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

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

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

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON LABOR, CULTURE AND THE ARTS
ON
SENATE BILL NO. 2705

**February 11, 2022
3:15 p.m.
Room 225 and Videoconference**

RELATING TO PUBLIC EMPLOYEE COMPENSATION

The Department of Budget and Finance (B&F) offers comments on this bill.

Senate Bill No. 2705: 1) establishes the Public Employees' Compensation Appeals Board (PECAB), to be administratively attached to the Department of Accounting and General Services (DAGS), for the purposes of adopting rules and hearing appeals for the repricing of classes; 2) authorizes the PECAB to make findings, determinations, and binding adjustments to the compensation plan of an appealed class across all jurisdictions; 3) requires each Director to submit, through the Office of the Governor, a report on adjusted compensation plans for the Legislature's information and approval to take effect on July 1st of each even-numbered year; 4) requires each Director to amend salary ranges for each adjusted class; and 5) appropriates an unspecified amount of general funds for FY 23 to DAGS for the establishment of the PECAB.

B&F notes that the Department of Human Resources Development (DHRD) opposed a similar measure, introduced in the 2020 Legislature, on the grounds that the

PECAB would duplicate existing processes to reprice classes via collective bargaining in Sections 89-9(f)(1) and 89-9(f)(2), HRS, undo parts of the civil service reform enacted in 2000 and be unnecessarily time-consuming and expensive. B&F defers to DHRD and DAGS on the costs and merits of establishing the PECAB.

B&F notes that, with respect to the general fund appropriation in this bill, the federal Coronavirus Response and Relief Supplemental Appropriations Act requires that states receiving Elementary and Secondary School Emergency Relief (ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with these ESSER MOE requirements.

Thank you for your consideration of our comments.

DAVID Y. IGE
GOVERNOR



RYKER WADA
DIRECTOR

ANDREW T. GARRETT
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
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TESTIMONY TO THE
SENATE COMMITTEE ON LABOR, CULTURE AND THE ARTS

For Hearing on Friday, February 11, 2022
3:15 p.m., Conference Room 225

BY

RYKER WADA
DIRECTOR

Senate Bill No. 2705
Relating to Public Employee Compensation

TO CHAIR TANIGUCHI, VICE CHAIR IHARA JR., AND MEMBERS OF THE COMMITTEE:

The purpose of Senate Bill No. 2705 is to establish the public employees' compensation appeals board to hear appeals requesting the repricing of a class. The Department of Human Resources Development (DHRD) respectfully **opposes** this measure.

Act 253, SLH 2000 reformed existing public employment laws and provided a comprehensive, responsive body of law to bring about a more efficient and effective means of providing government services to the people of Hawaii consistent with two Hawaii State Constitutional mandates – that there be a civil service based on merit and that public employees have the right to bargain collectively. Through Act 253, SLH 2000, several processes were established within the Hawaii Revised Statutes (HRS) to address this matter, as outlined below:

First, Sections 76-14(a) and 76-14(a)(3), HRS, indicate that the Merit Appeals Board of each jurisdiction has the authority to hear and decide appeals on the initial pricing of classes. Based on this, a process already exists to address concerns over the pricing of a new class.

Second, Section 89-9(f)(1), HRS, states: "[a]t the request of the exclusive representative and at times allowed under the collective bargaining agreement, the employer shall negotiate

the repricing of classes within the bargaining unit." In addition to the first item above, this language currently provides the exclusive representatives another opportunity to reprice classes they feel are not appropriately priced.

Lastly, Section 89-9(f)(2), HRS, states: "[i]f repricing has not been negotiated under paragraph (1), the employer of each jurisdiction shall ensure establishment of procedures to periodically review, at least once in five years..., the repricing of classes within the bargaining unit. The repricing of classes based on the results of the periodic review shall be at the discretion of the employer...." This provision requires that each jurisdiction review the pricing of their classes to determine if any errors were made in the initial pricing determination that would warrant additional consideration.

These existing processes ensure that the pricing of classes is reviewed on a regular basis and also provides the Union(s) with opportunities to address concerns regarding the pricing of classes through negotiations.

