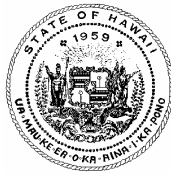


NEIL ABERCROMBIE
GOVERNOR



BARBARA A. KRIEG
DIRECTOR

LEILA A. KAGAWA
DEPUTY DIRECTOR

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

January 28, 2013

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

For Hearing on Tuesday, January 29, 2013
9:00 a.m., Conference Room 309

BY

BARBARA A. KRIEG
DIRECTOR

House Bill No. 495
Relating to Hours of Work

TO CHAIRPERSON MARK NAKASHIMA AND MEMBERS OF THE COMMITTEE:

Thank you for the opportunity to provide testimony on H.B. No. 495.

H.B. No. 495 proposes to allow state and county employees to request modified office hours and mandates that the chief executive bargain in good faith with the employees' exclusive representative over such request(s).

The Department of Human Resources Development respectfully opposes this bill to the extent that it interferes with the Employer's rights and obligations as outlined in Hawaii Revised Statutes §89-9 and the collective bargaining agreements. Of concern is the portion of the bill that requires the chief executive to bargain in good faith with the exclusive representative of employees of an agency who request modified business hours. We believe the start and end time for the transaction of public business is not a matter subject to collective bargaining. Agencies must be able to determine the appropriate hours to provide their services to the public.

We appreciate that the bill seeks to provide employees with flexible work schedules in order to produce positive results such as reducing the traffic gridlock and raising productivity. As an Employer, we likewise consider programs that could have positive influences on State employees but we must do so while balancing them with public's need for our services.

We wish to bring to your attention programs already in place in the State Executive branch which allow for workplace flexibility, at the agencies' discretion:

1. Flexible Working Hours. We have a Flexible Working Hours Policy and Procedure for full-time and part-time State employees, affording employees the opportunity to arrange their individual work schedules according to specific guidelines and within certain time limits established by management (e.g. glide-time, staggered hours).
2. Alternative Workweek Program. We also have a negotiated Memorandum of Understanding with the HGEA that makes it easier for departments to implement Alternative Workweek Programs for their workforces. Various scheduling options are presented in the agreement whereby daily work times and designated days off may differ between employees.
3. Telework Program. We also have a negotiated Memorandum of Understanding with the HGEA that provides a viable alternative work option that departments may utilize to improve program effectiveness and employee productivity and morale; reduce traffic congestion; and effectively continue operations in times of emergency and/or disaster situations.

In light of the foregoing, we respectfully request that this bill be held.

Thank you for the opportunity to testify on this measure.



The Judiciary, State of Hawai'i

Testimony to the House Committee on Labor & Public Employment

Representative Mark M. Nakashima, Chair

Representative Mark J. Hashem, Vice Chair

Tuesday, January 29, 2013, 9:00 a.m.

State Capitol, Conference Room 209

by

Dee Wakabayashi

Department Head, Human Resources

The Judiciary, State of Hawai'i

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill 495, Relating to State and County Offices; Office Hours; Modification

Purpose: House Bill 495 proposes to modify Hawaii Revised Statutes §78-1.6 to allow state and county employees to request modified office hours and mandates that the chief executive bargain in good faith with the employee's exclusive representative over requests to modify hours of the agency for the transaction of public business; provided that the modified business hours shall consist of nine consecutive hours between the hours of 5:30 a.m. and 8:00 p.m.

Judiciary's Position:

The Judiciary appreciates the intent behind House Bill 495, i.e., traffic gridlock is an undesirable way of life in Hawaii and that flexible work schedules raise productivity and provides employees with greater freedom to organize their working lives to suit personal needs. We believe that these are important issues that all employers need to consider.

Currently, the Judiciary provides its workforce, where operationally feasible, the ability to participate in our established flexible working hours program, alternative work week program, and as with other public employers, generous leave benefits which allow employees to take time off from work to attend to their personal needs.



House Bill 495, Relating to State and County Offices; Office Hours; Modification
Committee on Labor & Public Employment
Tuesday, January 29, 2013
Page 2

While being mindful that we are a government agency who must serve the public, we believe that our employees are provided alternatives that allow them to achieve a work-life balance.

