

LINDA LINGLE  
GOVERNOR



RUSS K. SAITO  
Comptroller

Barbara A. Annis  
Deputy Comptroller

**STATE OF HAWAII  
DEPARTMENT OF ACCOUNTING  
AND GENERAL SERVICES**

P.O. BOX 119  
HONOLULU, HAWAII 96810-0119

WRITTEN TESTIMONY  
OF  
RUSS K. SAITO, COMPTROLLER  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
TO THE  
HOUSE COMMITTEE  
ON  
LABOR & PUBLIC EMPLOYMENT  
ON  
January 29, 2008

H.B. 3141

RELATING TO GOVERNMENT SERVICES

Chair Sonson and members of the Committee, thank you for the opportunity to testify on H.B. 3141.

The Department of Accounting and General Services supports this bill. It will reinstate the authority of state and local government agencies to provide necessary state services by exempting positions or contracts with non-government entities from hiring and contracting processes. In doing so, the Act enables state and local government agencies to deliver services by the most efficient means possible, and this can have a positive impact upon both the public and private sectors of our economy.

Thank you for the opportunity to submit written testimony on this matter.

LINDA LINGLE  
GOVERNOR OF HAWAII



MARIE C. LADERTA  
DIRECTOR

CINDY S. INOUE  
DEPUTY DIRECTOR

**STATE OF HAWAII**  
**DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT**  
235 S. BERETANIA STREET  
HONOLULU, HAWAII 96813-2437

January 28, 2008

TESTIMONY TO THE  
HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT  
For Hearing on  
Tuesday, January 29, 2008  
Conference Room 309

BY

MARIE C. LADERTA, DIRECTOR

House Bill No. 3141

**Relating to Government Services**

TO CHAIRPERSON SONSON AND MEMBERS OF THE COMMITTEE:

Chair Sonson, thank you so much for the prompt scheduling of House Bill No. 3141 for hearing.

The purpose of House Bill No. 3141 is to provide flexibility and reliability to the hiring and contracting processes by exempting from civil service law positions or contracts for personal services lasting up to one year with non-government entities.

The Department of Human Resources Development **strongly supports** this Administration-sponsored bill.

In passing Act 90 in 2001, the Legislature found that it was important for the State and county governments to have the ability to deliver services by the most efficient means possible, and that such flexibility can have a positive impact upon both the public and private sectors of our economy.

The Legislature also found that it was important to address and resolve the uncertainty created by the Hawaii Supreme Court's decision in *Konno v. County of Hawaii*, 85 Haw. 61 (1997), regarding government's ability to rely upon the private sector for services government needs or is required to provide.

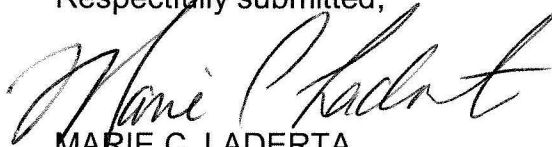
With the sunset of Act 90, Part II, in June 2007, this uncertainty has now returned and once again the basic authority of the State and county governments to deliver public services has been called into question. After *Konno* and without re-enactment of Act 90, the contracts between the State and private contractors for services may be voided, which we anticipate will likely have a substantial adverse impact upon the functioning of State government and upon our State's economy.

Enactment of this bill is critical to address the uncertainty and disruption created by the sunset of Act 90, and to enable the Governor and the executives of the other jurisdictions to utilize appropriate contracting arrangements to continue to provide government services more efficiently.

However, we request that Section 3 of this bill be taken out in its entirety since the deletion of HRS 76-77 (16) was unintentional.

Accordingly, we respectfully request passage of this important measure. Thank you for the opportunity to provide testimony.

Respectfully submitted,



MARIE C. LADERTA,  
Director



**HAWAII GOVERNMENT EMPLOYEES ASSOCIATION**

AFSCME LOCAL 152, AFL-CIO

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The Twenty-Fourth Legislature, State of Hawaii  
The House of Representatives  
Committee on Labor and Public Employment

Testimony by  
HGEA/AFSCME, Local 152, AFL-CIO  
January 29, 2008

H.B. 3141 – Relating to Government Services

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO opposes H.B. 3141. This measure adds a new chapter to Hawaii Revised Statutes that will allow for the procurement of services from private contractors that have been customarily provided by civil service employees.

The HGEA is opposed to the privatization the state and counties could exercise under this bill. It is our firm opinion that government should provide services to the public. Services should not be contracted out without good reason, careful forethought and rigorous oversight. The quality of services often deteriorates when profit is the prime motivation in service delivery.

Last year, we did support legislation (H.B. 1171) which allowed contracts with private entities or persons for services lasting for no more than one year and at a cost of no more than \$750,000. Through this measure, the counties will have the ability to continue contracts with private entities to enhance or supplement existing services. That language was inserted based on agreement between the respective public sector unions and county employers.

Thank you for this opportunity to testify in opposition to H.B. 3141.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'N.A. Nomura', written in a cursive style.

