

THE CIVIL BEAT
LAW CENTER FOR THE PUBLIC INTEREST

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Senate Committee on Judiciary
Honorable Brian T. Taniguchi, Chair
Honorable Karl Rhoads, Vice Chair

RE: Testimony Commenting on H.B. 1768 H.D. 2, S.D. 1,
Relating to Information Practices
Hearing: March 29, 2018 at 9:30 a.m.

Dear Chair and Members of the Committee:

My name is Brian Black. I am the Executive Director of the Civil Beat Law Center for the Public Interest, a nonprofit organization whose primary mission concerns solutions that promote governmental transparency. Thank you for the opportunity to submit testimony **commenting on H.B. 1768 H.D. 2, S.D. 1.**

As amended by the Senate Committee on Labor, H.B. 1768 now better approximates the original intent of the mandatory disclosure provision for government salaries as applied to legislative staff and employees. The amendments preserve the public's significant interest in monitoring the taxpayer-funded compensation of government employees.

We note that the prior committee suggested examining the issue of salary disclosures for exempt Executive Branch employees. The Law Center recognizes that the current statutory delineation of civil service employees for salary-range disclosure is imperfect. But reducing public transparency for all "exempt" employees does not work because, based on information provided by the Department of Human Resources Development, that category would include – among others – branch chiefs, project managers, and supervisors.¹ Also, "exempt" employees is not a defined concept and will lead to confusion and disputes. The issues concerning Executive Branch disclosures are more complex than the legislative salary disclosures and would be better addressed in separate legislation.

The Law Center is willing to work with HGEA and other interested stakeholders on possible solutions for Executive Branch salary disclosures. But this bill should address its original focus – legislative salary disclosures – on which there is more consensus.

Thank you again for the opportunity to testify.

¹ The Law Center's request and resulting data may be found at <https://uipa.org/r/101>.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

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

The Twenty-Ninth Legislature, State of Hawaii
The Senate
Committee on Judiciary

Testimony by
Hawaii Government Employees Association

March 29, 2018

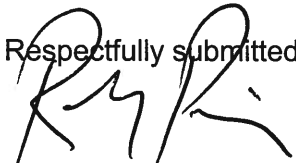
H.B. 1768, H.D. 2, S.D. 1 – RELATING
TO INFORMATION PRACTICES

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO conceptually supports the intent of H.B. 1768, H.D. 2, S.D. 1 which amends a section of the Uniform Information Practices Act by allowing the disclosure of a legislative employee's salary range rather than the exact compensation, with a proposed amendment.

Under the current Uniform Information Practices Act, each agency must allow the members of the public access to employee information, including an employee's name, bargaining unit, job title, business address and telephone number, education and training background, and previous work experience, in addition to an agency's present and former officers. While we understand and agree with the need for government accountability and transparency, and acknowledge that tax payers want to know how and where their money is being spent, publishing any employee's dollar amount salary does not adequately capture the State's expenses. All employees are entitled to a measure of privacy, and should be afforded basic dignity and respect in doing their jobs. Being a government employee does not necessitate one to be subject to the degradation, embarrassment and anxiety that a full disclosure may cause.

Therefore, while we support the intent of H.B. 1768 to amend statute specific to legislative officers, we respectfully request an amendment to equally extend the same provisions for all employees, including those who are exempt from civil service.

Thank you for the opportunity to testify in support of H.B. 1768, H.D. 2, S.D. 1 with a proposed amendment.

Respectfully submitted,

Randy Perreira
Executive Director



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SENATE COMMITTEE ON JUDICIARY

Thursday, February 29, 2018, 9:30 AM, Conference Room 016
HB 1768, SD 1 Relating to Information Practices

TESTIMONY

Douglas Meller, Legislative Committee, League of Women Voters of Hawaii

Chair Taniguchi and Committee Members:

The League of Women Voters strongly opposes HB 1768, SD 1. This bill substitutes disclosure of a broad salary range to replace disclosure of the exact salary paid to certain legislative officers and employees.

