



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2016**

ON THE FOLLOWING MEASURE:

H.B. NO. 2204, H.D. 1, S.D. 1, RELATING TO EDUCATION.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY AND LABOR AND ON
WAYS AND MEANS

DATE: Monday, April 04, 2016

TIME: 9:15 a.m.

LOCATION: State Capitol, Room 211

TESTIFIER(S): WRITTEN COMMENTS ONLY. For more information contact James Halvorson, Deputy Attorney General, at 587-2900.

Chairs Keith-Agaran and Tokuda and Members of the Committees:

The Department of the Attorney General supports H.B. No. 2204, HD1, SD1 and its repeal of section 302A-626, Hawaii Revised Statutes (HRS). Section 302A-626, HRS, is an automatic statutory entitlement to annual increments and longevity step movements for teachers and educational officers.

Section 302A-626, formerly section 297-34, was enacted in 1953, prior to the collective bargaining laws in public employment. Following the implementation of the collective bargaining laws, wages became a mandatory subject of negotiations under section 89-9(a), HRS. Pursuant to section 89-9(a), the term "wages" includes the number of incremental and longevity steps. As a result, section 302A-626 is no longer necessary in the State's education laws and should be repealed.

Historical background. Prior to passage of the collective bargaining law in 1970, statutes determined salary increases for public employees through the salary schedules. The Legislature regularly enacted new salary schedules that gave public employees incremental raises.

In 1953, the Legislature amended the education laws and enacted section 297-34 (currently section 302A-626) to allow for automatic annual increments for teachers and educational officers, and in 1962 the longevity step increases were added in the salary schedules. Similarly, section 77-12, HRS, was amended to allow annual increments and longevity steps to civil servants.

However, since 1970, wages have been determined through collective bargaining. In 1986, section 89-9 (a) and (d), HRS, was amended to include within subjects of negotiation the “number of incremental and longevity steps and movements between steps within the salary range.” The purpose of the amendment was “to assist the public employers in containing costs.” House Journal Conf. Com. Rep. No. 7-86, at 908 (1986); Senate Journal Conf. Com. Rep. No. 48-86, at 746 (1986). The legislative history shows that the Legislature intended increments and longevity step increases to be negotiated and not be automatic, and that such increases be included as part of the overall cost package that is subject to appropriation by the Legislature. Simultaneous to amending the collective bargaining law in 1986, the Legislature also repealed section 77-12, which is the statutory authority for automatic annual increments and longevity steps for civil service employees. However, section 297-34 (currently section 302A-626) was not repealed, which may have been a legislative oversight.

Section 302A-626, HRS, was rendered irrelevant by the collective bargaining laws. It also contradicts chapter 89 insofar as chapter 89 requires increments and step increases to be negotiated. Pursuant to section 89C-6, HRS, adjustments made in accordance with chapter 89 shall take precedence over all contrary legislation.

Accordingly, the Department supports H.B. No. 2204, HD1, SD1 and its repeal of section 302A-626.

DAVID Y. IGE
GOVERNOR



WRITTEN ONLY

WESLEY K. MACHIDA
DIRECTOR

RODERICK K. BECKER
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

**STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE**

P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

**TESTIMONY BY WESLEY K. MACHIDA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEES ON JUDICIARY AND LABOR AND
WAYS AND MEANS
ON
HOUSE BILL NO. 2204, H.D. 1, S.D. 1**

April 4, 2016
9:15 a.m.

RELATING TO EDUCATION

This measure repeals annual increment and step salary increases for Department of Education teachers and educational officers.

The Department of Budget and Finance strongly supports this measure. Wages, which include incremental and longevity steps and movements between steps within the salary range, are mandatory subjects of bargaining pursuant to the collective bargaining law contained in Chapter 89, HRS. Consequently, the current statutory provision in Section 302A-626, HRS, are obsolete and should be repealed.

The statutory provision was initially enacted under a different section number in 1953 before public sector collective bargaining was established. At the time of its enactment, salary schedule increases were determined by statutes implemented via legislation. This continued throughout the next two decades, with the addition of the terms "increments" and "longevity steps" to the schedules.

