

HB2496

HD1

LATE

TESTIMONY



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SEVENTH LEGISLATURE, 2014**

ON THE FOLLOWING MEASURE:

H.B. NO. 2496, H.D. 1, RELATING TO HAWAII LABOR RELATIONS BOARD.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY AND LABOR

DATE: Friday, March 21, 2014

TIME: 10:00 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): David M. Louie, Attorney General, or
Richard H. Thomason, Deputy Attorney General

Chair Hee and Members of the Committee:

The Department of the Attorney General opposes this bill because it is ambiguous, possibly deficient, and neither evenhanded nor balanced.

Section 89-5, Hawaii Revised Statutes, currently permits anyone to suggest names for consideration by the Governor for a any vacant Hawaii Labor Relations Board (HLRB) seat (one seat representing management, one representing labor, and one representing the public), but requires the Governor to give “first” consideration to any lists of names submitted by the public sector employers and unions. No limitation is placed upon the number of proposed nominees that labor, management, or anyone else may submit for consideration, nor are labor and management prohibited from submitting nominees to be considered for each other’s seats.

The purpose of this bill appears to be twofold: (1) to require the Governor to give first consideration for the management seat to nominees submitted by the Counties, and (2) to require the Governor to fill the seat representing labor from a list of three nominees submitted only by “the exclusive representative organizations,” while at the same time continuing to permit those same organizations to submit nominees for the management seat.

The first problem with this bill is that, though it is clear that each county may submit only one name, it is unclear as to whether that same limitation exists with regard to submissions proffered by other entities such as the State, Board of Education (BOE) or Department of Education (DOE), the Judiciary, University of Hawaii, the general public, and, of course, the various public and private sector unions.

The second problem with this bill is whether it is in the best interests of public sector collective bargaining to give the counties a greater say in the selection of the management seat than the State, the BOE or DOE, or any other major stakeholder. We do not believe that any such justification exists.

The third problem with this bill goes to the issue of balance. We do not believe that it serves the public interest to permit one side of the labor-management relationship to have a say in appointing members to the other's seat, while denying that same countervailing right to the other party. The current statute is consistent in this regard, and any proposed amendment thereto should be equally evenhanded. Either both sides should have this right or neither side should have it. Any other result renders the labor-management relationship unbalanced.

The fourth problem with this bill is that the proposed amendments render it unclear as to whether the term "exclusive representatives" used in subsection (b) (2) (page 2, lines 1-6) refers to public unions only, or to both public and private sector unions. This is relevant, of course, because of the fact that the HLRB does in fact hear cases involving both public and private sector unions and employers. The practical problem of requiring even just the public sector unions to submit a list of three names by mutual agreement is significant enough. Requiring the mutual agreement of all the unions, both public and private, presents an impossible hurdle.

Accordingly, we respectfully request that the Committee not pass this bill.

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON JUDICIARY AND LABOR
ON
HOUSE BILL NO. 2496, H.D. 1

March 21, 2014

RELATING TO HAWAII LABOR RELATIONS BOARD

This measure amends Section 89-5, HRS, to modify how appointments to the Hawaii Labor Relations Board (HLRB) are made. The bill requires the Governor to first consider any names submitted by the counties, with not more than one name from each county, for the appointment of the management member. The bill requires the Governor to appoint the representative of labor from a list of three nominees submitted by mutual agreement of the exclusive representatives.

The Department of Budget and Finance has grave concerns with the proposed components of this bill and opposes this measure as counter to the sound business interest and operations of the State. The bill is sufficiently vague that it lacks any practicality of direction as to how the statute could be applied. In practical terms, it is not clear what "first consider" means when the bill requires that the Governor must "first consider any names submitted by the counties." Secondly, of the three members to comprise the HLRB, where only one is truly appointed as the management representative, it is also not rational or apparent why it is in the public interest to give priority to the counties in the selection of the management member. This is especially questionable given that the counties' workforce does not make up a majority of public employees, either individually or in the aggregate. It is also not clear who the "exclusive representatives" are that would provide the three names for

the labor representative since HLRB considers both public and private sector cases. In addition, since there are more than three public sector unions, it is not clear what process would be used to determine the three names for the labor representative.

The committee is encouraged to hold House Bill No. 2496, H.D. 1.



HAWAII FIRE FIGHTERS ASSOCIATION

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THE SENATE
THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2014
March 21, 2014

Committee on Judiciary and Labor

Testimony by
Hawaii Fire Fighters Association

H.B. No. 2496, H.D. 1 Relating to Hawaii Labor Relations Board

My name is Robert H. Lee and I am the President of the Hawaii Fire Fighters Association (HFFA), Local 1463, IAFF, AFL-CIO. The HFFA represents approximately 2,100 active-duty professional fire fighters throughout the State. We support of H.B. No. 2496, amending Chapter 89-5 by requiring the governor to select the labor member of the Hawaii labor relations board from a list of nominees submitted by labor organizations.

The one of the three members of the Hawaii Labor Relations Board “shall be representative of labor.” H.B. No. 2496 requires that the appointment of the labor representative to the HLRB be from one of three names submitted to the Governor by the employee organizations. This bill conforms to the established public policy articulated in Section 89-1, “that joint decision-making is the modern way of administering government.”

Thank you for your support.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Twenty-Seventh Legislature, State of Hawaii
The Senate
Committee on Judiciary and Labor

Testimony by
Hawaii Government Employees Association
March 21, 2014

H.B. 2496, H.D. 1 – RELATING TO HAWAII LABOR RELATIONS BOARD

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO supports the purpose and intent of H.B. 2496, H.D. 1, which requires the governor to select the labor representative of the Hawaii Labor Relations Board (HLRB) from a list of nominees submitted by labor organizations, with a proposed amendment, to subsection b(2).