Our concern is that this bill would apply to “political hires” whose selection and compensation primarily are based on political considerations. Several decades ago, some elected officials used to adjust the salaries of their “political hires” to encourage campaign contributions. The League opposes enactment of legislation which might:

- preclude the public and news media from learning of unethical and/or capricious adjustment of salaries paid to “political hires” and
- preclude the public and news media from evaluating whether “political hires” are appropriately compensated.

Thank you for the opportunity to submit testimony.



Senate Committee on Judiciary
Chair Brian Taniguchi, Vice Chair Karl Rhoads

03/29/2018 9:30 AM Room 016
HB1768 HD2 SD1 – Relating to Information Practices

TESTIMONY / COMMENTS
Corie Tanida, Executive Director, Common Cause Hawaii

Dear Chair Taniguchi, Vice Chair Rhoads, and members of the committee:

Common Cause Hawaii offers comments on HB1768 HD2 SD1 which would provide legislative employee salary information in ranges, rather than exact compensation.

We appreciate the effort that has gone into this bill, as the current version now better balances the privacy of employees with the public interest. Exact compensation disclosure should still apply to top-level, managerial positions and that the salary range within \$15,000 increments for other legislative employees will still provide the public with useful information.

However, it was noted in a previous committee that perhaps this bill should be expanded to include other government employees. While we are not opposed to exploring this option, much more discussion is needed and the community should have the opportunity to weigh in. Thus, if this is something you're considering, we urge you address this in future legislation.

Thank you for the opportunity to offer **comments on HB1768 HD2 SD1**.

OFFICE OF INFORMATION PRACTICES

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To: Senate Committee on Judiciary

From: Cheryl Kakazu Park, Director

Date: March 29, 2018, 9:30 a.m.
State Capitol, Conference Room 016

Re: Testimony on H.B. No. 1768, H.D. 2, S.D. 1
Relating to Information Practices

Thank you for the opportunity to submit testimony on this bill, which would amend the Uniform Information Practices Act (“UIPA”) to provide that for legislative employees, only their salary range would be disclosable, as is the case for union or civil service employees, and not the exact salary, as for exempt employees. The Office of Information Practices (“OIP”) takes **no position** on the question of whether the category of employees for whom only salary range is disclosable should be expanded. **OIP is concerned, however, that making such a change only for legislative employees would lead to differential treatment of salary information for legislative employees versus government employees in general. Therefore, OIP suggests an amendment to the bill that would bring the law back to its original intent.**

The substance and the legislative history of the UIPA’s salary disclosure provision suggest that the Legislature adopted the recommendations of the Governor’s Committee on Public Records and Privacy regarding how best to balance employee privacy with the public interest in government employee salaries, as discussed at length in OIP Opinion Letter Number 93-10. The Governor’s

Committee intended the focus for exact salary disclosure to be on “the salaries of appointed or high level positions.” Vol. I Report of the Governor's Committee on Public Records and Privacy (1987), 106, 109, *quoted in* OIP Op. Ltr. No. 93-10 at 4. More specifically, the intent was that “providing the actual salaries of all ‘exempt and/or excluded employees’ would mean that the salaries of all appointed positions and all managerial positions would be public,” with only salary ranges disclosed for other employees. Id.

OIP recognizes that in the decades since that report was written, the number of exempt and excluded employees has grown to include many employees who are not managerial or high level, or are not appointed (except in the sense of being appointed by the head of the office or agency), and thus are not the type of employee the Governor’s Committee and the Legislature originally envisioned as appropriate for disclosure of exact salaries. For this reason, **OIP is not conceptually opposed to amending the UIPA’s mandatory disclosure provision to bring the category of government employees for whom exact salary must be disclosed more into line with the Legislature’s original intent. However, this issue is not limited to legislative staff and legislative agencies. OIP is concerned that this bill as written would increase the differential treatment of government employee salary information under the UIPA,** by providing that all legislative staff and non-managerial employees of legislative service agencies would have only salary ranges disclosed, while clerical and other lower level exempt employees in the executive branch and elsewhere would continue to have exact salaries disclosed.

