

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
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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 JUDICIARY
ON
SENATE BILL NO. 2707

March 1, 2022
9:30 a.m.
Via Videoconference

RELATING TO COLLECTIVE BARGAINING

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

This measure amends Chapter 89, HRS, to require the employer to negotiate repricing within 30 days of receipt of a written request from unions. In addition, the measure implements impasse procedures if the employer fails to timely initiate a negotiation in compliance with paragraph (1) or the parties cannot reach an agreement within 90 days after the exclusive representative's written request to negotiate or by January 31 of a year in which the agreement is due to expire, whichever is earlier.

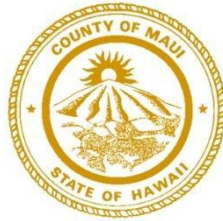
B&F has serious operational concerns with this measure. Under the terms of this measure, soon after a collective bargaining agreement is reached or arbitration award is issued, unions could request repricing negotiations with impasse following 90 days after that. In addition to the direct costs of repricing arbitration awards, there are concerns with the increasing administrative costs and complexities of a potential endless cycle of contract negotiations and arbitrations.

Thank you for your consideration of our comments.

MICHAEL P. VICTORINO
Mayor

DAVID J. UNDERWOOD
Director

Cynthia Razo-Porter
Deputy Director



DEPARTMENT OF PERSONNEL SERVICES

COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
PHONE (808) 270-7850 * FAX (808) 270-7969
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February 28, 2022

TESTIMONY TO THE
SENATE COMMITTEE ON JUDICIARY

For hearing on Tuesday, March 1, 2022
9:30 a.m., via Videoconference

BY
DAVID J. UNDERWOOD
DIRECTOR OF PERSONNEL SERVICES
COUNTY OF MAUI

Senate Bill No. 2707
Relating to Collective Bargaining, Repricing of Classes

TO CHAIR RHOADS, VICE CHAIR KEOHOKALOLE, AND MEMBERS OF THE
COMMITTEE:

The proposed Senate Bill No. 2707 requires the employer to initiate negotiations on repricing of classes within the bargaining unit within thirty (30) days of its receipt of the exclusive representative's written request to negotiate; and established that the employer's failure to initiate the negotiation within such time frame and the parties' failure to reach an agreement within ninety day of the exclusive representative's written request to negotiate or by January 31 of a year in which the collective bargaining agreement is due to expire, whichever is earlier, constitute an impasse to which the impasse procedures in section 89-11, Hawaii Revised Statutes, shall apply.

The County of Maui, Department of Personnel Services respectfully opposes this measure. The pricing of any class is the assignment of classes of work to a salary range based on the application of well-defined factors such as the nature, scope, complexity of work performed, knowledge and skills required. Pricing is used by the Employer to ensure that similar classes are in alignment with comparable classes that have the same salary range assignment and are compensated fairly in relation to one another.

The pricing and repricing of classes were established to address internal fairness and equity. Its intent was not to address external factors, such as recruitment difficulties, vacancy rates, employee retention, cost of living, or salaries paid in the private sector. These factors are already considered when the actual pay rates associated with the salary ranges are negotiated with the exclusive representatives. Senate Bill 2707 as currently written contains no clear criteria or factors to be considered in repricing. In addition, the bill requires that any impasse be resolved by binding arbitration. Thus, if the bill is passed, it is likely that the factors considered could not only differ from those that have underpinned the classification systems of the various jurisdictions for decades, but may also differ from bargaining unit to bargaining unit, and then ultimately be decided by an outside arbitrator with no knowledge of or experience with our internal pricing relationships or historical pricing patterns. We believe this would be likely to disrupt the County of Maui's current pay structure.

We believe that under the current law, there are established fundamental statutes to ensure a reasonable and objective process to establish equal pay for equal work and pricing of all classes, as well as, multiple avenues to appeal or negotiate the pricing or repricing of classes.

As stated in Chapter 76-1 in the Hawaii Revised Statutes (HRS), "the purpose is for each jurisdiction to establish and maintain a separate civil service system based on the merit principle, which includes specific language equal pay for equal work shall apply between classes in the same bargaining unit among jurisdictions for those classes determined to be equal through systematic classification of positions based in objective criteria and adequate job evaluation." In addition, sections 76-14(a) and 76-14(a)(3), Hawaii Revised Statutes, provide for the Merit Appeals Board of each jurisdiction the authority to hear and decide on appeals for the initial pricing of classes.

In addition to these provisions, Chapter 89-9 establishes the scope and process of negotiation and repricing of classes. Under Chapter 89-9 (f) the repricing of classes within an appropriate bargaining unit may be negotiated as follows: 1) at 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. The negotiated repricing actions that constitute cost items shall be subject to the requirement in section 89-10. If repricing has not been negotiated under the above, the employer of each jurisdiction shall ensure establishment of procedures to periodically review, at least once in five years, unless otherwise agreed to by the parties. These costs would come out of the Employer's budget.

