



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

March 14, 2016

TESTIMONY TO THE
HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
For Hearing on Tuesday, March 15, 2016
10:30 a.m., Conference Room 309

By

JAMES K. NISHIMOTO
OFFICE OF COLLECTIVE BARGAINING, CHIEF NEGOTIATOR

**Senate Bill No. 2398, S.D.2
Relating to Collective Bargaining**

CHAIRPERSON NAKASHIMA, VICE-CHAIR KEOHOKALOLE AND MEMBERS OF
THE HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT:

Thank you for the opportunity to testify on this important measure.

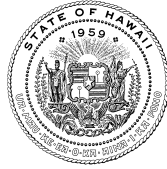
S.B. No. 2398, S.D. 2 would establish a collective bargaining unit for graduate student assistants employed by the University of Hawai'i (UH) with a delayed formation date of the collective bargaining unit until July 1, 2017.

The Office of Collective Bargaining (OCB) **DOES NOT SUPPORT** this bill for the following reasons:

- Unlike other employees, a graduate student assistant's employment is temporary while they are primarily students engaged in completing their advanced degrees and thus, is not a career or profession.
- Establishing UH graduate students as collective bargaining unit 15 could have

significant cost increases for both the UH and the State since mandatory subjects of collective bargaining cover wages, hours, conditions of employment, and fringe benefits. Based upon the above, OCB respectfully requests that this measure **be held**.

DAVID Y. IGE
GOVERNOR



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 HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
ON
SENATE BILL NO. 2398, S.D. 2

March 15, 2016
10:30 a.m.

RELATING TO COLLECTIVE BARGAINING

This measure allows graduate students employed by the University of Hawaii (UH) to collectively bargain by amending Chapter 89-6, HRS, to remove the exemption from collective bargaining for graduate students employed by UH and authorizing a new Bargaining Unit 15.

The Department of Budget and Finance opposes this measure. UH has outlined several reasons why it is best to keep collective bargaining out of the management of these student-employees in their testimony. The cost implications of allowing graduate students to collectively bargain are a special concern, especially in UH's current fiscal situation.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
House Committee on Labor and Public Employment
March 15, 2016 at 10:30 a.m.

By
Risa E. Dickson, Vice President for Academic Affairs
University of Hawai'i System

SB 2398 SD2 – RELATING TO COLLECTIVE BARGAINING

Chair Nakashima, Vice Chair Keohokalole, and members of the committee:

We hereby provide the following testimony on Senate Bill 2398 Senate Draft 2 – Relating to Collective Bargaining which proposes to amend Hawai'i Revised Statutes §89-6, to create a new bargaining unit 15 entitled "Graduate student assistants employed by the University of Hawaii."

The University opposes this measure.

"...graduate student assistants are students first and employees second." This statement, from Governor's Message No. 1328, dated July 13, 2015 articulates one of the concerns and issues raised in Governor David Ige's Statement of Objections to House Bill 553 which he vetoed in 2015. The current bill continues to be objectionable because it is still incomplete and potentially causes legal and administrative problems. A student graduate assistantship is not a career position within government service, unlike all other employees in the established fourteen (14) collective bargaining units under HRS, §89-6. There will be significant cost increases to both the University and the State of Hawai'i should graduate student assistants become employees with the right to collectively bargain. These costs could extend to include, but would not be limited to additional pension contribution costs and possible increases in health benefit costs. The current levels of compensation for graduate student assistants are competitive when tuition waivers, monetary stipends, and other benefits are taken into account. Graduate student assistants with 50% appointments are eligible for the same health and benefit plans (medical, prescription drugs, dental, vision and life insurance) as state employees. Graduate assistants who are full-time students are exempt from the FICA tax.

As noted in prior testimonies, the legislature, University of Hawai'i, and state tax payers must consider several issues when deliberating on the approach to allow university employed graduate student assistants to be included in collective bargaining.

