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House Committee on Judiciary
Honorable Chris Lee, Chair
Honorable Joy A. San Buenaventura, Vice Chair

RE: Testimony Opposing H.B. 362 H.D. 1, Relating to Information Practices
Hearing: February 26, 2019 at 2:05 p.m.

Dear Chair and Members of the Committee:

My name is Brian Black. I am the Executive Director of the Civil Beat Law Center for the Public Interest, a nonprofit organization whose primary mission concerns solutions that promote governmental transparency. Thank you for the opportunity to submit testimony **opposing the broad definition of “legislative employees” in H.B. 362 H.D. 1**. The House Committee on Labor expressed an openness to amending the definition, but at the hearing noted concerns that the Law Center’s initial suggestion to distinguish managerial and non-managerial employees would not serve the intent of the measure. Thus, we offer below a more refined proposal.

The original intent of the salary/salary range distinction distinguished “high level” and “managerial” employees from civil service employees with defined salary ranges. *See* Report of the Governor’s Committee on Public Records and Privacy at 109 (Dec. 1987). H.B. 362 H.D. 1 sweeps too broadly by exempting all legislative employees from the salary disclosure requirement without respecting the original intent to distinguish employees with managerial authority.

For example, the bill improperly exempts individuals who are more equivalent to Executive Branch directors and deputy directors. The public interest in monitoring the compensation of high-level staff (*e.g.*, chief clerks, sergeants-at-arms, legislative service agency directors, and others in senior positions) is much greater, and they should not be exempt. Many of these individuals are paid in excess of \$85,000, and the public deserves greater access to information about their taxpayer-funded salaries.

The current definition of “legislative employees” in H.B. 362 H.D. 1 has four categories:

1. “Legislative officers as defined by section 88-21”: This category refers to the chief clerk, assistant chief clerk, sergeant at arms, and assistant sergeant at arms. **These individuals should not be excluded from the salary disclosure requirement.**
2. “Staff of the legislative branch of the State”: This category would appear to cover all legislative employees not otherwise specified in the definition (*e.g.*, clerks,

officer managers, analysts, attorneys). **There are several positions within this category that should not be excluded from the salary disclosure requirement.** For example, government attorneys within the offices of the attorney general, county corporation counsels, public defender, and county prosecutors, as well as the University of Hawai'i, Office of Hawaiian Affairs, and Office of Information Practices, are subject to the salary disclosure requirement. Moreover, this category includes some of the highest paid and critical positions within the Legislature: Senate Majority Office Director and Assistant Director, Senate Chief of Staff, Senate Budget Chief, House Director of Research and Assistant Director – all of whom are paid more than \$85,000. *This category should be more limited in scope.*

3. "Legislative service agency directors as defined by section 21E-1": This category refers to the director or administrative head of the offices of the auditor, legislative reference bureau, and ombudsman. The salaries of all those individuals are tied to the DOH director's salary, which is public information. **These individuals should not be excluded from the salary disclosure requirement.**
4. "Officers and employees of legislative service agencies as defined by section 21E-1": This category refers to staff within the offices of the auditor, legislative reference bureau, and ombudsman. **There are several positions within this category that should not be excluded from the salary disclosure requirement.** This category also includes government attorneys, as well as high-paid, critical positions (*e.g.*, deputy auditors, assistant LRB directors, and assistant ombudsman). *This category should be more limited in scope.*

The Law Center respectfully requests that the Committee amend H.B. 362 H.D. 1 as follows:

As used in this paragraph, "legislative employees" means staff of the legislative branch of the State and employees of legislative service agencies as defined by section 21E-1; provided that "legislative employees" shall not include individuals employed as an attorney or who receive a salary greater than \$85,000.

Thank you again for the opportunity to testify.