Nora A. Nomura  
Legislative Officer

LINDA LINGLE  
GOVERNOR OF HAWAII



CHIYOME LEINAALA FUKINO, M.D.  
DIRECTOR OF HEALTH

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P.O. Box 3378  
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In reply, please refer to:  
File:

LATE TESTIMONY

January 29, 2008

HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

HB 3141, RELATING TO GOVERNMENT SERVICES

Testimony of Chiyome Leinaala Fukino, M.D.  
Director of Health

January 29, 2008, 8:30 a.m.

1 **Department's Position:** This is an administration bill that is strongly supported by the Department  
2 of Health (Department).

3 **Fiscal Implications:** None

4 **Purpose and Justification:** The purpose of House No. 3141 is to provide flexibility and reliability to  
5 the hiring and contracting processes by exempting from civil service law positions or contracts for  
6 personal services lasting up to one year with non-government entities.

7 In 2001, the Legislature found that it was important for the state and county governments to be  
8 authorized to deliver services by the most efficient means possible. As a result, the Legislature  
9 empowered the State and county governments to contract with non-governmental entities to provide  
10 services to the government. This contracting authority allowed the State and county governments to  
11 inject substantial resources into the local businesses.

12 In June 2007, the law that conferred broad authority upon the State and the counties to contract  
13 expired. This law was part II of Act 20, Session Laws of Hawaii 2001. As a result, there is now  
14 uncertainty regarding the authority of the State and the counties to contract with Hawaii businesses,

1 nonprofit organizations, and mutual benefit societies to obtain services that are critical for the efficient,  
2 cost effective, and uninterrupted delivery of services by the state and county governments.

3 Consequently, the contracts between the State or county governments and these entities are now legal  
4 challenge. The prior Hawaii Supreme Court decision in *Konno v. County of Hawaii*, 85 Haw. 61  
5 (1997), which raised legal questions that have caused uncertainty and could expose the State to costly  
6 and unnecessary litigation.

7 With respect to the department, we must heavily rely on private contractors to provide necessary  
8 services. To avoid costly litigation and to ensure that Hawaii is not harmed by the expiration of Act 90,  
9 this bill seeks to amend the State's and the counties' procurement and civil service laws to maintain the  
10 current relationships with private contractors who provide vital services to the government and the  
11 citizens of Hawaii.

12 Included within this bill are limited exemptions to the civil service law that will allow the  
13 government to continue to contract with non-government entities without causing a substantial burden  
14 on our existing public sector civil servants.

15 However, we request that Section 3 of this bill be taken out in its entirety since the deletion of  
16 HRS 76-77 (16) was unintentional.

17 Accordingly, we respectfully request passage of this important measure. Thank you for the  
18 opportunity to provide written testimony.

19

LINDA LINGLE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
919 Ala Moana Boulevard, 4th Floor  
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**CLAYTON A. FRANK**  
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Deputy Director  
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**TOMMY JOHNSON**  
Deputy Director  
Corrections

**JAMES L. PROPOTNICK**  
Deputy Director  
Law Enforcement

## LATE TESTIMONY

No. \_\_\_\_\_

TESTIMONY ON HOUSE BILL 3141  
RELATING TO STATE AND COUNTY CONTRACTS FOR SERVICES

by  
Clayton A. Frank, Director  
Department of Public Safety

Committee on Labor & Public Employment  
Representative Alex M. Sonson, Chair  
Representative Bob Nakasone, Vice Chair

Tuesday, January 29, 2008, 8:30 A.M.  
State Capitol, Conference Room 309

Representative Sonson and Members of the Committee:

The Department of Public Safety strongly supports House Bill 3141, relating to State and County Contracts for Services. The purpose of this measure is to provide flexibility and reliability to the hiring and contracting processes by exempting from civil service law, positions or contracts for personal services lasting up to one year with non-government entities.

In 2001, the Legislature found that it was important for the State and county governments to be authorized to deliver services by the most efficient means possible. As a result, the Legislature empowered the State and county governments to contract with non-government entities to provide services to the government. This contracting authority allowed the State and county governments to inject substantial resources into local businesses.

In June 2007, the law that conferred broad authority upon the State and the counties to contract expired. This law was part II of Act 90, Session Laws of Hawaii 2001. As a result, there is now uncertainty regarding the authority of the State and the counties to contract with Hawaii businesses, nonprofit organizations, and mutual benefit societies to obtain services that are critical for the efficient, cost effective, and uninterrupted delivery of services by the State and County governments. These services include but are not limited to the following services to inmates and parolees: nursing, dental, substance abuse, sex offender treatment and reentry program services. Also, affected are the Department's refuse collection and disposal services, as well as the wastewater treatment plant operation and maintenance services at the facilities.

Consequently, these contracts may be subject to legal challenge, and in order to avoid the risk of costly litigation and to ensure that government services are provided, this measure seeks to amend the State's and the counties' procurement and civil service laws to maintain the current relationship between the State and the counties and their respective contractors who provide vital services to the government.

In summary, we strongly support House Bill 3141, and thank you for the opportunity to testify.