Lastly, Section 89(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.

With the redundancy of external factor consideration and collective bargaining, along with other currently allowable pricing and repricing appeal avenues, we believe the proposed Senate Bill 2707 is unnecessary. Further, allowing an arbitration panel to decide on such a technical matter would undermine the County of Maui's ability to consistently, fairly, and uniformly maintain pay structures and pay relationships for all classes of work. The alignment and related pricing of

SB 2707

February 28, 2022

Page 3

all classes within a jurisdiction would be significantly impacted and disrupted. Additionally, we believe Senate Bill 2707 would impact the County of Maui's ability to comply with federal and state laws that prohibit discrimination in compensation.

Based on the concerns stated above, County of Maui, Department of Personnel Services respectfully asks the Senate Bill 2707 be deferred.

Thank you for the opportunity to provide testimony.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Underwood", written in a cursive style.

DAVID J. UNDERWOOD
Director of Personnel Services



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 Judiciary
Testimony by
Hawaii Government Employees Association

March 1, 2022

S.B. 2707 – RELATING TO COLLECTIVE BARGAINING

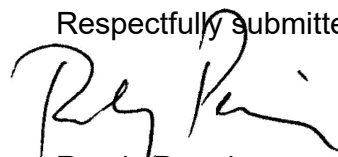
The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly supports the purpose and intent of S.B. 2707 which requires the negotiation and determination of repricing classes.

This measure is a novel approach and viable alternative to address the repricing of classes within state government. While we supported the re-establishment of the Public Employees' Compensation Appeals Board (PECAB) as outlined in S.B. 2705, we acknowledge several drawbacks: there are potential and unknown costs involved, it may be a lengthy and bureaucratic process to establish and adopt rules to govern the board, and PECAB's success is reliant upon a full and engaged board, which could be cumbersome as it includes designees from each jurisdiction and each public sector union.

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. Given this, we can conceptually support statutory language that establishes parameters or criteria to limit repricing to cases with high vacancy rates, excessive use of shortage pay, or other special circumstances based on market conditions or job requirements.

It is our hope that passage of this measure 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. In conjunction with S.B. 2705, 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. 2707.

Respectfully submitted,



Randy Perreira
Executive Director



THE SENATE
THE THIRTY-FIRST LEGISLATURE
REGULAR SESSION OF 2022

Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair

Tuesday, March 1, 2022, 9:30AM
Via Videoconference

Re: Testimony in Support of SB2707 – RELATING TO COLLECTIVE BARGAINING

Chair Rhoads, Vice Chair Keohokalole, 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** SB2707, which requires the employer to initiate negotiations on repricing of classes within a bargaining unit within thirty days of its receipt of the exclusive representative’s written request to negotiate. The bill would also establish that the employer’s failure to initiate the negotiation within such time frame and the parties’ failure to reach an agreement within ninety days of the exclusive representative’s written request to negotiate or by January 31 of a year in which the collective bargaining agreement is due to expire, whichever is earlier, constitutes an impasse to which impasse procedures under HRS, Chapter 89-11 shall apply.

Having a reasonable timetable to negotiate repricing of classes within a bargaining unit will help to ensure that public employees are being paid competitive and fair wages. By promoting access to fair and competitive wages, the State and Counties would be able to recruit and retain workers to help to address any outstanding vacancies and prevent high turnover for these positions.

Thank you for the opportunity to provide testimony.

Sincerely,

Kalani Werner
State Director

UNITED PUBLIC WORKERS
AFSCME Local 646, AFL-CIO



DAVID Y. IGE
GOVERNOR



LATE

RYKER WADA
DIRECTOR

ANDREW T. GARRETT
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
HONOLULU, HAWAII 96813-2437

TESTIMONY TO THE
SENATE COMMITTEE ON JUDICIARY

For Hearing on Tuesday, March 1, 2022 at 9:30 a.m.
Via video conference

BY

RYKER WADA
DIRECTOR

Senate Bill No. 2707
Relating to Collective Bargaining

CHAIR RHOADS, VICE CHAIR KEOHOKALOPE, AND MEMBERS OF THE COMMITTEE:

Senate Bill No. 2707 amends sections of the collective bargaining law to require the employer to initiate negotiations on repricing of classes within thirty days of a written request by the exclusive representative to negotiate. In addition, if an agreement is not reached within 90 days of the written request to negotiate, the impasse procedures in HRS §89-11 will apply.

The Department of Human Resources Development (DHRD) respectfully **opposes** this measure.

S.B. 2707 requires that if an agreement on the repricing request is not reached by the parties within 90 days, it will follow the resolution of disputes process in HRS §89-11. This is a concern since repricing is a very technical matter and this bill may result in an arbitration panel rendering a decision without proper training and understanding of the factors that go into a repricing decision. In addition, knowledge of the subject class, as well as other classes of work in the bargaining unit is also imperative in making a sound decision.

