

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 25, 2014

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

For Hearing on Tuesday, January 28, 2014  
8:45 a.m., Conference Room 309

BY

BARBARA A. KRIEG  
DIRECTOR

**House Bill No. 1979**  
**Relating to Public Officers and Employees**

**WRITTEN TESTIMONY ONLY**

TO CHAIRPERSON NAKASHIMA AND MEMBERS OF THE COMMITTEE:

The purpose of H.B. 1979 is to amend Chapter 89C, Hawaii Revised Statutes, to authorize the directors, boards or executive heads of all executive departments to withhold or alter the benefits packages of excluded employees who are exempt from civil service in exchange for higher compensation.

The Department of Human Resources Development respectfully OPPOSES this bill for the following reasons.

First, Chapter 89C addresses adjustments to wages, hours and benefits of all employees who are excluded from collective bargaining, both civil service and exempt. Expanding the definition of the appropriate authority in section 89C-1.5 to include "directors, boards, or executive heads of executive departments" would have the unintentional effect of giving these individuals the authority to withhold or alter the

benefits packages and increase compensation of not only exempt employees but civil service excluded employees as well.

Second, section 89C-2(5) requires that “adjustments shall, to the extent practicable, uniformly apply to every excluded employee within a homogeneous grouping, such as, cabinet members or managerial employees, to ensure fairness.” The bill’s delegation of authority to department heads, if exercised, could violate this provision.

Third, the bill is unclear as to which benefits can be withheld or altered. The eligibility for certain benefits is determined by statutes, regulations and/or other legally binding authorities. To the extent an appropriate authority designates an employee or group of employees ineligible for or alters such benefits, there could be negative consequences with respect to the continuing validity of such benefit plans. We also note that benefits for excluded employees are authorized by Executive Order. Therefore, the proposed delegation of authority would have the undesired effect, under section 89C-6, of giving precedence to the decisions of the Governor’s subordinates over the Governor’s Executive Orders.

We appreciate the desire to provide flexibility in the compensation and benefits packages for our State employees. However, for the foregoing reasons, we believe this is not an effective vehicle to do so and request that the bill be held.

Thank you for the opportunity to testify on this measure.

DEPARTMENT OF HUMAN RESOURCES  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET 10<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
TELEPHONE: (808) 768-8500 • FAX: (808) 768-5563 • INTERNET: www.honolulu.gov/hr

KIRK CALDWELL  
MAYOR



CAROLEE G. KUBO  
DIRECTOR  
  
NOEL T. ONO  
ASSISTANT DIRECTOR

January 28, 2014

The Honorable Mark M. Nakashima, Chair  
and Members of the Committee  
on Labor and Public Employment  
The House of Representatives  
State Capitol, Room 406  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Nakashima and Members of the Committee:

**SUBJECT: House Bill No. 1979  
Relating to Public Officers and Employees**

The City and County of Honolulu opposes House Bill 1979 which would amend the definition of "appropriate authority" under Chapter 89C. This amendment would permit individual department heads the authority to amend the benefit and pay adjustments for their excluded employees and, under the proposed language, would enable these department heads to pay their exempt, excluded employees higher salaries than civil service employees in exchange for altered benefits.

Under current law, the Mayor is the only appropriate authority in the City to grant pay and benefit adjustments to excluded employees. The Mayor's oversight provides uniformity within the jurisdiction for various groupings of excluded employees.

If the intent of this measure is to allow State Directors this authority, then we respectfully request that the bill be amended to specify "...state directors, state boards, or executive heads of state executive departments" have this authority and the Mayor remains the only appropriate authority for the City.

If the intent of the bill is to give City Directors the authority, then we have the following concerns:

- The bill permits the adjustments to be made by individual department heads without the approval or oversight of the Mayor.
  - This can result in many different pay adjustment and benefits packages for excluded employees in different departments who perform the same functions and are hired on a comparable basis.
  - This can also result in excluded employees in certain departments (including excluded civil service employees) receiving very different (possibly much better) benefits and pay than their included counterparts.

- We view the breakdown of jurisdictional uniformity and lack of Chief Executive oversight which may result in vastly different benefits packages as highly undesirable.
- The term “board” in the bill is unclear and may lead to questions regarding whether the term was meant to include commissions and authorities.
  - The City is not in favor of granting any of these entities the authority to provide different pay and benefit adjustments to their excluded employees.
- The bill permits directors to withhold or alter the benefit package for exempt employees in exchange for higher compensation.
  - The term “alter” does not specify “less” this provision could result in exempt employees being offered both higher compensation and a better benefits package.
  - The term “compensation” is not defined, this provision could result in exempt employees being providing with private sector-type perks—such as housing allowances or government cars—which are not normally afforded to civil service employees.
  - We also note that the bill does not amend the Employees’ Retirement System (ERS) or Employer-Union Health Benefits Trust Fund (EUTF) laws. Absent amendment to these laws, it would appear that these highly compensated exempt employees would remain eligible for these benefits as long as their appointments met the eligibility requirements for ERS membership and EUTF participation.
    - We note that if amendments were made to the bill to allow EUTF participation to be withheld that doing so could interfere with the employer’s responsibility under the Affordable Care Act to provide health benefits to employees.
  - With major components of a benefits package unaltered, we question whether the remaining benefits—the ones that could be altered or withheld—would warrant paying the exempt employee significantly higher compensation than is provided civil service employees.

In light of our many concerns regarding the measure, we ask that the measure be filed.

Thank you for the opportunity to testify on H.B. 1979.

Sincerely,



Carolee C. Kubo  
Director

cc: Mayor's Office