

NEIL ABERCROMBIE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**

919 Ala Moana Boulevard, 4th Floor  
Honolulu, Hawaii 96814

**TED SAKAI**  
DIRECTOR

**Martha Torney**  
Deputy Director  
Administration

**Max Otani**  
Deputy Director  
Corrections

**Shawn Tsuha**  
Deputy Director  
Law Enforcement

No. \_\_\_\_\_

TESTIMONY ON HOUSE BILL (HB) 2218  
RELATING TO LABOR & PUBLIC EMPLOYMENT

by  
Ted Sakai, Director  
Department of Public Safety

House Committee on Labor & Public Employment  
Representative Mark M. Nakashima, Chair  
Representative Kyle T. Yamashita, Vice Chair

Friday, February 07, 2014, 9:00 AM  
State Capitol, Conference Room 309

Chair Nakashima and Vice Chair Yamashita, and Members of the Committee:

The Department of Public Safety (PSD) **opposes** HB 2218, which will reduce the number of civil service exempt positions and place restrictions on the creation of exempt positions.

HB 2218 will impose undue restrictions and hamper PSD's ability to operate efficiently and effectively.

Establishing positions exempt from civil service allows PSD to create positions to fulfill the program or funding requirements, including the specialized knowledge, skills and abilities and any required licensures or certifications.

The exempt positions provide PSD with flexibility in establishing position description and level of compensation to attract highly qualified individuals or meet the funding requirement of the program, as well as flexibility to recruit and fill such exempt positions on a timely basis. This includes exempt positions established to fill highly specialized, technical and/or professional work, or to fulfill requirements of court ordered actions and/or settlement agreements.

The exempt positions also allows PSD to establish positions based on the funding source and meeting program requirements, such as a program operating as a self-sustaining private business, whereby revenue generated, funds such exempt positions. The funding sources may include special funds and/or revolving funds.

PSD must be able to have the latitude to establish and utilize exempt positions to conduct its affairs, and to successfully accomplish its mission and meet the service needs of those we serve.

Thank you for the opportunity to testify on this matter.



NEIL ABERCROMBIE  
GOVERNOR

SHAN S. TSUTSUI  
LT. GOVERNOR

**STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

335 MERCHANT STREET, ROOM 310

P.O. Box 541

HONOLULU, HAWAII 96809

Phone Number: 586-2850

Fax Number: 586-2856

[www.hawaii.gov/dcca](http://www.hawaii.gov/dcca)

KEALI'I S. LOPEZ  
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI  
DEPUTY DIRECTOR

**PRESENTATION OF  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

**TO THE HOUSE COMMITTEE ON LABOR AND  
PUBLIC EMPLOYMENT**

**TWENTY-SEVENTH LEGISLATURE  
Regular Session of 2014**

**Friday, February 7, 2014  
9:00 A.M.**

**TESTIMONY ON HOUSE BILL NO. 2218  
RELATING TO PUBLIC EMPLOYMENT**

**TO THE HONORABLE MARK M. NAKASHIMA, CHAIR,  
AND KYLE T. YAMASHITA, VICE CHAIR  
AND MEMBERS OF THE COMMITTEE:**

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify on House Bill No. 2218, Relating to Public Employment. My name is Keali'i Lopez, Director of the Department of Commerce and Consumer Affairs ("Department").

The Department is opposed to Sections 3, 6, 15, and 16 of the bill and takes no position regarding the other sections of the bill. These sections propose to replace prior authorization to hire outside of Chapter 76, Hawaii Revised Statutes ("Chapter 76"), with a requirement to hire in accordance with Chapter 76. The only positions that would be authorized as exempt would be hearings officers and

attorneys. The bill would also require that any exempt position created after July 1, 2014, which is specifically exempted from Chapter 76 by any other law shall expire three years from the date the bill is enacted, unless affirmatively extended by an act of the legislature.

