

EXECUTIVE CHAMBERS

HONOLULU

June 20, 2003

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 768

Honorable Members  
Twenty-Second 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. 768, entitled "A Bill for an Act Relating to Collective Bargaining."

The purpose of this bill is to amend section 89-11(d), Hawaii Revised Statutes, to restore binding arbitration as the impasse resolution mechanism in labor contract disputes involving government workers in bargaining units 2, 3, 4, 6, 8, and 13.

If enacted, this bill would repeal these workers' right to strike, which had been reinstated as the impasse resolution mechanism by Act 90, Session Laws of Hawaii 2001, after six years of experience with binding arbitration.

Public worker strikes inconvenience the public, and are hard on public workers and their families. Elected officials and labor leaders all have a strong incentive to avoid them. In short, public worker strikes are a no-win proposition.

Because binding arbitration is one way to avoid even the possibility of a public worker strike, it has some appeal as an impasse resolution mechanism. Experience has demonstrated, however, that binding arbitration does not work as well in practice. We have learned that having binding arbitration to fall back on tends to lessen the incentive public worker union leaders and government employers otherwise have to engage in meaningful negotiation and good faith collective bargaining. One apparent reason is a universal expectation that arbitrators will "split the baby," choosing a number somewhere between the last offers of the two sides. This has had the perverse effect of

encouraging both sides to take extreme positions, making negotiated settlements the exception rather than the rule.

Under a system of binding arbitration, recent negotiations often have been effectively replaced by decisions of third-party arbitrators. This has dramatically reduced accountability of union leaders and public officials.

Not having the safety net of binding arbitration forces both sides to get serious, stay focused, and negotiate in good faith. It also forces them to be accountable for positions taken, and for end results.

Reasonable settlements seem more likely to result when the alternative is a strike. Public officials must balance the ability to maintain a well-paid workforce against other government priorities and public resources. Unlike outside arbitrators, the Governor and mayors must keep all these interests in mind and then be accountable to the public. With binding arbitration, arbitrators make what amounts to the final call, and they do so with virtually no accountability.

The Legislature's concern regarding the impact a strike would have on the provision of necessary governmental services is alleviated by the fact that most employees involved in public safety services (i.e., health care, police protection, firefighting, and corrections) maintain their rights to binding arbitration.

Assuming appropriate modifications and limitations could be agreed upon by myself and the four county mayors, binding arbitration perhaps could be extended to other government workers in a way that would prove beneficial to the affected workers, their government employers, and the public. Binding arbitration as provided for in this bill, however, would not be in the best interests of the State, the counties, or the public.

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For the foregoing reasons, I am returning Senate Bill  
No. 768 without my approval.

Respectfully,

LINDA LINGLE  
Governor of Hawaii

P R O C L A M A T I O N

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 768, entitled "A Bill for an Act Relating to Collective Bargaining," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 768 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 768 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu,  
State of Hawaii, this 20th day  
of June, 2003.



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LINDA LINGLE  
Governor of Hawaii