



LINDA LINGLE
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LAWRENCE M. REIFURTH
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RONALD BOYER
DEPUTY DIRECTOR

TO THE SENATE COMMITTEE ON JUDICIARY AND LABOR

TWENTY-FOURTH LEGISLATURE
Regular Session of 2008

Friday, March 28, 2008
9:30 a.m.

**TESTIMONY ON S.C.R. No. 222, REQUESTING STATE DEPARTMENTS TO
CONVERT EXEMPT EMPLOYEES TO CIVIL SERVICE IN ACCORDANCE WITH ACT
253, SESSION LAWS OF HAWAII 2000, AND ACT 300, SESSION LAWS OF HAWAII
2006.**

WRITTEN ONLY

TO THE HONORABLE BRIAN T. TANIGUCHI, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is Lawrence M. Reifurth, Director of Commerce and Consumer Affairs ("Department"). The Department appreciates the opportunity to provide testimony on S.C.R. No. 222, which proposes to require that the Department (along with seven other state departments) submit a report to the 2009 Legislature on its compliance with Act 300 (SLH 2006), and that the Department (along with the seven other identified departments) convert "all exempt clerical and paraprofessional positions to civil service by December 31, 2008".

The Department is proud of its accomplishments in response to Act 300, and believes that a report is therefore unnecessary, and believes further that an across the

board conversion of "all exempt clerical and paraprofessional positions" without consideration for the reasons why those positions have been created as exempt (oftentimes by statute), cuts too broad a swath.

Contrary to the Resolution's contention, the Department's actions do not reflect a "resistan[ce] to converting exempt positions to civil service." In fact, the 18 conversions referenced in the Resolution belong to the Department. Nor have we been resting on that accomplishment. We have continued to evaluate our positions for possible conversion and are in the process of converting 29 additional exempt positions to civil service, of which eight are expected to be completed by April 1, 2008.

While the Department could prepare yet another report to the Legislature on the status of its Act 300 conversions, we would observe that the information is and will continue to be readily available from the Department of Human Resources Development (as evidenced by the Resolution itself) to anyone who is interested. In addition, we would hope that the cooperation and attention that we have demonstrated to Act 300 will lead the Committee to conclude that no useful purpose will be served by requiring a further report from the Department or an across the board conversion of "all exempt clerical and paraprofessional positions" by December 31, 2008.

Thank you for the opportunity to submit testimony on S.C.R. No. 222.

LINDA LINGLE
GOVERNOR OF HAWAII



MARIE C. LADERTA
DIRECTOR

CINDY S. INOUE
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
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March 26, 2008

TESTIMONY TO THE
SENATE COMMITTEE ON JUDICIARY AND LABOR

For Hearing on Friday, March 28, 2008
9:30 a.m., Conference Room 016

BY

MARIE C. LADERTA, DIRECTOR

**Senate Concurrent Resolution No. 222
Requesting State Departments to Convert Exempt Employees to Civil Service in
Accordance With Act 253, Session Laws of Hawaii 2000, and
Act 300, Session Laws of Hawaii 2006**

TO CHAIRPERSON BRIAN T. TANIGUCHI AND MEMBERS OF THE COMMITTEE:

S.C.R. No. 222 requests that the heads of the Departments of Budget and Finance; Business, Economic Development and Tourism; Commerce and Consumer Affairs; Hawaiian Home Lands; Health; Human Services; Labor and Industrial Relations; Land and Natural Resources; and Public Safety submit reports to the 2009 Legislature regarding the number of positions exempted from civil service under the provisions of Section 76-16 (b) (17), Hawaii Revised Statutes (HRS), which have been converted to civil service. It also requests those departments to convert all of their exempt clerical and paraprofessional positions to civil service by December 31, 2008.

The Department of Human Resources Development (DHRD) appreciates the intent of the resolution because it promotes the public policy stated in Section 76-16 (b), HRS, that the civil service "shall comprise all positions in the State now existing or hereafter established and embrace all services for the State" except as legally authorized to the contrary.

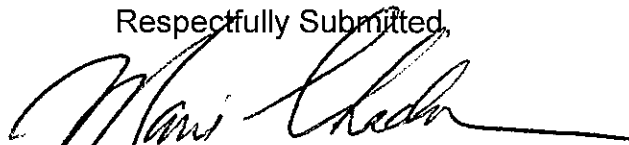
The reporting requirement contained in the resolution is unnecessary because Act 300, SLH 2006, already obligates DHRD to submit annual reports to the legislature regarding exempt positions. Those reports include the departments specified in the resolution and identify exempt positions that have been replaced with civil service positions during the preceding twelve months.

While DHRD believes that most exempt clerical and paraprofessional positions can be readily replaced with civil service positions, there may be situations where unusual circumstances would make the change unfeasible or undesirable. In some cases it may be necessary to establish new classes of work and it may not be possible to establish the new classes prior to December 31, 2008 due to staffing limitations and other priorities.

During this administration, DHRD has done a number of things to facilitate the conversion of exempt positions to civil service positions. We have implemented a policy and procedure which allows exempt employees to compete for appointment to replacement civil service positions through internal recruitments. Without the policy and procedure, the exempt employees would have to apply for appointment to the replacement civil service positions through open-competitive recruitments. We have also negotiated supplemental agreements with the Hawaii Government Employees Association (HGEA) which allow exempt employees appointed to replacement civil service positions to be compensated at rates comparable to the rates that the employees would be receiving if initially hired on a civil service basis. Existing bargaining unit agreement provisions require that they be compensated at entry rates. DHRD will continue to collaborate with the HGEA and executive branch departments to replace exempt positions with civil service positions.