By precluding the Department from hiring outside of Chapter 76, the bill represents a significant departure from the Legislature's previous vision for the Department and its compliance resolution fund over the last ten years. The Department needs employees with specialized skills and technical expertise in areas ranging from banking to utilities to insurance. By exempting positions from Chapter 76, the Legislature gave the Department a fighting chance at locating, hiring, paying, and retaining people in these jobs. In this highly technological and electronic age, the Department must vie with the private sector for qualified and experienced candidates. Without the flexibility of hiring outside of Chapter 76, the Department would not be able to meaningfully compete with the private sector.

The flexibility afforded the Department by its ability to exempt positions from Chapter 76 is a central feature in its success. The difficulty that we have in competing for employees with private industry and the difficulty that we have in finding qualified applicants for specialized work, would only be exacerbated if virtually all of our positions were converted to civil service.

If, in order to prevent the expiration of exempt positions, without relying upon legislative extension, the Department were to identify those positions to be converted to civil service, it is likely that some of the incumbents would elect not to accept conversion as it would result in a reduction of their pay rate based on the compensation adjustment provisions in the respective Supplemental Agreements. It would be difficult to persuade exempt employees to elect to participate in the conversion of their positions to civil service. To that extent, the Department is not in full control over how many and which exempt positions can be immediately converted to civil service. As such, if mandated to participate in such a conversion those employees would seek jobs in the private sector that offer pay that is comparable to what they are currently making as exempt employees.

With respect to existing exempt positions with incumbents, the bill appears to require that upon enactment, the affected positions would immediately have to

be converted and that upon completion of the conversion process, the incumbents would have to accept the civil service appointment or leave. As noted above, it is likely that the incumbents would elect to leave to seek jobs in the private sector that offer pay that is comparable to what they are currently making as exempt employees since in most part it would result in a reduction of their pay rate based on the compensation adjustment provisions in the respective Supplemental Agreements. The Department finds that with at least 51 exempt positions that could be affected, the impact would be crippling to the Department if not devastating to the divisions that rely heavily upon such specialized and technical personnel.

The delay or failure to fill critical positions could have adverse impacts not only upon the Department, but upon the State as a whole. For example, the Insurance Division must comply with the National Association of Insurance Commissioners (NAIC) Accreditation requirements, which include the requirement to have adequate and qualified staff to conduct examinations and financial analysis, and the timely completion of examinations and analysis. Thus, the filling of vacancies and training of new staff is essential to meet the NAIC accreditation requirements.

Similarly, the Division of Financial Institutions, which received accreditation from the Conference of State Bank Supervisors ("CSBS") in December 2012, needs adequate and qualified staff to conduct examinations and financial analysis to ensure that banks comply with regulatory laws and rules and are financially sound. As part of its accreditation, the Division reports its staffing levels and qualifications to CSBS on an annual basis. This year, the Division's accreditation is at risk due to numerous vacancies. The Division has earnestly sought to fill its vacant positions with civil service employees, but has 4 unfilled civil service positions since September 2012. The Division has posted the positions on its website seeking qualified individuals. The Division notes that it takes about 4-6 years to train examiners to conduct a bank examination and it currently has three of six examiners qualified and four vacant positions.

The Department understands and appreciates the value of Chapter 76 for those positions that do not require specialized knowledge and expertise. In fact, in

Testimony on H.B. No. 2218  
February 7, 2014  
Page 4

accordance with the legislative intent of Act 300, Session Laws of Hawaii 2006, and Senate Concurrent Resolution 222, 2008 Legislative Session, the Department has converted 69 exempt positions to date, including “clerical and paraprofessional” positions.

As a matter of policy and practice, the Department has been consistent in its most recent efforts in reviewing existing exempt positions and taking action to convert the appropriate positions. Since 2011 to the present, the Department identified 23 exempt positions for conversion to civil service, 15 of which resulted in conversions, with the remaining 8 positions to be converted when the positions become vacant.

Given the number of positions that have been converted from exempt to civil service over the last few years, the Department believes it has complied with the mandates of Act 253 and Act 300. However, we will continue to review the Department’s positions and programs and will make additional conversions as necessary and appropriate.