Although a binding decision by the arbitration panel is not appropriate, the existing negotiated repricing process already provides the union with the opportunity to submit negotiated repricing requests and they can also choose to submit these requests to arbitration in accordance with HRS §89-11.

Repricing is the reassignment of an existing class to another pay range without changes in duties. It occurs when the class is not in proper alignment with other classes in the same bargaining unit.

A class of work is “priced” or assigned to a pay grade based on a careful and systematic analysis of factors such as knowledge, skills, complexity, supervision received, contacts, etc. The goal is to create a pay structure and pay relationships that are equitable for all classes of work by evaluating jobs based on a consistent set of criteria.

DHRD’s failure to maintain appropriate internal pay relationships resulting from an incorrect or uninformed decision by an arbitration panel exposes the employer to serious claims of unequal pay or discrimination. An objective, consistent system of pricing and repricing classes of work protects the employer who is required to comply with federal and state laws that prohibit discrimination in compensation.

Further exacerbating the concern is the potential to have multiple bargaining units proceeding to interest arbitration resulting in multiple independent arbitration decisions.

The State is open to having a conversation with the unions to discuss ways to resolve this matter. The DHRD believes that mandating unresolved repricing requests to the impasse procedures in HRS §89-11 would jeopardize the employer’s ability to maintain an equitable pay system. Therefore, we respectfully request that this bill be **held**.

Thank you for the opportunity to provide comments in **opposition** to this measure.

DEPARTMENT OF HUMAN RESOURCES
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 10TH FLOOR o HONOLULU, HAWAII 96813
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LATE

RICK BLANGIARDI
MAYOR



NOLA N. MIYASAKI
DIRECTOR DESIGNATE

FLORENCIO C. BAGUIO, JR.
ASSISTANT DIRECTOR

February 28, 2022

The Honorable Karl Rhoads, Chair
The Honorable Jarrett Keohokalole, Vice Chair
and Members of the Senate Committee on Judiciary
The Senate, Conference Room 204
State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Karl Rhoads, Vice Chair Jarrett Keohokalole, and Members of the Committee:

Subject: Senate Bill No. 2707
Relating to Collective Bargaining

Senate Bill 2707 requires the employer to initiate negotiations on repricing of classes within a bargaining unit within thirty days of its receipt of the exclusive representative's written request to negotiate; and establishes that the employer's failure to initiate the negotiation within such time frame and the parties' failure to reach an agreement within ninety day of the exclusive representative's written request to negotiate or by January 31 of a year in which the collective bargaining agreement is due to expire, whichever is earlier, constitute an impasse to which the impasse procedures in section 89-11, HRS, shall apply.

The City and County of Honolulu, Department of Human Resources (DHR), respectfully opposes this measure.

Pricing is the initial process of assigning classes of work to a salary range based on the application of well-defined and objective factors such as the nature, scope, and complexity of work performed. Pricing is used by the Employer to ensure that classes within a jurisdiction are in alignment, meaning that similarly functioning classes have the same salary range assignment and are compensated fairly in comparison to one another. Repricing is the process of determining whether the initial pricing of a class was incorrect. While nothing has changed with regards to the work performed, there may have been an incorrect factor or consideration used in the initial determination such that the pricing of the class should be changed.

The pricing and repricing of classes was established to address internal fairness and equity. It was not intended to take into consideration external factors, such as recruitment difficulties, vacancy rates, employee retention, high cost of living, or salaries paid in the private sector. Those factors are already considered in the collectively-bargained

The Honorable Karl Rhoads, Chair
The Honorable Jarrett Keohokalole, Vice Chair
and Members of the Senate Committee on Judiciary
February 28, 2022
Page 2

negotiation of the salary schedules to which classes are assigned. Thus, it would be inappropriate to give consideration to those factors again when determining pricing.

In addition to being able to negotiate the salaries paid to employees via collective bargaining, the Unions have multiple other avenues to appeal or negotiate the pricing or repricing of classes:

- 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(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.
- Section 89-9(f)(2), HRS provides 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.

With ample opportunity for the Unions to participate in the determination of pricing, repricing, and the negotiation of salaries, the proposed changes are unnecessary. Additionally, allowing an arbitration panel to render decisions on such a technical matter would negatively affect the City's ability to maintain pay structures and pay relationships that are based on an equitable and uniformly applied set of criteria for all classes of work.

Given how pricing/repricing is presently determined and utilized to ensure internal fairness and equal pay between similarly functioning classes of work, decisions rendered by multiple independent arbitration panels will significantly impact and disrupt the alignment and related pricing of all classes within a jurisdiction. These changes will also impact the City's ability to comply with federal and state laws that prohibit discrimination in compensation as no longer will the pricing of classes be based on a consistent application of well-defined criteria or a fair and impartial evaluation of jobs.

Based on the concerns stated above, DHR respectfully asks that S.B. 2707 be deferred.

Thank you for the opportunity to provide comments on this measure.

Sincerely,

Nola Miyasaki
Director Designate