First, from an employment perspective, the University's graduate student assistants are unlike any other employees of the State. Graduate student assistants are students employed as part of their education and training. Graduate student assistants are mentored and supervised by rank 3, 4, and 5 faculty members who hold a terminal

degree such as a Ph.D. and have professional mastery in teaching and/or professional work in their respective academic disciplines. The role of a University faculty mentor is to teach graduate assistants how to engage the disciplinary subject matter with the goal of preparing them to find employment as academic professionals with competitive knowledge and skills in the discipline subject matter, and to position them to make contributions in their disciplines at national and international levels. A graduate student assistantship is a form of on-the-job training or apprenticeship training program with the purpose of mentoring a student with the explicit goal of increasing their competitiveness as they enter their professional academic career. A graduate assistantship is a time bound activity, lasting only as long as a student is enrolled in a graduate program.

Second, the State of Hawai'i and the University of Hawai'i must somberly consider the financial implications of including student employees such as graduate student assistants in the State's public sector collective bargaining law. There will be significant cost increases for both the University and the State of Hawai'i should the Legislature decide that graduate student assistants are indeed employees with a right to collectively bargain.

Graduate student assistants at the UH are compensated between \$33,000 a year and up to potentially \$73,000 a year which includes a variety of compensated benefits. Their compensation includes tuition waivers, stipends and allowances, the levels of which vary dependent upon factors in the individual graduate student's personal circumstances --- such as residency, academic program choice, funding source, etc. For example, just considering tuition waivers alone, a resident graduate assistant would be compensated free tuition of \$15,000 per year compared with a non-resident graduate assistant who would be compensated tuition of \$36,000 per year. These amounts would still be in addition to stipends and allowances. The current level of compensation is a significant cost to the University and a significant compensatory amount of the financial assistance provided to graduate student assistants.

Third, because mandatory subjects of bargaining covers wages, hours, conditions of employment and fringe benefits, all such subjects shall now become "cost items" subject to legislative appropriations pursuant to HRS, §89-10(b). For example, membership in the State Employees' Retirement System as provided to employees in Chapter 88, HRS, will add pension contribution costs to the State and the employee. An increase in enrollment in the Employer-Union Trust Fund for health insurance benefits will increase expenses for the University for contributions, and to the State for total liability of the system. Additionally, all collectively bargained compensation may be treated as wages that will be subject to employment and income taxes – an issue graduate assistants may not be considering as it relates to the value of tuition waivers. The Legislature must consider the additional expenses incurred above the current operational costs in the creation of a 15th bargaining unit. Adding collective bargaining components to graduate student assistants, who are first and foremost students and employed as an extension of their student experience at the University, will increase State general fund demand while simultaneously increasing University operational expenses.

Finally, since last legislative session, University of Hawai'i President Lassner met with representatives of the UH Mānoa Graduate Student Organization (GSO) in both July and October 2015. To address the GSO concerns, the administration has been working

with the chief academic officers and the UH Mānoa Office Graduate Education on a proposed revision to the procedures that addresses the GSO concerns. Among the items up for consideration are one year appointments and renewals instead of semester appointments as appropriate, earlier renewal date notifications, reminding supervisors to consider advance to next step on salary schedule for exemplary performance, recognition of the need for outside employment for many students, and work schedule adjustments for illness or emergency situations.

The Legislature must consider the current tuition waivers and compensation paid to graduate student assistants who are first and foremost students and employed as an extension of their student experience at the University. The proposed bill will increase expenses above the current operational expenses.

In summary, the University of Hawai'i opposes SB 2398 SD2 because graduate student assistants are students first and because of the significant cost implications for the State, the University, and the state's taxpayers.

Thank you for the opportunity to testify.



The House Committee on Labor & Public Employment
Tuesday, March 15, 2016
10:30 a.m., Room 309

RE: SB 2398, SD2 Relating to Collective Bargaining

Attention: Chair Mark Nakashima, Vice Chair Jarrett Keohokalole and
Members of the Committee

The University of Hawaii Professional Assembly (UHPA) urges the committee to **support passage of SB 2398, SD2** that amends Section 89-6 of the Hawai'i Revised Statute to advance the interests of graduate assistants. These employees are essential to instruction and research that contributes to the overall success of the University of Hawai'i. Graduate Assistants are employees in the full sense of the term with continuing access to positions based on job and academic performance.