Thank you for the opportunity to testify on House Bill No. 2218. I am happy to answer any questions that the members of the Committee may have.



STATE OF HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS  
**OFFICE OF COMMUNITY SERVICES**  
830 PUNCHBOWL STREET, ROOM 420  
HONOLULU, HAWAII 96813  
[www.hawaii.gov/labor](http://www.hawaii.gov/labor)  
Phone: (808) 586-8675 / Fax: (808) 586-8685  
Email: [dllr.ocs@hawaii.gov](mailto:dllr.ocs@hawaii.gov)

February 6, 2014

To: The Honorable Mark M. Nakashima, Chair,  
The Honorable Kyle T. Yamashita, Vice Chair, and  
Members of the House Committee on Labor and Public Employment

Date: Friday, February 7, 2014  
Time: 9:00 a.m.  
Place: Conference Room 309, State Capitol

From: Mila Kaahanui, Executive Director

**Re: H.B. 2218: Relating to Public Employment**

POSITION: Oppose Section 12 of Bill with Comments.

**I. OVERVIEW OF PROPOSED LEGISLATION**

The proposal would follow up on Act 253, SLH 2000, and Act 300, SLH 2006, to convert currently exempt positions in the Executive branch to civil service. The Office of Community Services (OCS) would be directly and immediately affected by Section 12 of the bill, on pages 29-31 by converting the positions held by the entire OCS staff, all but one of which are exempt positions, to civil service.

**II. CURRENT LAW**

Currently, HRS section 371K-3 provides that the staff of OCS will be exempt from civil service.

**III. COMMENTS ON HOUSE BILL 2218, SECTION 12**

The Office of Community Services (OCS) confines its testimony to Section 12 of HB2218.

OCS was created in 1986 by legislation codified at Chapter 371K, HRS, to be the lead voice and advocate in the State government for Hawaii's economically disadvantaged communities and individuals. OCS takes seriously its role as advocate as well as being administrator of numerous contracts pursuant to Federal and State grants to assist our economically disadvantaged communities throughout the State.

OCS appreciates the committee's diligence in periodically reviewing exempt positions, and agrees that for the past few years this matter may have not gotten the attention it deserved. Civil Service provides additional security and membership in a group of dedicated individuals that continually dedicate their time and effort in support of our State. However, we feel OCS is not appropriate for conversion. OCS is community-based and does not provide direct services. Program managers at OCS are often called upon to work non-traditional hours or weekends to complete work that cannot be done during the standard business day. The civil service system would restrict management's ability to grant flex and comp time in a short period of time, should such an emergency situation occur.

We respectfully ask to be removed from this bill and appreciate the opportunity to testify on this measure.



NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**Testimony of  
WILLIAM J. AILA, JR.  
Chairperson**

**Before the House Committee on  
LABOR & PUBLIC EMPLOYMENT**

**Friday, February 7, 2014  
9:00 AM  
State Capitol, Conference Room 309**

**In consideration of  
HOUSE BILL 2218  
RELATING TO PUBLIC EMPLOYMENT**

House Bill 2218 proposes to amend various sections of Hawaii Revised Statutes ("Haw. Rev. Stat.") pursuant to Act 253, Session Laws of Hawaii (SLH) 2000. Act 253 1) restricted the creation of exempt positions, and 2) required annual review of exempt positions to determine whether they should remain exempt or be converted to civil service. **The Department of Land and Natural Resources ("Department") recommends this bill be held.**

The Department appreciates the intent of this bill to place more positions in the civil service system, where appointments and promotions are presumed to be made on a more uniform basis of established qualifications and independent interview panels, and to decrease the use of exempt appointments. Pursuant to earlier legislation, the Department has converted a number of its exempt positions to civil service.

The Legislature has also recognized that: 1) many jobs are only for a short or intermediate term and will not be permanent; and 2) many jobs require people with unique skills who are difficult to recruit or retain. Accordingly, the Legislature has established exempt positions in many state departments.

