



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

February 21, 2012

TESTIMONY TO THE  
SENATE COMMITTEE ON WAYS AND MEANS

For Hearing on Thursday, February 23, 2012  
9:00 a.m., Conference Room 211

BY

BARBARA A. KRIEG  
INTERIM DIRECTOR

**Senate Bill No. 2213, SD 1**  
**Relating to Civil Service**

TO CHAIRPERSON DAVID IGE AND MEMBERS OF THE COMMITTEE:

The purpose of S.B. No. 2213, S.D. 1, is to require an appointing authority to consider another position within the same department for which an employee is qualified before the employee is considered for discharge due to failure to meet performance requirements.

The Department of Human Resources Development generally supports the intent of this bill, but with **concerns over the bill's present form**. As such, we recommend the following proposed language change:

**"§76-41(b)(7)** Prior to the end of the evaluation period that the employee is being considered for discharge due to failure to meet performance requirements, the appointing authority considered the feasibility of transferring or demoting the employee to another position administrated by

the appointing authority for which the employee qualifies  
[~~was considered~~].”

The advantages to the proposed alternative above include (1) clarity and consistency to the extent an appointing authority must determine the feasibility to search for a suitable vacant position for an employee who faces the possibility of discharge for failure to meet performance requirements and (2) providing flexibility to all jurisdictions with respect to the identification of where an appointing authority, as defined in §76-11, Hawaii Revised Statutes, exists within organizations that vary significantly in, among other things, composition, geographic location(s), mission, and size.

Thank you for the opportunity to testify on this measure.



**HAWAII GOVERNMENT EMPLOYEES ASSOCIATION**  
AFSCME Local 152, AFL-CIO

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

Testimony by  
Hawaii Government Employees Association  
February 23, 2012

**S.B. 2213, S.D. 1 – RELATING TO CIVIL SERVICE**

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly supports S.B. 2213, S.D. 1 which amends §76-41(b), Hawaii Revised Statutes by requiring the appointing authority to consider another position within the same department for which an employee is qualified before the employee is considered for discharge due to failure to meet performance requirements.

As currently written, §76-41 HRS, provides for seven (7) criteria that the Employer is obligated to meet when a civil service employee fails to meet performance requirements, with the last criteria stating, “prior to the end of the evaluation period that the employee is being considered for discharge due to failure to meet performance requirements, the feasibility of transferring or demoting the employee to another position for which the employee qualifies was considered.” However, because the scope of the job search is not statutorily defined, state departments, counties and other jurisdictions each have their own interpretation, which leads to inconsistency in application. The Union’s recourse is to file individual Performance Judge grievances over this issue, but any award provided by a Performance Judge will be limited to the jurisdiction.

For uniformity and consistency, we respectfully request passage of this legislation so that all civil service employees will be treated equally. Thank you for the opportunity to testify in support of this legislation.

Respectfully submitted,

Randy Perreira  
Executive Director