



**TESTIMONY OF THE STATE ATTORNEY GENERAL
TWENTY-FOURTH LEGISLATURE, 2008**

ON THE FOLLOWING MEASURE:

H.B. NO. 2695, RELATING TO THE JUDICIAL SELECTION COMMISSION.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY

DATE: Friday, February 1, 2008 **TIME:** 4:00 PM

LOCATION: State Capitol, Room 325

Deliver to: House Clerk, Room 302, 5 copies

TESTIFIER(S): Mark J. Bennett, Attorney General
or Russell A. Suzuki, Deputy Attorney General

Chair Waters and Members of the Committee:

The Attorney General supports this bill.

This bill is a part of the Judicial Selection Commission's legislative package to facilitate the Commission's implementation of the provisions of article VI, section 4 of the Hawaii Constitution which provides that "[t]he legislature shall provide for the staff and operating expenses of the judicial selection commission in a separate budget."

The past practice of embedding the Commission's appropriations and personnel within the budget of the Judiciary does not satisfy the Hawaii Constitution's requirement for a separate budget. Beginning with this session, the Commission is seeking its funding and staffing through a separate bill. This bill allows the Commission to employ its staff, which is currently one full-time employee, to be exempt from chapters 76 and 89 (civil service and collective bargaining), Hawaii Revised Statutes. Because this position does all of the administrative support for the Commission, the Commission should have wide discretion in selecting and retaining such employee.

Thank you for allowing us to testify on this bill.



Judicial Selection Commission — THE JUDICIARY • STATE OF HAWAII
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TESTIMONY OF THE JUDICIAL SELECTION COMMISSION

ON H.B. NO. 2695, RELATING TO THE JUDICIAL SELECTION COMMISSION.

BEFORE THE HOUSE COMMITTEE ON JUDICIARY.

DATE: Friday, February 1, 2008

TIME: 4:00 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER: Rosemary Fazio, Chair of the Judicial Selection Commission

Chair Waters, Vice-Chair Oshiro and members of the Committee.

The Judicial Selection Commission strongly supports this bill. This bill is a part of the Judicial Selection Commission's legislative package to facilitate the Commission's implementation of the provisions of article VI, section 4 of the Hawai'i Constitution which provides that "[t]he legislature shall provide for the staff and operating expenses of the judicial selection commission in a separate budget."

The past practice of placing the Commission's appropriations and personnel within the budget of the Judiciary does not satisfy the Hawai'i Constitution's requirement for a separate budget. This bill allows the Commission to employ its staff, which is currently one full-time employee, to be exempt from chapters 76 and 89 (civil service and collective bargaining). Because this position does all of the administrative support for the Commission, the Commission should have wide discretion in selecting and retaining such employee.

Thank you for allowing me to testify on this bill.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

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The Twenty-Fourth Legislature, State of Hawaii
Hawaii State House of Representatives
Committee on Judiciary

Testimony by
Hawaii Government Employees Association
February 1, 2008

H.B. 2695 – RELATING TO THE
JUDICIAL SELECTION COMMISSION

The Hawaii Government Employees Association opposes H.B. 2695 as written. We do not oppose the intent of the bill to provide staffing for the Judicial Selection Commission. However, this measure, as drafted, permits the Judicial Selection Commission to hire employees exempt from both Chapters 76 and 89, HRS. We believe one civil service employee currently serving the Judicial Selection Commission will be adversely affected by this measure.

As a matter of policy, HGEA continues to oppose bills requiring exemption from Chapter 76, HRS (Civil Service), and Chapter 89, HRS (Collective Bargaining). Exempting employees from either or both chapters creates a second class of employees who have no recourse in the event of unfair management practices. We have witnessed employees, exempt from civil service and or excluded from collective bargaining, dismissed or disciplined without just cause and then unable to appeal the disciplinary action.

The stated purpose of the bill is to facilitate implementation of Article VI, Section 4 of the Hawaii State Constitution. However, the State Constitution also includes the right of public employees to bargain collectively (Article XIII, Section 2) and the employment of public employees within civil service to be based upon the merit principle (Article XVI, Section 1). Furthermore, Section 76-1, HRS, establishes that each jurisdiction, including the Judiciary, must establish and maintain a civil service system based upon the merit principle.

We are amenable to changing our testimony to one of support, if the bill is amended to provide for staffing by civil service employees.

Thank you for the opportunity to present testimony in opposition to H.B. 2695.

Respectfully submitted,

Nora A. Nomura
Deputy Executive Director

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