Nonetheless, this bill will force the Department to convert virtually all the exempt positions to tenured civil service positions. Not only does this increase the cost of supporting state government and place a permanent tax burden on state taxpayers, it freezes jobs and job descriptions which may in fact disappear in 5-6 years. In many instances, it will impose a **pay cut** on current exempt employees who were recruited and only took positions because of a slightly higher salary.

**WILLIAM J. AILA, JR.**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**ESTHER KIA'AINA**  
FIRST DEPUTY

**WILLIAM M. TAM**  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

The issues facing the Department are complex and change at a faster rate than in the past. Position descriptions and structures created 10 years ago are often obsolete or just irrelevant. The ways in which we manage natural resources has moved on. Meeting these responsibilities requires more flexible skills and work arrangements.

The majority of employees in the exempt positions are selected and employed because they have unique and specialized qualifications. For example, the State Commission on Water Resources Management (“Commission”) was granted the discretion to hire under Haw. Rev. Stat. Chapter 76. . . *or to hire exempt employees*. And for good reason. The Commission’s work requires unique and specialized qualifications to implement the State Water Code (Haw. Rev. Stat. Chapter 174C). There is no comparable agency in the State tasked with the protection, planning and regulation of water resources. The Commission requires geological, hydrological, engineering, legal, and regulatory knowledge related to water resources and must offer salaries commensurate with the education, skills, experience, judgment, and knowledge. This is a very small universe of talent.

Finding and recruiting people (especially mid-career lateral hires with management skills) is very difficult. The City pays up to 20% more than the State for similar work. The Federal government pays more than the City and adds a COLA. The private sector pays even more than the Federal government. Flexibility is essential to recruit and retain highly skilled people. The economic cycle creates a perverse consequence: when the economy is bad there are many applicants, but there is a hiring freeze; when the economy improves, the hiring freeze is lifted, but there are few applicants because everyone else is paying much more.

The Department’s State Historic Preservation Division faces similar issues in recruiting and retaining highly skilled personnel.

This bill also imposes a three year limitation on the exemption from civil service under Haw. Rev. Stat. §76-16(b)(17). The repeal of exempt positions every three years is unnecessary, cumbersome, and disruptive. Specialized positions are difficult to recruit. The pool of applicants is extremely limited. The Department would lose a trained employee and disrupt projects and services for an arbitrary deadline.

This bill does not help the Department. We strongly recommend that the bill be held without action.

NEIL ABERCROMBIE  
GOVERNOR



BARBARA A. KRIEG  
DIRECTOR

LEILA A. KAGAWA  
DEPUTY DIRECTOR

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

February 5, 2014

TESTIMONY TO THE  
HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

For Hearing on Friday, February 7, 2014  
9:00 a.m., Conference Room 309

BY

BARBARA A. KRIEG  
DIRECTOR

**House Bill No. 2218**  
**Relating to Public Employment**

TO CHAIRPERSON MARK NAKASHIMA AND MEMBERS OF THE COMMITTEE:

The purpose of H.B. 2218 is to reduce the number of civil service exempt positions and place restrictions on the creation of exempt positions.

**The Department of Human Resources Development (DHRD) respectfully opposes this bill for the following reasons.**

With respect to section 6 of the bill, DHRD opposes the proposed amendment to Section 76-16(b)(17) of the Hawaii Revised Statutes, that would require any exemption created after July 1, 2014 to expire three years after its enactment unless extended by the legislature.

Under certain circumstances, it is appropriate for specific positions to be exempted from civil service. This determination is dependent on the nature of the

program and the qualifications of positions required to perform the functions of the program. The blanket expiration date of three years imposed on all future exemptions, without first reviewing the circumstances of the exemption, will overburden departments and the legislature. It will also cause uncertainty for employees hired into these temporary positions and make it harder for the State to attract qualified candidates for these positions. It would be more efficient for the legislature to consider each exemption as laws are enacted or amended, based on the specific nature of the program and the specific qualifications of positions required to carry out the functions of the program.

