

DEPARTMENT OF HUMAN RESOURCES  
**CITY AND COUNTY OF HONOLULU**  
650 SOUTH KING STREET 10<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
TELEPHONE: (808) 768-9500 • FAX: (808) 768-5563 • INTERNET: www.honolulu.gov/hr

PETER B. CARLISLE  
MAYOR



NOEL T. ONO  
DIRECTOR  
ROBIN CHUN-CARMICHAEL  
ASSISTANT DIRECTOR

January 26, 2012

The Honorable Clayton Hee, Chair  
and Members of the Committee on Judiciary and Labor  
The Senate  
State Capitol  
Honolulu, Hawaii 96813

Dear Chair Hee and Members:

Subject: Senate Bill 2213  
Relating To Civil Service

The City and County of Honolulu offers the following comments regarding Senate Bill 2213.

Senate Bill 2213 seeks to define the parameters that a public employer needs to consider under Hawaii Revised Statutes (HRS) Section 76-41(b)(7) prior to discharging an employee due to failure to meet performance requirements. At the present time, the scope of the review of a feasible transfer or demotion is not specifically set forth in the law. It is our understanding that if Senate Bill 2213 were adopted, a public employer would be required to consider the feasibility of transferring or demoting the employee to another position within the same department in which the individual is currently employed.

The City and County of Honolulu has **concerns regarding the proposed amendment** as it eliminates an appointing agency's flexibility in determining how broad of a search should be conducted and will result in unnecessary costs. For example, a department whose operations vary greatly from division to division should be allowed to limit its respective search to the subject employee's division as a transfer or demotion to a position in another division would not be feasible in that particular case.

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In addition, the bill's reference to HRS Section 76-11 further complicates the issue since "department" is defined in that section as "any department, board, commission, or agency of a jurisdiction." Given the inherent ambiguity of the definition, Senate Bill 2213 could be interpreted as broadening the search parameters to the public employer's entire jurisdiction, which we do not believe is the intent of this bill. We would suggest that if the committee does decide to take favorable action on this measure, the definition of "department" in HRS Section 76-11 also be amended to "a department, board, commission, or agency of a jurisdiction."

Thank you for the opportunity to testify.

Yours truly,



Noel T. Ono  
Director

NEIL ABERCROMBIE  
GOVERNOR



BARBARA A. KRIEG  
INTERIM DIRECTOR

DEPUTY DIRECTOR

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

January 25, 2012

**TESTIMONY TO THE  
SENATE COMMITTEE ON JUDICIARY AND LABOR**

For Hearing on Thursday, January 26, 2012  
2:30 p.m., Conference Room 229

BY

**BARBARA A. KRIEG**  
**INTERIM DIRECTOR**

**Senate Bill No. 2213**  
**Relating to Civil Service**

TO CHAIRPERSON CLAYTON HEE AND MEMBERS OF THE COMMITTEE:

The purpose of S.B. No. 2213 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 **supports this bill with concerns.** While the bill maintains the Employers' ability to determine if it is feasible to transfer or demote an employee to another position, it removes the Employers' flexibility in determining the scope within which they conduct their search. For example, in the state executive branch, some departments with large divisions, may elect to limit the search within the division. On the other hand, a small department may find it manageable to do a department wide search.

Thank you for the opportunity to provide testimony on this measure.

ERD

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, January 24, 2012 10:54 AM  
**To:** JDLTestimony  
**Cc:** debrab@financefactors.com  
**Subject:** Testimony for SB2213 on 1/26/2012 2:30:00 PM

Testimony for JDL 1/26/2012 2:30:00 PM SB2213

Conference room: 229  
Testifier position: **Oppose**  
Testifier will be present: No  
Submitted by: **Debra Bringman**  
Organization: Individual  
E-mail: [debrab@financefactors.com](mailto:debrab@financefactors.com)  
Submitted on: 1/24/2012

Comments:

I don't think it should state "requires". If an employee is a poor performer, I think the government should have the option of terminating the employee without being required to find another position in the system for that person. Maybe... if you say the employee can appeal to an appointing authority - and if they feel the employee is a good employee; just not the right fit - then look within the system to place that individual.