Notwithstanding the above, S.B. 2705 is of even more concern to DHRD insofar as it would fail to ensure a civil service system based on the merit principle, as well as adherence to Chapter 76-1(5), HRS, which states "[e]qual pay for equal work shall apply between classes in the same bargaining unit among jurisdictions for those classes determined equal through systematic classification of positions based on objective criteria and adequate job evaluation, unless it has been agreed in accordance with Chapter 89 to negotiate the repricing of classes."

DHRD strongly believes the existing processes provide fair and equitable opportunity for the appropriate pricing of classes. S.B. 2705, by establishing a public employees' compensation appeals board, takes us back in time and appears to undo parts of the civil service reform enacted by Act 253, SLH 2000. It is duplicative of the existing processes, will be time-consuming, and will require funds to implement. Given the foregoing, we recommend that S.B. 2705 be held. Thank you for the opportunity to provide testimony on this measure.

DEPARTMENT OF HUMAN RESOURCES

CITY AND COUNTY OF HONOLULU

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RICK BLANGIARDI
MAYOR



NOLA N. MIYASAKI
DIRECTOR DESIGNATE
FLORENCIO C. BAGUIO, JR.
ASSISTANT DIRECTOR

February 10, 2022

The Honorable Brian T. Taniguchi, Chair
The Honorable Les Ihara, Jr., Vice Chair
and Members of the Committee on Labor, Culture and the Arts
The Senate, Conference Room 225
State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Brian T. Taniguchi, Vice Chair Les Ihara, Jr., and Members of the Committee:

Subject: Senate Bill No. 2705
Relating to Public Employees Compensation

Senate Bill 2705 establishes the public employees' compensation appeals board (PECAB) to hear appeals requesting the repricing of a class and appropriates moneys.

The City and County of Honolulu, Department of Human Resources (DHR), respectfully submits the following **concerns** on this measure.

1. The number of employer-nominated members that will sit on PECAB is uncertain as the bill does not specify which jurisdictions will be allowed to nominate a member. Per HRS §89-2, "Jurisdiction" means the State, the City and County of Honolulu, the County of Hawaii, the County of Maui, the County of Kauai, the Judiciary, and the Hawaii Health Systems Corporation." Under this statutory definition, the Employer would have a total of seven (7) members. In contrast, the bill specifically states that a total of eight (8) union-nominated members will sit on the board. These numbers provide the Unions with an automatic majority, especially with two unions having two members each on the board. Additionally, it is not appropriate for BU05 and BU07 to have representation on a board that will render repricing decisions on civil service classes that utilize a different classification and compensation system than the classes in BU05 and BU07.
2. The current classification and pricing system is based on well-defined classification factors and pricing criteria that ensure internal alignment and compliance with HRS §76-1(5) which states, "equal pay for equal work shall

apply between classes in the same bargaining unit among jurisdictions for those classes determined equal through systemic classification of positions based on objective criteria and adequate job evaluation...”

This bill gives PECAB the authority to define the way pricing and repricing are determined and applied, which can potentially upset and undermine the entire structure of the current classification and pricing system to the detriment of the public employers. As the composition of PECAB, as well as the criteria/factors it will adopt for the pricing/repricing of classes is unclear, it is likely that potential costs for the employer group will increase significantly. **All repricing costs will come out of the Employer pocket and repricing actions could impact entire bargaining units. These costs will be in addition to increases negotiated via collective bargaining (i.e. across-the-board increases, step movements, etc.).** An increase of one salary range equates to an increase of approximately four percent (4%) to the base pay of every affected employee. Based on the current classification plan and pricing relationships, most repricing actions would result in at least a two salary range increase of eight percent (8%), potentially once every two to three years, significantly increasing the cost to the employer.

