

EXECUTIVE CHAMBERS

HONOLULU

April 24, 2007

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 1642

Honorable Members
Twenty-Fourth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 1642, entitled "A Bill for an Act Relating to Labor."

The reported purpose of Senate Bill No. 1642 is to establish clear distinctions between mandatory, excluded, and permissive subjects of collective bargaining by (1) allowing negotiations over the procedures and criteria on promotions, transfers, assignments, demotions, discharges, or other disciplinary actions and (2) subjecting violations of negotiated and agreed upon procedures and criteria to the grievance procedure contained in a collective bargaining agreement.

Rather than providing clarity, this bill would blur the delineation provided by existing law between matters that are subject to collective bargaining and matters that have been excluded from collective bargaining; including certain "management rights" such as determining criteria on promotions, transfers, assignments, demotions, layoffs, suspensions, termination, discharge or other disciplinary actions.

This bill is objectionable because it constitutes an unacceptable infringement upon management rights currently protected under section 89-9(d), Hawaii Revised Statutes. It attempts to overturn the case of United Public Workers, AFSCME, Local 646, AFL-CIO v. Hanneman, 106 Hawaii 359 (2005), the Supreme Court of Hawaii case that held that the City and County

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of Honolulu's decision to transfer refuse workers from the Pearl City baseyard to the Honolulu baseyard was not subject to collective bargaining. The Hanneman case reaffirmed management rights as set forth in section 89-9(d).

This bill erodes management rights and, by allowing negotiations on the criteria management uses to act on matters such as layoffs, transfers, and assignments, it involves labor in the fundamental decision-making process of management. In permitting negotiations over assignments, this bill would adversely impact the employer's ability to make assignments of specific employees and groups of employees and hinder the delivery of services to the public.

This bill does not achieve its reported purpose, and only obfuscates the clear distinctions that currently exist between management rights and items that may be negotiable under collective bargaining. The provision added to section 89-9(d) by the bill stating that section 89-9(d) shall not be used to invalidate provisions of collective bargaining agreements in effect on and after June 30, 2007, could be interpreted to mean that the areas specifically excluded from collective bargaining pursuant to section 89-9(d) and the Hanneman case may be subject to negotiations by the parties to a collective bargaining agreement.

For the foregoing reasons, I am returning Senate Bill No. 1642 without my approval.

Respectfully,



LINDA LINGLE
Governor of Hawaii