The HLRB's primary function is to investigate and resolve disputes, and oversee proceedings on complaints to ensure that collective bargaining is conducted in accordance with Ch. 89, Hawaii Revised Statutes (HRS). The Board is composed of three (3) gubernatorial appointees – a representative of management, a representative of labor, and the chairperson, who serves as a representative of the public. As currently written, Ch. 89-5(b), HRS permissively allows for the Exclusive Representatives to submit names of persons for the Governor's consideration in making an appointment.

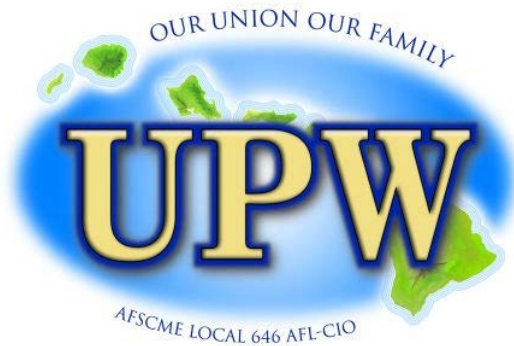
We respectfully propose Section b(2), found on page 2, lines 1 - 6 be amended as follows:

(2) The representative of labor shall be appointed by the governor from a list of three nominees submitted by mutual agreement of the majority of the exclusive representatives; ~~provided that if less than three names are submitted, the governor may appoint the representative of labor without being restricted to the list of names; and~~

The amendment to Ch. 98-5(b) contained in this measure ensures – rather than hopefully allows – equal representation, fairness, and a direct say on the labor representative to the board. Thank you for the opportunity to testify in strong support of H.B. 2496, with a proposed amendment.

Respectfully submitted,


for Randy Perreira
Executive Director



THE HAWAII STATE SENATE
The Twenty-Seventh Legislature
Regular Session of 2014

COMMITTEE ON JUDICIARY AND LABOR
The Honorable Sen. Clayton Hee, Chair
The Honorable Sen. Maile S.L. Shimabukuro, Vice Chair

DATE OF HEARING: Friday, March 21, 2014
TIME OF HEARING: 10:00 AM
PLACE OF HEARING: Conference Room 016

TESTIMONY ON HB2496 HD1 RELATING TO HAWAII LABOR RELATIONS BOARD

By DAYTON M. NAKANELUA,
State Director of the United Public Workers,
AFSCME Local 646, AFL-CIO ("UPW")

My name is Dayton M. Nakanelua and I am the State Director of the United Public Workers, AFSCME, Local 646, AFL-CIO (UPW). The UPW is the exclusive representative for approximately 11,000 public employees, which include blue collar, non-supervisory employees in Bargaining Unit 1 and institutional, health and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties. The UPW also represents about 1,500 members of the private sector.

The UPW strongly supports, with comments, HB2496 HD1, which amends the procedures by which regular and acting members of the Hawaii Labor Relations Board are appointed by requiring the Governor, subject to certain limitations, to appoint: (1) The representative of the public; (2) The representative of management, after first considering a list of nominees submitted by the counties; and (3) The representative of labor from a list submitted by mutual agreement by the exclusive representatives.

The Hawaii Labor Relations Board (HLRB) has the primary function of ensuring that collective bargaining adheres to the standards set forth within Chapter 89, Hawaii Revised Statutes (HRS). HB2496 HD1 seeks to sustain a balance between all labor-related stakeholders by allowing each party the ability to nominate individuals for their related member positions. As the Exclusive Representatives, labor organizations have the resources and experience necessary to propose the recommended leadership for the member representative of labor.

UPW has concerns regarding subsection (b)(1). The language seems to allow the Governor to disregard the recommendations by the counties. We suggest amending the language as such:

"The representative of management shall be appointed by the governor, who shall consider *only* the names submitted by the counties, provided that each county may submit no more than one name;"

By amending this language, we hope to further promote the theme of cooperation and balance already being upheld by this bill.

We ask that the committee pass this bill.

Thank you for the opportunity to testify on this measure.



**Testimony to the Senate Committee on Judiciary and Labor
Friday, March 21, 2014 at 10:00 A.M.
Conference Room 016, State Capitol**

RE: HOUSE BILL 2496 HD1 RELATING TO HAWAII LABOR RELATIONS BOARD

Chair Hee, Vice Chair Shimabukuro, and Members of the Committee:

The Chamber of Commerce of Hawaii ("The Chamber") **opposes** HB 2496 HD1, which amends the procedures by which regular and acting members of the Hawaii Labor Relations Board are appointed by requiring the Governor, subject to certain limitations, to appoint: (1) The representative of the public; (2) The representative of management, after first considering a list of nominees submitted by the counties; and (3) The representative of labor from a list submitted by mutual agreement by the exclusive representatives.

The Chamber is the largest business organization in Hawaii, representing over 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber feels that this bill is unfair and over weighted. We feel that the existing law provides balance to employee-employer relationship, as well as to the public. The selection of the board should mirror the intent of having 3 individuals from different perspectives. This bill provides unfair advantage to labor over both the public and employer perspective.

This bill would ensure that the board member representing labor will be selected by labor organizations, without offering the same prospective for the selection of the other two board members representing management and the public. This imbalance in member selection could potentially harm the Hawaii labor relations board and the purpose it was created for.

While the Hawaii Labor Relations Board mainly conducts hearings for the public sector, they also conduct hearings for the private sector including appeals cases for Hawaii Occupational Safety and Health Division (HIOSH).

We respectfully ask that this bill be held in committee. Thank you for the opportunity to testify.