

Date: 02/04/2009

Committee: House Education/House Labor
& Public Employment

Department: Education

Person Testifying: Patricia Hamamoto, Superintendent of Education

Title of Bill: HB 0541 RELATING TO CIVIL SERVICE PERSONNEL.

Purpose of Bill: Ensures that civil service benefits for department of education civil service employees are the same as those provided to civil service employees of other executive branch employees until 6/30/12.

Department's Position: The Department of Education (DOE) strongly supports H.B. 541. Currently the Department employs approximately 6,700 civil service employees. This bill provides state executive branch civil service and DOE civil service employees to continue their benefits, rights and privileges relating to transfer, reduction in force, promotion, medical placement, and seniority as if they were within the same jurisdiction. Eligible personnel who wish to transfer will continue to retain their rights and privileges as if they were within the same jurisdiction by applicable inter-department recruitment rules, policies and procedures. This opens up employment opportunities among the executive state branch agencies for all DOE and other civil service employees.

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February 3, 2009

TESTIMONY TO THE
HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
For Hearing on Wednesday, February 4, 2009
2:00 p.m., Conference Room 309

BY

MARIE C. LADERTA, DIRECTOR

House Bill No. 541, Relating to Civil Service Personnel

TO CHAIRPERSON KARL RHOADS AND MEMBERS OF THE COMMITTEE:

The purpose of HB 541 is to extend the June 30, 2009 repeal date of Act 221, Session Laws of Hawaii (SLH) 2005, for an additional four years to June 30, 2012 to ensure that civil service benefits for department of education employees are the same as those provided to civil service employees of the executive branch. Department of Human Resources Development (DHRD) respectfully disagrees that another four-year extension of Act 221, SLH 2004 will guarantee this for the following reasons.

1. Act 51, SLH 2004 provided the Department of Education (DOE) the authority and opportunity to establish their own civil service system to maximize their autonomy and flexibility from the civil service system administered by the DHRD;
2. Effective July 1, 2005, the DOE has governed and administered their own civil service system pursuant to Act 51, SLH 2004. This legislative autonomy provided the DOE with the full responsibility and accountability in ensuring their timely promulgation and administration of their own administrative rules, policies and

procedures, guidelines and standards and where appropriate, school regulations;

3. The legislative purpose of Act 221, SLH 2005 was to minimize any negative impact on the limited number of civil service employees who were involuntarily transferred to the DOE under Act 51, SLH 2004 for the four-year window which ends on June 30, 2009. Instead, however, these civil service rights and benefits were extended to all current and prospective civil service employees of the separate civil service systems administered by the DOE and DHRD during the four-year window.

As a result, the "two-way swinging door" between the two separate civil service jurisdictions afforded under Act 221 provides additional civil service rights and benefits in career opportunities and placement rights that far exceed the current rights and benefits of members of all other civil service systems in the counties and Judiciary; and

4. In the current economic climate where the DOE has stated that a Reduction-in-Force may be necessary to meet their 20% budget restrictions, HB 541 puts an unfair administrative burden onto the DHRD. . Should a sizable layoff be unavoidable by the DOE, in order to execute the DOE's Reduction-in-Force, DHRD must suspend its day-to-day human resources activities for the Executive Branch. DOE employees essentially then have the right of placement into Executive Branch positions, including the bumping of junior Executive Branch civil service members, which would unduly impose the negative impacts of Reduction-in-Force onto the Executive Branch.

Moreover, under the current Act 51 administration, SLH 2004, DHRD questions the exclusion of the Hawaii State Public Library System (HSPLS) civil service members from the DOE- administered civil service system. As a result, permanent HSPLS civil service members did not continue to enjoy their rights and benefits as civil service members of the DOE civil service system. Currently, HSPLS civil service members have no promotional mobility or career opportunities in the Department of Education

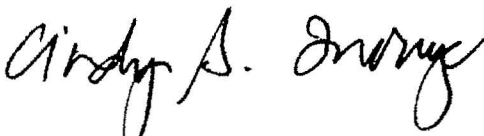
civil service system as DOE employees. DOE civil service vacancies will not be included in HSPLS members' departmental search, but at the jurisdiction-wide search with vacancies from other executive branch departments as disabled employees or Reduction-in-Force. DHRD respectfully requests the Legislature to restore the civil service rights and benefits of permanent HSPLS employees to correct the inequity and to avert future litigation caused by Act 51.

Upon severance from the Executive Branch, both the Judiciary and Hawaii Health Systems Corporation promulgated their own set of administrative rules, policies, processes and procedures in order to govern its civil service systems. With the Act 253, SLH 2000 passage, each civil service jurisdiction was responsible for its independent review and compliance with the changes in civil service laws and public employment laws, applicable Federal employment discrimination laws, including the American with Disabilities Amended Act (ADAAA) of 2008, revised Immigration and Reform Control provisions of 2008, worker's compensation and unemployment insurance laws, applicable collective bargaining provisions, etc.

DOE's continued reliance on another civil service jurisdiction will not ensure a transparent and independent administration and governance of the DOE-administered civil service system, and imposes an undue burden, including current and future litigation and increased workload without compensation, onto the DHRD and affected departments of the Executive Branch in the current economic crisis.

For the reasons provided above, we respectfully ask that HB 541 be held in this committee. Thank you for the opportunity to testify.

Respectfully submitted,


for MARIE LADERTA



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

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

Testimony by
Hawaii Government Employees Association
February 4, 2009

H.B. 541 – RELATING TO
CIVIL SERVICE PERSONNEL

The Hawaii Government Employees' Association, AFSCME Local 152, AFL-CIO supports the purpose and intent of H.B. 541 – Relating to Civil Service Personnel. Act 51, Session Laws of Hawaii, 2004, called for the transition of certain functions and resources from various state agencies to the Department of Education (DOE). Act 51 also allowed the DOE to establish a separate personnel system that would encompass existing DOE employees, as well as those who transferred in from other state agencies.

It has always been our position that the rights and benefits of employees who become a part of a DOE personnel system as the result of Act 51 should be maintained and not diminished. However, the DOE has not fully developed its own personnel system. This proposed legislation accomplishes that objective for civil service employees. Therefore, it is necessary to extend the sunset until June 30, 2012.

We appreciate the opportunity to testify in support of H.B. 541.

Respectfully submitted,

Nora A. Nomura
Deputy Executive Director