DHRD defers to the respective departments regarding the effect on their programs of the proposed amendments reflected in sections 2 through 5 and 7 through 17 of the bill. However, we anticipate that the elimination of current exemptions will cause a number of valued employees to leave State employment, which will result in the State's inability to deliver critical services to the public. We also caution that the current personnel staffing at the departments and DHRD is not sufficient to process a large number of civil service conversions within a limited time period, especially where the conversions would require the creation of new civil service classes.

Based on the foregoing, DHRD respectfully requests that this measure be held.



# UNIVERSITY OF HAWAII SYSTEM

## Legislative Testimony

---

Written Testimony for the  
House Committee on Labor and Public Employment  
Friday, February 7, 2014

9:00 a.m.

By

Dr. Joanne Itano

Executive Vice President for Academic Affairs  
University of Hawai'i System

### HB 2218 – RELATING TO PUBLIC EMPLOYMENT

Chair Nakashima, Vice Chair Yamashita and Members of House Committee on Labor and Public Employment:

I am respectfully submitting written comments on behalf of the University of Hawai'i regarding House Bill 2218 – Relating to Public Employment which proposes to amend various sections of the Hawai'i Revised Statutes to conform with the restrictions placed on the creation of civil service exempt positions and require annual review of exempt positions to determine whether exempt positions should remain exempt or be converted to civil service positions pursuant to Act 253, SLH 2000.

The University of Hawai'i has concerns with respect to the proposed amendment to Section 6 of the bill which adds additional language to §76-16(b)(17) of the Hawai'i Revised Statutes (HRS) that would require any exemption created after July 1, 2014 to expire three (3) years after its enactment unless extended by an act of the legislature.

As provided for in §304A-3001, HRS, the Research Corporation of the University of Hawai'i (RCUH) is attached to the University of Hawai'i for administrative purposes pursuant to §26-35, HRS. To carry out and conduct the research and training projects under the RCUH, the Legislature granted RCUH the flexibility in hiring its temporary personnel by excepting it to Chapter 76 and §78-1, HRS, as provided in §304A-3005, HRS. The UH has concerns that the proposed amendment may adversely impact the RCUH's research and training projects since these projects normally last more than three years. The blanket expiration date of three years for all future exemptions, inclusive of exception under §304A-3005, HRS, may cause disruption in their ability to hire employees, and increase our administrative responsibility of requesting Legislative exceptions through law for any appointment beyond three (3) years.

Thank you for the opportunity to testify on this bill and for considering our concerns.

TO: Representative Mark M. Nakashima, Chair  
Representative Kyle T. Yamashita, Vice Chair  
House Committee on Labor and Public Employment

FROM: Jocelyn de Guia  
State Exempt Employee at the Department of the Attorney General

HEARING: House Committee Hearing on Labor and Public Employment  
February 7, 2014, 9:00 a.m.

**SUBJECT: Testimony in Opposition of H.B. 2218 (Relating to Public Employment)**

I am submitting this testimony in opposition of H.B. 2218. I am one of the hundreds of state workers who will be negatively impacted by this bill. I am a state exempt employee of the Department of the Attorney General in the Grants and Planning Branch of the Crime Prevention and Justice Assistance Division. As a Criminal Justice Planning Specialist, I oversee federal grants the State receives to address issues related to violence against women. I am also a member of HGEA's Bargain Unit 13.

I understand the intent of the bill and appreciate its attempt to provide job security and an equitable pay structure for exempt workers, while also trying to strengthen the State's civil service organization. However, the bill overlooks many unintended consequences which will impact not only current exempt employees but also jeopardize the stability of several divisions and branches that play many important roles in public service.