3. The purpose of the previous PECAB was to ensure internal alignment of all civil service classes within a bargaining unit. Thus, classes performing work of an equivalent level of difficulty and responsibility were assigned to the same salary range(s) so employees could be paid at the same rates. This pricing/salary range assignment of classes is tied to the salary schedule for the appropriate bargaining unit. The rates on the salary schedules are negotiated between the employer and the affected Union. As such, the Unions already have—through collective bargaining—an opportunity to increase the salaries paid to their employees. By allowing PECAB to be created as proposed, the Union would have a second opportunity and venue to seek salary increases.
4. At present, the Unions have multiple avenues to appeal or negotiate the pricing or repricing of classes as outlined below:
 - Section 76-14(a) and 76-14(a)(3), Hawaii Revised Statutes (HRS) provides for the Merit Appeals Board of each jurisdiction the authority to hear and decide on appeals for the initial pricing of classes.
 - Section 89-9(f)(1), HRS states that at times allowed under collective bargaining, the union and the employer shall negotiate the repricing of classes within the bargaining unit. These costs would come out of the monies allotted for negotiations.

The Honorable Brian T. Taniguchi, Chair
The Honorable Les Ihara, Jr., Vice Chair
and Members of the Committee on Labor, Culture and the Arts
February 10, 2022
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- Section 89-9(f)(2), HRS states that if repricing has not been negotiated, the employer of each jurisdiction shall review, at least once every five years, the repricing of classes within the bargaining units and report such to their respective legislative bodies. These costs would come out of the Employer's pocket.

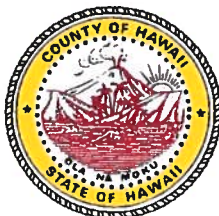
The bill raises concerns regarding the fairness as well as the costs of providing an additional avenue for the Unions to file repricing appeals. With this proposed process, the Employer would be continuously addressing repricing requests which will consume a considerable amount of staff time in addition to travel expenses and related costs to the Employer.

Based on the concerns stated above, DHR respectfully requests that S.B. 2705 be deferred.

Thank you for the opportunity to provide testimony on S.B. 2705.

Sincerely,

Nola N. Miyasaki
Director Designate



County of Hawai'i Department of Human Resources

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February 10, 2022

TESTIMONY TO THE SENATE COMMITTEE ON LABOR, CULTURE AND THE ARTS
Senator Brian T. Taniguchi, Chair
Senator Les Ihara, Jr., Vice Chair

Subject: Senate Bill No. 2705 – Relating to Public Employee Compensation

Dear Chair Taniguchi, Vice Chair Ihara, and Members of the Committee:

Senate Bill No. 2705 proposes to establish the public employees' compensation appeals board to hear appeals requesting the repricing of a class. The County of Hawai'i opposes this measure and respectfully submits the following comments, as there are in several processes within the Hawai'i Revised Statutes (HRS) which provide processes for the review and repricing of classes.

First, HRS §76-14(a) and §76-14(a)(3), state that the Merit Appeals Board of each jurisdiction has the authority to hear and decide appeals relating to the initial pricing of classes.

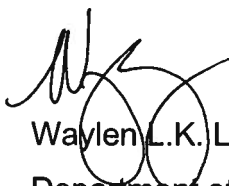
Second, HRS §89-9(f)(1) states: "[a]t the request of the exclusive representative and at times allowed under the collective bargaining agreement, the employer shall negotiate the repricing of classes within the bargaining unit." This allows the exclusive representative to request the negotiation of repricing with the employer under the collective bargaining agreement.

Lastly, HRS §89-9(f)(2) states "if repricing has not been negotiated, under paragraph (1), the employer of each jurisdiction shall ensure establishment of procedures to periodically review, at least once in five years..., the repricing of classes within the bargaining unit. The repricing of classes based on the results of the periodic review shall be at the discretion of the employer..." This requires each jurisdiction to review the pricing of their classes.

S.B. 2705, duplicates the existing processes which currently provide the Union(s) with opportunities to address concerns regarding the pricing of classes and ensures pricing of classes are reviewed on a regular basis. Furthermore, S.B. 2705 is concerning because it would fail to ensure compliance with HRS §76-1, which requires each jurisdiction to establish and maintain a separately administered civil service system based on the merit principle and HRS §76-1(5) which provides that equal pay for equal work shall apply between equal classes in the same bargaining unit among jurisdictions, unless agreed in accordance with Chapter 89 to negotiate the repricing of classes. In addition, S.B. 2705 has significant financial impacts that are of particular concern for the County of Hawai'i.