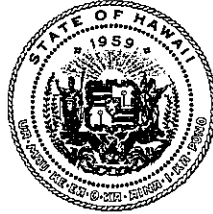
Thank you for the opportunity to testify on this important measure.

Respectfully Submitted,



MARIE C. LADERTA

LINDA LINGLE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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FIRST DEPUTY

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CONSERVATION AND RESOURCES ENFORCEMENT
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HISTORIC PRESERVATION
KAOLOAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**TESTIMONY OF THE CHAIRPERSON
OF THE BOARD OF LAND AND NATURAL RESOURCES**

**On Senate Concurrent Resolution 222 - REQUESTING STATE DEPARTMENTS
TO CONVERT EXEMPT EMPLOYEES TO CIVIL SERVICE IN ACCORDANCE
WITH ACT 253, SESSION LAWS OF HAWAII 2000, AND ACT 300, SESSION
LAWS OF HAWAII 2006**

**BEFORE THE SENATE COMMITTEE ON
JUDICIARY AND LABOR**

March 28, 2008

Senate Concurrent Resolution 222 requests that the heads of the Departments of Budget and Finance, Business, Economic Development and Tourism, Commerce and Consumer Affairs, Hawaiian Home Lands, Health, Human Services, Labor and Industrial Relations, Land and Natural Resources (DLNR), and Public Safety submit reports to the 2009 Legislature regarding the number of positions exempted from civil service under the provisions of Section 76-16 (b) (17), Hawaii Revised Statutes (HRS), that have been converted to civil service and that those departments convert all of their exempt clerical and paraprofessional positions to civil service by December 31, 2008. While DLNR appreciates the intent of this resolution because it promotes the public policy stated in Section 76-16 (b), HRS, that the civil service "shall comprise all positions in the State now existing or hereafter established and embrace all services for the State" except as legally authorized to the contrary, DLNR nonetheless feels that the reporting requirement contained in the resolution is unnecessary because Act 300, Session Laws of Hawaii 2006, already obligates the Department of Human Resources Development (DHRD) to submit annual reports to the legislature regarding exempt positions. Those reports include the departments specified in the resolution and identify exempt positions that have been replaced with civil service positions during the preceding twelve months.

While DLNR believes that there may be some exempt clerical and paraprofessional positions that could be converted to civil service positions, there are a number of exempt positions within the Department whereby the special circumstances surrounding the position would make the conversion unfeasible or undesirable. Additionally, in order to convert some of the exempts to civil service, it will probably be necessary to establish new classes of work, and that may not be possible to complete prior to December 31, 2008.

During this Administration, the DHRD has done a number of things to facilitate the conversion of exempt positions to civil service positions. They have implemented a policy and procedure which allows exempt employees to compete for appointment to replacement civil service

positions through internal recruitments. Without the policy and procedure, the exempt employees would have to apply for appointment to the replacement civil service positions through open-competitive recruitments. DHRD has also negotiated supplemental agreements with the Hawaii Government Employees Association (HGEA) which allow exempt employees appointed to replacement civil service positions to be compensated at rates comparable to the rates that the employees would be receiving if initially hired on a civil service basis. Existing bargaining unit agreement provisions require that they be compensated at entry rates. DLNR supports DHRD's continued efforts to collaborate with HGEA and the Executive Branch departments to replace exempt positions with civil service positions.



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The Twenty-Fourth Legislature, State of Hawaii
Hawaii State Senate
Committee on Judiciary and Labor

Testimony by
Hawaii Government Employees Association
March 28, 2008

S.C.R. 222 – REQUESTING STATE DEPARTMENTS TO
CONVERT EXEMPT EMPLOYEES IN ACCORDANCE WITH ACT
253, SLH 2000 AND ACT 300, SLH HAWAII 2006.

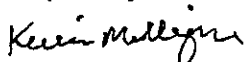
The Hawaii Government Employees Association strongly supports the purpose and intent of S.C.R. 222. The issue of converting exempt employees has been pending since the passage of Act 253, SLH 2000. Exempt employees who are within collective bargaining units do not have the same rights and benefits as their civil service counterparts. Exempt service is essentially "at will" employment with no formal system for consistency between departments.

Act 253, SLH 2000 required the Director of Human Resources Development to review exempt positions and determine whether these positions should remain exempt permanently. If DHRD determines that a position should no longer be exempt, they are supposed to consult with the appointing authority and remove the exemption from civil service. It also required DHRD to submit annual reports to the Legislature on the status of the conversion process. The first report, submitted in 2004, revealed that there were 2,150 positions exempted from civil service (Chapter 76, HRS) under Section 76-16(b)(17), HRS, and only 250 positions would be converted to civil service.

Despite the passage of Act 300, SLH 2006, which set forth a fair process to convert positions from exempt to civil service, and a supplemental agreement negotiated between the HGEA and DHRD in 2007 to facilitate the conversion of exempt positions to civil service through compensation incentives, progress has been extremely slow. The most recent report submitted to the Legislature submitted to the current Legislature showed a total of 2,178 exempt positions under Section 76-16(b)(17), HRS, and only eighteen of these exempt positions were converted to civil service between November 2006 and October 2007, leaving a total of 2,160 exempt positions under this particular exemption.

The primary obstacle to converting exempt employees to civil service is the departments identified in S.C.R. 222. These agencies should be required to report directly to the Legislature prior to the 2009 Regular Session on the number of exempt positions converted to civil service. We also believe that all exempt clerical and paraprofessional positions in these departments should be converted to civil service by the end of this year because there is no justification for these exemptions. Thank you for the opportunity to present testimony in support of S.C.R. 222.

Respectfully submitted,


Nora A. Nomura
Deputy Executive Director

