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January 7, 2025

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

Re: Constitutionality of Act 2, SLH 2020 and Act 14, SLH 2021

Dear Chair Hanabusa:

This responds to your request for an opinion as to whether Act 2, SLH 2020 and Act 14, SLH 2021 are constitutional.

Article XVI, section 3.5 of the Hawaii State Constitution provides in relevant part:

Any salary established pursuant to this section shall not be decreased during a term of office, unless by general law applying to all salaried officers of the State. (Emphasis added).

Act 2, SLH 2020 deferred the further implementation of the increased salary adjustment recommendations for officers of the executive and judicial branches of State government and members of the Legislature until July 1, 2021, due to the unprecedented economic downturn resulting from the COVID-19 pandemic. Act 14, SLH 2021 extended the deferral until December 31, 2022.

Based on the plain language of the Hawaii State Constitution, decreases in salary, despite the legislature not disapproving a recommendation by the Commission on Salaries, is allowed if done by general law applying to all salaried officers of the State. Act 2, SLH 2020 and Act 14, SLH 2021 were general laws applicable to salaried officers of the State – in other words, these laws did not single out one officer but was of general applicability to salaried officers of the State.

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Based on the foregoing, we believe Act 2, SLH 2020 and Act 14, SLH 2021 are constitutional.

Sincerely,



Elise A. Amemiya  
Deputy Attorney General

APPROVED:



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Attorney General