Following the implementation of the collective bargaining law, and by amendment of Chapter 89 in 1986, annual increments and longevity steps were made mandatory subjects of negotiation. As a result, the current statutory provisions are no longer applicable.



STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 04/04/2016

Time: 09:15 AM

Location: 211

Committee: Senate Ways and Means Senate
Judiciary and Labor

Department: Education

Person Testifying: Kathryn S. Matayoshi, Superintendent of Education

Title of Bill: HB 2204, HD1, SD1 RELATING TO EDUCATION.

Purpose of Bill: Repeals annual increment and longevity step salary increases for department of education teachers and educational officers and clarifies that such increases shall be determined through collective bargaining. (SD1)

Department's Position:

The Department of Education ("Department") strongly supports HB 2204 H.D.1, S.D. 1 and its repeal of a statutory provision for annual increment and step salary increases for the Department's teachers and educational officers.

Wages, which include incremental and longevity steps and movements between steps within the salary range, are mandatory subjects of bargaining pursuant to the collective bargaining law contained in chapter 89, HRS. As a result, the statutory provision that would be repealed by this bill, section 302A-626, is obsolete, meaningless and confusing.

The statutory provision was initially enacted under a different section number in 1953, before public sector collective bargaining was established. At the time of its enactment, salary schedule increases were determined by statutes implemented via legislation. This continued throughout the next two decades, with the addition of the terms "increments" and "longevity steps" to the schedules.

Following the implementation of the collective bargaining law, and by amendment of chapter 89 in 1986, annual increments and longevity steps were made mandatory subjects of negotiation. Therefore, the questions of whether annual increments and/or longevity steps should be given, when given, and how much, if at all, are all subjects for collective bargaining.

As a result, the statutory provision is no longer applicable and should be repealed.

Any statutory provision that mandates the implementation of non-negotiated annual increments

and/or longevity steps will have a significant, adverse financial impact on the State.

For the reasons summarized above, the Department strongly supports HB 2204 H.D.1, S.D. 1.



**STATE OF HAWAII
OFFICE OF COLLECTIVE BARGAINING
EXECUTIVE OFFICE OF THE GOVERNOR**
235 S. BERETANIA STREET, SUITE 1201
HONOLULU, HAWAII 96813-2437

April 1, 2016

TESTIMONY TO THE
SENATE COMMITTEE ON JUDICIARY AND LABOR AND
SENATE COMMITTEE ON WAYS AND MEANS
For Hearing on Monday, April 4, 2016
9:15 a.m., Conference Room 211

By

JAMES K. NISHIMOTO
OFFICE OF COLLECTIVE BARGAINING, CHIEF NEGOTIATOR

**House Bill No. 2204, H.D. 1, S.D. 1
Relating to Education**

CHAIRPERSONS KEITH-AGARAN AND TOKUDA, VICE CHAIRPERSONS
SHIMABUKURO AND DELA CRUZ AND MEMBERS OF THE COMMITTEES:

The Office of Collective Bargaining (OCB) **supports** H.B. No. 2204, H.D. 1, S.D. 1, which would repeal §302A-626, Hawaii Revised Statutes (HRS). HRS §89-9, which sets forth the scope of collective bargaining negotiations, encompasses the provisions of §302A-626 and provides that the employer and the exclusive representative shall negotiate with respect to wages, hours, the amounts of contributions to the Hawaii employer-union health benefits trust fund, and other terms and conditions of employment. Repealing §302A-626 would therefore serve to conform with and be supportive of the intent of §89-9, Scope of negotiations.

Thank you for the opportunity to testify on this measure.

From: mailinglist@capitol.hawaii.gov
Sent: Friday, April 01, 2016 3:11 PM
To: JDLTestimony
Cc:
Subject: *Submitted testimony for HB2204 on Apr 4, 2016 09:15AM*

HB2204

Submitted on: 4/1/2016

Testimony for JDL/WAM on Apr 4, 2016 09:15AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Kehaulani Shintani	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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