



EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

July 16, 2009

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

Re: House Bill No. 111 SD2 CD1

On July 15, 2009, House Bill No. 111, entitled "A Bill for an Act Relating to State Salaries" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this bill is to establish a two-year statute of limitations for governmental bodies to recover salary or wage overpayments to their employees.

We are concerned that the two-year limitation does not allow the State and counties sufficient opportunity to recover salary overpayments. It often takes time to review an employee's daily work records to determine whether the employee has been overpaid. Most salary overpayments are discovered when the employee is about to retire and the employee's pension is calculated.

Salary overpayments are made by mistake, and while some employees, upon becoming aware of overpayments, promptly report the overpayments, not all do so. Employees are not entitled to keep overpayments and should not benefit from an inadvertent error. An overpayment to an employee deprives another employee or program of the use of those funds.

The existing statutes protect an employee from an arbitrary employer action. There is a process that the State and counties must follow to recover the overpayment, and the employee is free to contest the government's assertion that there has been an overpayment. Current law provides that the employee may request a hearing and, if the employee so chooses, may appeal an adverse determination.

While it is understandable that some would contend that the State should not have an unlimited period to recoup its mistakes, limiting this period to only two years will hamper the State and counties and result in the unjust enrichment of some.

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and Members of the Senate
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For the foregoing reasons, I allowed House Bill No. 111 to become law as Act 190,
effective July 15, 2009, without my signature.

Sincerely,

A handwritten signature in black ink, appearing to read 'L. Lingle', with a large, stylized loop at the end.

LINDA LINGLE