



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

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The Twenty-Sixth Legislature, State of Hawaii
The Senate
Committee on Ways and Means

LATE

Testimony by
Hawaii Government Employees Association
February 25, 2011

S.B 1090, S.D. 1 – RELATING TO
PUBLIC EMPLOYMENT

The Hawaii Government Employees Association strongly supports the purpose and intent of S.B. 1090, S.D. 1, with a suggested amendment to change the effective date from July 1, 2050 to take effect upon its approval. 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. These employees are not protected by several articles in our collective bargaining agreements, including discipline, overtime and reduction-in-force.

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 should consult with the appointing authority and remove the exemption from civil service. Act 253 also required DHRD to submit annual reports to the Legislature on the status of the conversion process. The first report, submitted in 2004, revealed 2,150 positions exempted from civil service (Chapter 76, HRS) under Section 76-16(b)(17), HRS, and only 250 positions were converted to civil service.

Act 300, SLH 2006, required additional reporting requirements about exempt positions to the Legislature. It also set forth a fair process to convert positions from exempt to civil service, and enabled HGEA to negotiate a supplemental agreement with DHRD to facilitate the conversion of exempt positions to civil service through compensation incentives. Despite these improvements, progress in converting exempt positions to civil service has been extremely slow. The most recent report submitted to the 2011 Legislature reported no exempt positions covered by Act 300, SLH 2006 that were converted to civil service during the reporting period between November 1, 2009 and October 31, 2010, leaving a total of 2,126 exempt positions under this particular exemption (Section 76-16 (b) 17, HRS).

The primary obstacle to converting exempt employees to civil service is the unwillingness of line departments to take such action. Unfortunately, voluntary conversion does not work. These departments must be required to convert the positions contained in S.B. 1090, S.D. 1 and to convert the remaining exempt positions under Section 76-16 (b) 17, HRS within three years after the passage of this bill.

Another problem is the lack of scrutiny regarding positions exempt from civil service under Section 76-16 (b) 12, HRS. This exemption applies to "employees engaged in special research, or demonstration projects approved by the governor." We believe that this exemption remains in effect beyond where the program is a research or demonstration project. Based on the latest DHRD report to the Legislature, 802 positions were exempt from civil service under this particular exemption. These positions likely reflect patronage appointments for the governor, with no program justification for their existence.

The proliferation of exempt positions over the past several decades is undermining the civil service system and creating a group of second class employees. Thank you for the opportunity to present testimony in support of S.B. 1090, S.D. 1, with our suggested amendment.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'RPR', is written over the typed name.

Randy Perreira
Executive Director