The Judiciary opposes this measure which, as currently written, infringes on the Judiciary's and other public employer's right to manage its operations.

Hawaii Revised Statutes, §89-9(d) states that the employer and exclusive representative shall not agree to any proposal which would interfere with the rights and obligations of a public employer to ... "(7) Determine the methods, means, and personnel by which the employer's operations are to be conducted; and"

Thus, requiring the employers to bargain with exclusive representatives over the modification of the office hours where employers conduct public business, infringes on the employer's ability to determine how to conduct its operations.

For the reasons stated above, and in consideration of the established alternatives that the Judiciary already provides our employees towards achieving a work-life balance, we respectfully request that this measure be held.

Thank you for the opportunity to testify on this measure.

DEPARTMENT OF HUMAN RESOURCES
CITY AND COUNTY OF HONOLULU

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

KIRK CALDWELL
MAYOR



CAROLEE C. KUBO
DIRECTOR DESIGNATE

NOEL T. ONO
ASSISTANT DIRECTOR

January 29, 2012

The Honorable Mark Nakashima, Chair
and Members
Committee on Labor and Public Employment
State House of Representatives
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Nakashima and Members of the Committee:

Subject: Testimony on H.B. 495 Relating to Hours of Work

The Department of Human Resources, City and County of Honolulu respectfully opposes H.B. 495, that allows State and County employees to request modified office hours and mandates that the chief executive bargain with the employees' exclusive bargaining representative when agency employees request modification.

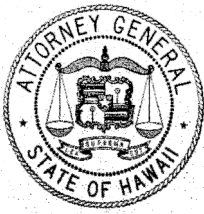
The City has personnel policies and practices in place that allow individual employees the opportunity to request participation in a flexible work hour schedule based on their individual needs. Requiring us to negotiate our office hours based on the employees' individual needs would interfere with our ability to manage our operations and is not in the best interest of the public we serve.

Based on the foregoing, we respectfully request that H.B. 495 be held. Thank you for giving us the opportunity to testify on this matter.

Sincerely,

A handwritten signature in cursive script that reads "Carolee C. Kubo".

CAROLEE C. KUBO
Director Designate



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SEVENTH LEGISLATURE, 2013**

ON THE FOLLOWING MEASURE:

H.B. NO. 495, RELATING TO HOURS OF WORK.

BEFORE THE:

HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

DATE: Tuesday, January 29, 2013 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Room 309

TESTIFIER(S): David M. Louie, Attorney General, or
Julian White, Deputy Attorney General

Chair Nakashima and Members of the Committee:

The Department of the Attorney General strongly opposes this bill.

H.B. No. 495 requires the appropriate chief executive bargain in good faith with the employees' exclusive representative so that state and county employees may be allowed to work modified office hours.

We believe the scope of the bill's requirement for the appropriate chief executive to engage in bargaining with the exclusive representative of employees of an agency who requests modified business hours interferes with the longstanding recognition of employer's rights and obligations codified in section 89-9(d)(1) and (3), Hawaii Revised Statutes (HRS), which allows public employers to direct and assign employees. We believe the start and end time for the transaction of public business is determined by what the public needs are. Furthermore, as pointed out in testimony submitted by the Department of Human Resources Development, setting the hours from 5:30 a.m. to 8:00 p.m. does not take into account agencies which provide services to the public outside of that particular timeframe.

Part of the intent of the bill is to provide employees with flexible work schedules in order to produce positive results such as reducing some of the traffic gridlock and raising productivity. The Department of the Attorney General, as one of the public employers, is amenable to considering programs that might have positive influences on state employees but there must be a balancing with the public's need for services.

A review of programs already in place shows that allowances have been made for workplace flexibility. This is done at the departments' discretion. There are programs in place such as the Flexible Working Hours Program, the Alternative Workweek Program, and the Telework Program, which provide various scheduling options for employees.

In light of the foregoing concerns, we respectfully request that this bill be held.

Thank you for the opportunity to testify on this measure.