

Honolulu, Hawaii

March 24, 2006

RE: S.B. No. 3009  
S.D. 2  
H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Third State Legislature  
Regular Session of 2006  
State of Hawaii

Sir:

Your Committee on Labor & Public Employment, to which was referred S.B. No. 3009, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO CIVIL SERVICE EXEMPT EMPLOYEES,"

begs leave to report as follows:

The purpose of this bill is to ensure that a fair and equitable civil service system is used for a majority of employees in public service by changing the status of public employment positions that are statutorily exempt from civil service to civil service positions. This measure conforms to the intent and purpose of Act 253, Session Laws of Hawaii 2000, better known as the "Civil Service Reform Act."

This bill also:

- (1) Repeals the provision of Act 88, Session Laws of Hawaii 2001, allowing for civil service positions transferred from the now-defunct Public Employees Health Fund to the Hawaii Employer-Union Health Benefits Trust Fund to become exempt when the position is vacated; and
- (2) Extends the sunset date of Act 128, Session Laws of Hawaii 2004, which, among other things, allows civil service exempt employees with six consecutive years of



service to apply for intra- and inter-departmental transfers or promotions.

Several concerned individuals testified in support of this bill. The Hawaii Government Employees Association supported the intent of this measure. The Department of Land and Natural Resources, Public Utilities Commission, Hawaii Community Development Authority (HCDA), and Department of Commerce and Consumer Affairs opposed parts of this bill. The Department of Human Resources Development (DHRD) and the Board of Trustees of the Hawaii Employer-Union Health Benefits Trust Fund submitted comments.

Your Committee finds that the number of exempt civil service positions in the State should be limited to the greatest extent possible in order to preserve the principle that the civil service shall comprise all positions in the State. This ensures that the rights and privileges of civil service are provided whenever possible. The proliferation of exempt positions in the State over the years tends to undermine this principle. Placing limits on the number of exempt positions and regularly monitoring the implementation of those limits will help preserve the integrity of the civil service system.

As the state's human resources department, DHRD is the most appropriate entity to monitor the status of the conversion of these positions from exempt to civil service and provide the background and reasoning for converting or not converting particular positions. Therefore, your Committee finds that DHRD is the proper agency to report this and other appropriate information to the Legislature.

However, your Committee understands the need to have exempt positions for highly skilled, highly qualified positions that need immediate recruitment and that requiring conversion of certain exempt positions to civil service may have a detrimental effect on the operations of government.

Accordingly, your Committee has amended this measure by:

- (1) Allowing rather than requiring the conversion of various exempt positions within state government;
- (2) Deleting the requirement that the HCDA convert its exempt positions to civil service positions;



- (3) Deleting the provision extending the sunset date of Act 128, Session Laws of Hawaii 2004, which, among other things, allows civil service exempt employees with six consecutive years of service to apply for intra- and inter-departmental transfers or promotions;
- (4) Requiring DHRD and HGEA to work collaboratively to establish a logical, workable, and fair process for converting exempt positions in various departments to civil service positions;
- (5) Establishing parameters for criteria to formulate a logical, workable, and fair process for converting positions in various departments from exempt to civil service positions;
- (6) Allowing an employee who occupies an exempt position for at least one year at the time it is replaced by a civil service position to have a one-time election to remain exempt from civil service, provided that once that position is vacated by the employee, the position shall be converted to civil service;
- (7) Requiring that an employee who occupies an exempt position at the time it is replaced by a civil service position to be appointed to the civil service position that replaces the employee's exempt position if the employee has occupied the position for at least one year; and
- (8) Requiring an employee's compensation to be determined according to the applicable collective bargaining agreement or supplemental agreement covering exempt employees without loss of seniority, prior service credit, accrued vacation, accrued sick leave, or other employee benefits, when an employee is appointed to a replacement civil service position.

This bill has also been amended by:

- (1) Changing its effective date to July 1, 2006; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.



As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3009, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3009, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Respectfully submitted on  
behalf of the members of the  
Committee on Labor & Public  
Employment,

  
KIRK CALDWELL, Chair