UHPA supports the rights of graduate assistants to organize and collectively bargain. Such a right is consistent with the labor tradition in our state and is compatible with an academic environment whereby the majority of employees have access to representation.

UHPA supports the passage of SB 2398, SD2.

Respectively submitted,

Kristeen Hanselman
Executive Director

**University of Hawaii
Professional Assembly**



**Graduate Student Organization
University of Hawai'i at Mānoa**

Hemenway Hall 212 • 2445 Campus Road • Honolulu, HI 96822

Date: March 15, 2016

Time: 10:30 a.m.

Place: Conference Room 309

To: House Committee on Labor & Public Employment
Representative Mark Nakashima, Chair
Representative Jarrett Keohokalole, Vice Chair

Re: Support for SB 2398, SD2 - Relating to Collective Bargaining

Dear Chair Nakashima, Vice Keohokalole and Members of the Committee:

Thank you for this opportunity to provide testimony. My name is Jonathan Dial, and I am writing on behalf and as the President of the University of Hawai'i at Mānoa (UHM) Graduate Student Organization (GSO), which represents the approximately 5,000 graduate students at the UHM campus.

I am writing in strong support of SB 2398, SD2 which seeks to secure collective bargaining rights for graduate assistants at UH. As you know, the role of graduate assistants is integral to the university's operation. They teach, research, and perform administrative work, but they are unfairly compensated for their labor. They are also vulnerable to exploitation and poor treatment.

Regardless of the elimination of the bottom steps of the pay scale for graduate assistants in 2013, the pay rate for any of the steps has not increased since 2003/2004. The current base pay (\$17,500/year) is just fifty-one percent of the cost of living in Honolulu for graduate students, declared by the University to be nearly \$34,000/year in 2012. Given that these positions are intended to serve as means through which students can earn a living wage while pursuing their education, this is a major problem for graduate students. Furthermore, the relatively short duration of these positions, while sometimes pointed to by critics as a rationale for graduate assistants not needing collective bargaining rights, actually make these employees more vulnerable to exploitation. We also find that a climate of fear of retaliation amongst many graduate assistants leads them to refuse to speak out, especially in the forms of formal grievances or congressional testimony.

These circumstances deter potential students. They are also likely responsible for many students' decisions to leave UH and the state. Indeed, graduate student enrollment has significantly declined in recent years. Attempts by the GSO to improve these circumstances, especially pertaining to compensation, have been flatly denied by administration. Even a one-time adjustment in pay would not guarantee that similar problems would not continue to arise in the future.

Through collective bargaining, this vulnerable population would be able to protect and promote its own interests, while simultaneously protecting the future of post graduate higher education for the state. Based on these reasons, we strongly support SB 2398, SD2.

Respectfully submitted,

Jonathan Dial
UH Mānoa Graduate Student Organization, President

Date: Tuesday, March 14, 2016

Time: 10:30 AM

To: House Committee on Labor
Rep. Mark Nakashima, Chair
Rep. Jarrett Keohokalole, Vice Chair

Re: Support for SB2398 Relating to Collective Bargaining

My name is Benton Rodden, and I am the Employment and Compensation Chair for the Graduate Student Organization, as well as a Graduate Student. I am writing to you today to express my strong support for SB2398, which would grant Graduate Students the right to collective bargaining.

In my capacity as Employment and Compensation Chair for the Graduate Student Organization (GSO), I have spoken with numerous graduate students about the grievances they have with the University. They fall into the following categories:

- Graduate Assistants are not provided guaranteed sick days and have been threatened with termination for calling in sick.
- Graduate Assistants are not provided paid sick leave and have threatened with unpaid sick leave if they do not check out of the hospital earlier than advisable.
- Graduate Assistants are routinely pressured to work overtime hours that they are not paid for.
- Graduate Assistants are, on average, paid two to six weeks late.
- Graduate Assistants are not permitted any paid parental leave.
- Graduate Assistants are not compensated enough to afford the minimum cost of living.
- Graduate Assistants are hired for short terms without the security of being rehired and with the knowledge that they may have their assistantships terminated midway through the academic year.

