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December 12, 2024

Chair Colleen Hanabusa
Commission on Salaries
c/o Department of Human Resources Development
Leiopapa A Kamehameha Building, Room 1202
235 South Beretania Street
Honolulu, Hawai'i 96813

Re: Request for Written Advice on December 6, 2024

Dear Chair Hanabusa:

On December 6, 2024, you asked us what information and criteria the Commission on Salaries ("Commission") may use to make its recommendation on salaries. The Hawaii State Constitution and Hawaii Revised Statutes are silent as to the information and criteria that may be used by the Commission. Our opinion is that this issue is left to the good judgment of the Commission.

As previously advised, both Article XVI, section 3.5 of the Hawaii State Constitution and Hawaii Revised Statutes §26-56 are clear that the Commission is charged with making a recommendation on salaries. However, both sections are silent as to any specific criteria that the Commission should use in making its recommendations, and does not provide any guidance on what information the Commission should review in formulating its recommendations.

The Supreme Court of Hawaii has repeatedly recognized that "[w]hen construing a statute, our foremost obligation 'is to ascertain and give effect to the intention of the legislature' which 'is to be obtained primarily from the language contained in the statute itself.'" In re Hawaiian Telephone Co., 61 Haw. 572, 577, 608 P.2d 383, 387 (1980). Moreover, the Court has stated that, "where the statute is clear and unambiguous, we are bound by its plain and unambiguous language. We cannot change the language of the statute, supply a want, or enlarge upon it in

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order to suit a certain state of facts. We do not legislate or make laws.” Carlisle v. One (1) Boat, 119 Haw. 245, 256, 195 P.3d1177, 1188 (2008).

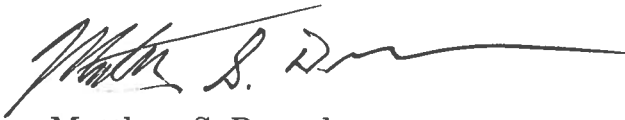
Therefore, because the statute directs the Commission to review and make a recommendation on salaries but does not specify the criteria to be used or the information to be considered, we believe the Commission determines what information it will consider and what criteria it will or will not consider in making its decision.

Sincerely,



Elise A. Amemiya
Deputy Attorney General

APPROVED:



Matthew S. Dvonch
Acting Attorney General