If this Committee is inclined to return to the original intent of the UIPA to provide only salary ranges for positions that are non-managerial and not appointed by the Governor or Legislature, then **OIP recommends that it make**

such an amendment applicable to all non-managerial employees, not just those in the legislative branch. Consequently, OIP suggests the following amendment in section 1 to paragraph (14):

(14) The name, [~~compensation (but only the salary range for employees covered by or included in chapter 76, and sections 302A-602 to 302A-639, and 302A-701, or bargaining unit (8))~~] salary range within \$15,000 (provided that the exact salary shall be disclosed for employees whose exact salary is set by statute or ordinance or for managerial employees appointed by the Governor, the Legislature, the Mayor or the County Council of a political subdivision of the State, the Chief Justice, the Board of Trustees of the Office of Hawaiian Affairs, or the University of Hawaii Board of Regents)[], job title, business address, business telephone number, job description, education and training background, previous work experience, dates of first and last employment, position number, type of appointment, service computation date, occupational group or class code, bargaining unit code, employing agency name and code, department, division, branch, office, section, unit, and island of employment, of present or former officers or employees of the agency; provided that this paragraph shall not [~~require~~]:

(A) Require the creation of a roster of employees; and [~~provided further that this paragraph shall not apply~~]

(B) Apply to information regarding present or former employees involved in an undercover capacity in a law enforcement agency.

Thank you for considering OIP's testimony and proposed amendment that would bring this provision of the UIPA back to its original intent.

HB-1768-SD-1

Submitted on: 3/27/2018 12:37:24 PM

Testimony for JDC on 3/29/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Wendy Arbeit	Individual	Oppose	No

Comments:

I oppose this measure. The public has a right to know what public employees are making, especially those in high-ranking positions.

HB-1768-SD-1

Submitted on: 3/27/2018 8:33:11 PM

Testimony for JDC on 3/29/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
lynne matusow	Individual	Oppose	No

Comments:

The public has a right to know. This bill should die now. It is another example of the government hiding things from those who pay their salaries. We need transparency, not opaqueness.

If people want to work for government then the public has a right to know the salaries. If the employee doesn't like it they can get another job. We are the ones who pay the salary, not legislators, etc. Everyone's salary should show, not vague ranges. And you wonder why populism is taking off!

I find it interesting that those concerned with the public interest and sunshine oppose the bill and unions, government organizations, etc. favor the bill. There is something wrong with this picture, very wrong.

Lynne Matusow

Senator Brian T. Taniguchi, Chair
Senator Karl Rhoads, Vice Chair
Senate Committee on Judiciary

LATE

Testimony of Jame K. Schaedel

Thursday, March 29, 2018

Support for House Bill No. 1768, H.D. 2, S.D. 1 – Relating to Information Practices

WRITTEN TESTIMONY ONLY

Thank you for the opportunity to offer testimony in **strong support** for House Bill No. 1768, H.D. 2, S.D. 1. This draft of the bill allows the public to continue inspecting the salaries of the permanent employees of the Legislature, but limits the salary disclosure to a salary range instead of the exact amount of compensation.

I offer this testimony as a private citizen.

I recognize that all public employees are accountable to the people of the State of Hawai‘i. However, permanent employees of the Legislature have always been held to the same standards of public scrutiny which also apply to legislators. I believe these standards should apply to our elected officials, but not on those individuals appointed by them.

As a former Office Manager and Administrative Services Manager employed by the House of Representatives, I always found it disconcerting that anyone with Internet access could find out my exact amount of compensation. In addition, we were required to file the same ethics and financial disclosures as legislators, but asset and liability amounts were limited to a range.

I am currently employed by the state in Bargaining Unit 13 and only our salary range is provided for public disclosure. This same level of privacy should be afforded to the permanent employees of the Legislature as well.

Thank you for the opportunity to provide written testimony in strong support for this bill, and thank you to Speaker Saiki for introducing this measure. I implore you to pass this bill, unamended, with a recommendation for passage on Third Reading.

Respectfully,

Jame K. Schaedel