We seek collective bargaining simply because the above list of grievances represents the very issues labor unions have addressed for countless workers. For us, this is a very pragmatic decision.

Graduate Assistants have not received a pay increase since 2004, during which time the cost of living according to the consumer price index (CPI) has increased 74%. The current pay amounts to 43% of the minimum living wage for a single person. Compared to the University's peer and benchmark institutions, this leaves UH at second to the bottom. UH is only able to compete with the University of Mississippi, which happens to be in a right to work state.

University management has argued that Graduate Assistants are not employees of the University of Hawai'i. The majority of teaching assistants (TA) are in charge of

teaching their own classes. They do all the grading and lecturing, as well as design the syllabus and maintain decorum in the classroom. Our research assistants are often working on independent projects of their own at the direction of an assigned supervisor. Other Graduate Assistants are working in administrative offices performing the same duties as any administrative office worker.

Graduate Assistants in every role meet the common law test's criteria for employment as well as the so-called ABC test's criteria. Graduate Assistants do not control their own hours and have employment taxes withheld from their State of Hawai'i issued paychecks. Graduate Assistants are required to attend trainings and undergo periodic evaluations. A Graduate Assistants' supervisor, often a University recognized employee, controls the means and manner in which a Graduate Assistant carries out their work.

Some have taken issue with the temporary nature of our positions. I want to make clear that we are here not in spite of this, but precisely because the temporary nature of our jobs places us in a position of particular vulnerability. Negotiating longer terms of employment would be a priority of any union that should form. Guarding against the exploitation of temporary workers ought to be a goal of this body as well.

Graduate students are an integral part of the UH system and the local economy. While attending UH, we constitute a committed learning community, do important research, and perform a substantial proportion of the teaching duties. Unfortunately, we are poorly compensated and are vulnerable to exploitation and poor treatment. As individuals, we stand little chance of success in demanding better treatment and compensation, and the long history of failed attempts at improvements proves this to be true. Our only hope for improving our own situations, then, is to collectively bargain with the University administration. For these reasons, I strongly urge you to support SB2398.

Thank you for your time and the opportunity to express my opinion.

Respectfully submitted,

Benton Rodden
bentonrodden@gmail.com

The Twenty-Eighth Legislature
Regular Session of 2016

HOUSE OF REPRESENTATIVES
Committee on Labor & Public Employment
Rep. Mark M. Nakashima, Chair
Rep. Jarrett Keohokalole, Vice Chair
State Capitol, Conference Room 309
Tuesday, March 15, 2016; 10:30 a.m.



**STATEMENT OF THE ILWU LOCAL 142 ON S.B. 2398, SD2
RELATING TO COLLECTIVE BARGAINING**

The ILWU Local 142 **supports** S.B. 2398, SD2, which establishes a collective bargaining unit for graduate student assistants employed by the University of Hawaii, and delays formation of the bargaining unit until 7/1/2017.

As employees of the University of Hawaii, UH graduate assistants are entitled by law and the State Constitution to organize and form a union for purposes of collective bargaining. The first step will be to create a new bargaining unit, which S.B. 2398, SD2 will do to allow graduate assistants the right to collective bargaining that other public employees already enjoy. The fact that graduate assistants may not be employed in their positions for a long period of time should not deny them the right to negotiate for wages, benefits, and working conditions as other public employees do.

The ILWU urges passage of S.B. 2398, SD2. Thank you for the opportunity to share our views on this issue.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

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

LATE

The Twenty-Eighth Legislature, State of Hawaii
House of Representatives
Committee on Labor and Public Employment

Testimony by
Hawaii Government Employees Association

March 15, 2016

S.B. 2398, S.D. 2 – RELATING TO
COLLECTIVE BARGAINING

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly supports the concept of allowing graduate student assistants employed by the University of Hawaii to be included in an appropriate collective bargaining unit, as proposed in S.B. 2398, S.D. 2.