The following are some of the potential negative impacts of H.B. 2218:

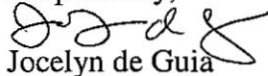
- ***Reduction in pay for many exempt workers***  
By converting some exempt positions to civil service positions, some salaries for exempt employees can be classified at a much lower rate than what they are currently set at. The Committee must explore how many workers will be affected by this reduction. It is likely that some exempt employees will be asked to take significant reductions in salaries.
- ***Large turnover of staff***  
Due to the reduction in pay for many exempt workers, departments may lose current employees to more competitive private and public sector jobs. Many of the exempt workers are in professional positions and were attracted to their positions due to its flexibility and competitive salaries. Some divisions within different state departments are small and will be affected by the loss of exempt employees which will impact their capability to provide important government services.
- ***Inability to attract highly skilled workers for positions requiring a specific set of skills***  
Many of the exempt positions within the State are highly specialized and require departments to compete for qualified professionals. Exempt positions allow departments flexibility in finding candidates that have a unique set of skills.

- ***Potential added costs to the State***

Within my branch (Grants and Planning), several of our exempt positions are funded either in part or in full by federal grants. If these types of positions become civil service positions, the State runs the risk of having to absorb any cuts in federal funding to maintain the civil service positions which are dependent on federal grants.

H.B. 2218 is attempting to fast-track the conversion of all exempt positions into civil service positions through legislation with a disregard for its potential effect on exempt employees. Each position held by an exempt employee is extremely diverse and varied and requires a more nuanced approach to determine its need for conversion to civil service. Therefore, I am respectfully asking this Committee to hold this bill at this time or amend it to adequately address all of the concerns mentioned above.

Respectfully,



Jocelyn de Guia

Criminal Justice Planning Specialist

TO: Representative Mark M. Nakashima, Chair  
Representative Kyle T. Yamashita, Vice Chair  
House Committee on Labor & Public Employment

FROM: Sara L. Collins, Ph.D., Legislative Chair  
Society for Hawaiian Archaeology  
[sara.l.collins.sha@gmail.com](mailto:sara.l.collins.sha@gmail.com)

HEARING: February 7, 2014, 9:00 AM, Conference Room 309  
SUBJECT: Testimony in Support of HB 2218 (Relating to Public Employment)

I am Dr. Sara Collins, Chair of the Legislative Committee of the Society for Hawaiian Archaeology (SHA). We have over 150 members that include professional archaeologists and advocates of historic preservation in general. On behalf of SHA, I am providing testimony in strong support of HB 2218, Relating to Public Employment.

HB 2218 amends sections of the Hawaii Revised Statutes (HRS) in order to conform with Act 253, Session Laws of Hawaii 2000, which placed restrictions on the creation of civil service exempt positions and required an annual review of exempt positions in order to determine whether they should remain exempt or be converted to civil service positions. Among the positions that are still exempt from civil service are those held by qualified historic preservation professionals at the State Historic Preservation Division (SHPD). The amendment proposed to HRS 6E-3(14) would require this conversion process to occur.

We strongly support HB 2218 and the overdue conversion of exempt professional positions at SHPD for the following reasons:

- Promotion of stability among staff and fostering the retention of “institutional memory” in government agencies – something that can be critical to an agency’s ability to function over the years as normal levels of staff turnover occur, due to retirements and the like.
- Greater fiscal responsibility and improved future planning: Conversion of the current exempt positions – particularly exempt positions that have existed for decades – will result in greater fiscal responsibility and better planning for future departmental and governmental needs. With conversion to civil service, the costs for these positions would be more predictable because salaries ranges assigned to the civil service classes would be consistent with that of other state workers and therefore easier to budget.
- Protection of regulatory workers from inappropriate pressure and treatment: At SHPD, regulatory staff hold the majority of exempt positions, and much of their work includes the regulation of compliance with historic preservation laws in the state. Exempt status makes these individuals very vulnerable to inappropriate pressure during regulatory decision-making, from both inside and outside state government. Since an exempt employee can be fired “at will” it is sometimes difficult for them to express a professional opinion contrary to the wishes of a manager or a powerful member of the public without fear of adverse consequences.
- Establishment of appropriate position descriptions to be filled by qualified personnel: Regulators within the SHPD must meet professional standards set by the National Park Service for historic preservation professionals; specific disciplines include architecture, architectural history, history, and archaeology. The exempt status of these positions has or could be used to make inappropriate and unwarranted changes to position descriptions when filling vacancies. This can result in the selection of individuals who are hired at salaries that may not be commensurate with their qualifications and experience. Converting the exempt positions to civil service status would ensure that solid, professionally adequate position descriptions are developed and adhered to in hiring, performance, and evaluation, and that qualified individuals are selected to fill them at appropriate compensation levels.



