the July 2, 2010 circuit court ruling by Judge Karl Sakamoto determined that furloughs alter the hours and wages of state workers and are subject to collective bargaining by the Constitution.

We ask for favorable passage of this measure.

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Senate Committee on Labor
Tuesday, February 9, 2010
3:00 p.m

SB 2949, Relating to Collective Bargaining.

Dear Chairman Takamine and Committee Members:

The University of Hawaii Professional Assembly (UHPA) supports the notion that furloughs, because they are akin to wages and hours, are a topic of collective bargaining under HRS Chapter 89. It is the position of UHPA that furloughs are so closely related to wages, and as such, are probably a "core" topic of bargaining within the meaning of the Hawaii constitution, as has been held by First Circuit Court Judge Sakamoto, that they are already a mandatory subject of bargaining. As such, SB 2949 uses the wrong subsection of the law to declare furloughs subject to collective bargaining. Furloughs should have been mentioned in § 89-9 (a), covering the scope of negotiations, not the consultation subsection 89-9 (c).

Further, SB 2949 declares furloughs to be both a subject of consultation and collective bargaining. No topic has ever been specifically declared to be both, and we believe that adding language to Chapter 89 that does so would be both confusing and antithetical to the meaning of the Chapter.

Finally, SB 2949 contains numerous grammatical errors. Chief among them are singular-plural agreement, which should be corrected.

Subject to these revisions, and a clear statement that the bill is meant to assure that furloughs are a matter of collective bargaining under §89-9(a), UHPA would support passage of such legislation.

Respectfully submitted,

J.N. Musto, Ph.D.
Executive Director

UNIVERSITY OF HAWAII
PROFESSIONAL ASSEMBLY

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