Graduate assistants employed by the University have encountered numerous work related issues in the past, including budget set backs and increases in class size and workload, in addition to the high cost of living in Hawaii. The language proposed in S.B. 2398, S.D. 2 is the most viable legislation as it not only removes the current exclusion of this group from collectively bargaining but also creates a unique bargaining unit with a dispute mechanism to resolve differences in negotiations.

Thank you for the opportunity to testify in strong support of S.B. 2398, S.D. 2.

Respectfully submitted,

Randy Perreira
Executive Director



LATE

COMMITTEE ON LABOR

Rep. Mark M. Nakashima, Chair

Rep. Jarrett Keohokalole, Vice Chair

DATE: Tuesday, March 15, 2016

TIME: 10:30 A.M.

PLACE: Conference Room 309

SB2398 SD2: TESTIMONY IN SUPPORT

Aloha, Chair Nakashima and Committee Members.

The Hawai'i Democratic Party is proud to support the passage of SB2398 SD2 and the efforts of graduate employees at the University of Hawai'i the opportunity to join the labor movement in our state. The right to bargain with your employer is a long-held value in our state's public institutions.

We believe graduate employees make important contributions to our University and our commitment to public education at the highest levels. They are essential to instruction and research. We believe graduate employees are employees. They undergo academic performance reviews, and should be entitled to collective bargaining rights, alongside the majority of employees at the University who have access to representation.

Graduate employees deserve the same labor protections as the staff of the University. We recognize their labor, and the precarious situation many graduate employees are now in, with no access to a fair process at work, no sick days and no voice at work. Collective bargaining will go a long way to addressing the difficulties graduate employees now face despite their demonstrated commitment to serving our University.

The Democratic Party urges the quick passage of SB2398 SD2.

Mahalo for the opportunity to testify,

On Behalf of the Legislation Committee of the Democratic Party of Hawai'i



Randy Perreira
President

HAWAII STATE AFL-CIO

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LATE

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The Twenty-Eighth Legislature, State of Hawaii
Hawaii State House of Representatives
Committee on Labor and Public Employment

Testimony by
Hawaii State AFL-CIO
March 15, 2016

S.B. 2398, S.D.2 – RELATING TO
COLLECTIVE BARGAINING

The Hawaii State AFL-CIO strongly supports S.B. 2398, S.D.2, which establishes a collective bargaining unit for graduate student assistants employed at the University of Hawaii.

Having the ability to collectively bargain will give University of Hawaii graduate students a unified voice to discuss their working conditions, wages, and a number of other benefits to help improve their quality of life and work environment. Collective bargaining will help solve workplace problems and provide a grievance process to ensure each situation is handled appropriately and fairly. The Hawaii State AFL-CIO strongly urges the passage of S.B. 2398, S.D.2.

Thank you for the opportunity to testify.

Respectfully submitted,

Randy Perreira
President

**Kevin Wilson
Individual College Student
Testimony SB 2398 SD2**

LATE

**Email: Kwilson808@gmail.com
227-0029**

Telephone: (808)

Tuesday, March 15, 2016

To: Representative Nakashima, Chair
Representative Keohokalole, Vice Chair
Members of the House Committee on Labor and Public Employment

From: Kevin Wilson

Re: SB 2398 SD 2 (HB 1940 HD1)
House Committee on Labor and Public Employment
Tuesday, March 15, 2016 at 10:30 a.m.

Position: Comments

Good morning Chair Nakashima, Vice Chair Keohokalole and members of the House Committee on Labor and Public Employment

My name is Kevin Wilson, a current student at the University of Hawaii at Manoa and a Leeward Community College (LCC) alumni.

Graduate student assistants include international students. These students have to apply for an F-1 or M-1 visa to enter the country. A non-refundable academic student visa application fee is \$160. An unintended consequence of SB 2398 SD 2 (HB 1940 HD1) may require international students to apply for a temporary work visa because of the classification of a collective bargaining unit. A non-refundable temporary/seasonal work and employment visa application fee is \$190.

Thank you for the opportunity to testify.