- Elimination of several significant inequities that affect exempt employees. First, if they apply for a civil service position in state government or apply for a promotion, if hired, their years of service as an exempt employee will not be recognized and they will be forced to start with entry level pay. In addition, while most exempt positions are included in HGEA bargaining units, and the union collects dues from them, they are not protected under the discipline and reduction-in-force articles for bargaining units 3, 4 and 13. Exempt employees do not receive step movements and are precluded from earning overtime if they are in bargaining unit 13.

Historically, SHPD has had difficulty hiring and retaining qualified personnel to fill professional-level positions. We believe that granting civil service status to these employees would make these positions more attractive to prospective applicants.

An established process exists for converting exempt positions to civil service. It is high time that these conversions got underway for staff at SHPD. SHA has testified on bills similar to this for over seven years and, over this period, the need for this step has only grown more compelling.

We respectfully ask you that you pass HB 2218 unamended. Thank you for considering our comments. Should you have any questions, please feel free to contact me at the above email address.



## HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

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

**LATE**

Testimony by  
Hawaii Government Employees Association  
February 7, 2014

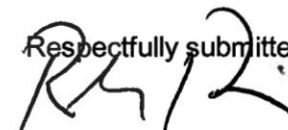
### H.B. 2218 – RELATING TO PUBLIC EMPLOYMENT

The Hawaii Government Employees Association strongly supports the purpose and intent of H.B. 2218. This legislation mandates the conversion of exempt positions to civil service in several different departments consistent with Act 253, SLH 2000 and Act 300, SLH 2006. The problems and challenges created by exempt positions are that while most are included in HGEA bargaining units, and the union collects dues from them, they are not protected under the discipline and reduction-in-force articles for bargaining units 3, 4 and 13. Exempt employees do not receive step movements and are precluded from earning overtime if they are in bargaining unit 13. This creates serious inequities between exempt and civil service employees that have become worse over time as their numbers have grown. In essence, we have a two-tiered system of state employment, one for civil service employees and another for exempt employees despite the State Constitutional mandate for civil service in Article XVI, Section 1 and the statement of purpose in Section 76-1, HRS. This statement of purpose is reiterated in Section 76-16, HRS.

According to information from DHRD as of December 2013, there are 1,525 exempt employees in HGEA bargaining units under the two largest exemptions contained in Section 76-16, HRS (Sections 76-16 (b) 12 and (b) 17). These two exemptions adversely affect employees primarily in bargaining units 3 and 13. There are approximately 100 statutory exemptions from civil services under Section 76-16 (b) (17), HRS. Some of the exemptions are mandatory while others are permissive. This is the primary reason we are suggesting an amendment to Section 76-16 (b) (17), HRS that would limit these exemptions to three years and require any extension beyond that time frame to be approved by the Legislature. This is a legitimate exercise of legislative oversight that is definitely needed.

The number of voluntary conversions from exempt to civil service by DHRD and the various line departments has been small. Here are the numbers of conversions over the past several years: 24 – 2013, 50 – 2012, 20 – 2011 and 4 – 2010. The process of voluntary conversion is not effective. Many exempt employees have been employed by the State of Hawaii for years and provide valuable service to their respective departments, yet they are not treated fairly by the employer. Under all 27 exemptions listed in Section 76-16, HRS, there are 2,894 exempt employees within the state Executive Branch. We estimate that between 8-9% of all state employees are exempt from civil service. In contrast, the State of California, limits exempt employees in Executive Branch departments to just one-half of one percent. Despite having more than 195,000 full time state employees, there are less than 1,000 exempt employees in California's executive branch. We appreciate the opportunity to testify in support of H.B. 2218.

Respectfully submitted,



Randy Perreira  
Executive Director