Given the information provided, including existing processes in place that addresses the intent of this measure, the County of Hawai'i opposes this measure and recommends that S.B. 2705 be held. The opportunity to testify on this matter is greatly appreciated.

Sincerely,



Waylen L.K. Leopoldino, Acting Director
Department of Human Resources



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

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

The Thirty-First Legislature, State of Hawaii
The Senate
Committee on Labor, Culture and the Arts
Testimony by
Hawaii Government Employees Association

February 11, 2022

S.B. 2705 – RELATING TO PUBLIC EMPLOYEE COMPENSATION

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO supports the purpose and intent of S.B. 2705 which reestablishes the Public Employees' Compensation Appeals Board to adjudicate appeals regarding the repricing of classifications of employees.

The Public Employees' Compensation Appeals Board (PECAB) was originally established in 1961 by enactment of Act 188 with the intent to provide uniform policies and procedures for compensation to assure "equal pay for equal work" for government employees. Along with the sweeping reforms to civil service law in 2000, the statutory authority governing PECAB was repealed, making the repricing of classifications a negotiable item between unions and each jurisdiction. In the past twenty years since civil service reform, employees have sought to reprice their classifications with very limited success. Employers deny repricing requests and claim that upon their review, they have determined that all current position pricing is appropriate, however they do not proffer the basis of that determination. The current process is clearly lopsided and unfair: it fails to include any appeal mechanism or adjudication via impartial review and empowers the employer to arbitrarily rule against employees without recourse. This unbalance has adversely impacted governmental operations, as the high vacancy rates and use of long-term shortage differentials clearly refutes the employer's claim that all classifications are priced at market rates.

It is our hope that the reestablishment of PECAB will assist in properly pricing classes of employees and that paying a competitive salary will be one of many tools utilized in reducing the state's and counties' high turnover and vacancy rates. This measure represents the beginning of a long overdue conversation, and we look forward to working with all stakeholders to establish a fair process to reprice employees. Thank you for the opportunity to provide testimony in strong support of S.B. 2705.

Respectfully submitted,



Randy Perreira
Executive Director



THE SENATE
THE THIRTY-FIRST LEGISLATURE
REGULAR SESSION OF 2022

Committee on Labor, Culture and the Arts

Senator Brian T. Taniguchi, Chair

Senator Les Ihara, Jr., Vice Chair

Friday, February 11, 2022, 3:15PM
Conference Room 225 and Videoconference

Re: Testimony in Support of SB2705 – RELATING TO PUBLIC EMPLOYEE COMPENSATION

Chair Taniguchi, Vice Chair Ihara, and Members of the Committee:

The United Public Workers, AFSCME Local 646, AFL-CIO (“UPW”) is the exclusive bargaining representative for approximately 14,000 public employees, which includes 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 1,500 members in the private sector.

UPW **supports the intent** of SB2705, which establishes the public employees’ compensation appeals board to hear appeals requesting the repricing of a class and appropriates funds.

While it was repealed back in 2000, the Public Employees’ Compensation Appeals Board (PECAB) was intended to help provide uniform policies and procedures for compensation to help to guarantee government employees were receiving “equal pay for equal work.” However, as a result, the reprice of classifications became a negotiable item between the unions and each jurisdiction. Currently, employers can deny repricing requests and claim that upon review, it’s determined that all current position pricing is appropriate, but don’t necessarily provide the basis of that determination. Hopefully the reestablishment of the PECAB will help to address the state’s and counties’ vacancies and turnover rates by properly pricing the classes of employees and promoting competitive salaries.

Thank you for the opportunity to provide testimony.

Sincerely,

Liz Ho

UNITED PUBLIC WORKERS
AFSCME Local 646, AFL-CIO



Administrator