



STATE OF HAWAII  
**DEPARTMENT OF HUMAN SERVICES**

P. O. Box 339  
Honolulu, Hawaii 96809-0339

March 18, 2014

TO: The Honorable Mark M. Nakashima, Chair  
House Committee on Labor and Public Employment

FROM: Patricia McManaman, Director

SUBJECT: **S.B. 2845, S.D.1, H.D.1 - RELATING TO APPOINTMENT OF  
EXEMPT PERSONNEL IN THE DEPARTMENT OF HUMAN  
SERVICES FOR THE STATE MEDICAL ASSISTANCE PROGRAMS**

Hearing: Tuesday, March 18, 2014; 10:30 a.m.  
Conference Room 309, State Capitol

**PURPOSE:** The purpose of the bill is to allow the Director of Human Services to appoint and employ permanent exempt professional staff; prescribe their duties and qualifications; and fix their salaries, not subject to chapter 76, Hawaii Revised Statutes (HRS), when in the determination of the director, the services to be performed are unique and essential to the execution of the functions of the state medical assistance programs.

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) strongly supports this Administration measure. The Med-QUEST Division (MQD) is the single state agency in Hawaii that is designated to administer the Medicaid program.

The DHS has been in discussion with the HGEA and submits for your consideration a proposed H.D.1 for this bill. The proposed H.D.1 will limit the permanent exempt positions to the division administrator, branch and office administrators, a finance officer, and a research officer. The privacy and security compliance officer, the health information technology officer,

physicians, pharmacists, and dentists positions are proposed to have three years exemptions after which appointment shall be pursuant to chapter 76.

This bill will allow the Director to retain the expertise and level of experience and competencies that currently exist in the leadership of the MQD. These highly qualified positions require knowledge of the federal regulations, guidelines, polices and administrative directives necessary to lead and direct the MQD. In addition, the positions require in-depth knowledge of the Affordability Care Act (ACA) that have led to the development and implementation of the MQD eligibility system to achieve compliance with the new ACA requirements.

The DHS is fortunate in having highly qualified individuals in the top managerial levels of the MQD with the skill sets required to have successful medical assistance programs. These qualities and skill sets, by position, of the existing personnel include, and are not limited to, the following:

- Administrator: Clinical expertise and credentials including board certification; experience working for the Centers for Medicare and Medicaid Services; national reputation and expertise in evidence based policy and practice; advanced training in health services research; graduate level education in government leadership and management; in depth knowledge of the health care system including financing, organization and delivery; related federal and state regulatory requirements; knowledge of the Hawaii healthcare system to include the related reimbursement and payment regulations and practices; state procurement regulations and experience that coincides with the responsibility of overseeing and leading a \$1.8 billion dollar state program.
- Financial Officer: Extensive knowledge of healthcare financing including federal and state regulations of healthcare reimbursement including 1115 waiver financing and

cost reporting ; third party liability collections, fraud, waste and abuse activities; potential use for and receipt of federal funding; state fiscal requirements to include procurement and budgeting processes of the State; ability to work with healthcare providers and actuaries to ensure compliance with regulations and to understand cost projections and reimbursement; and experience to oversee all aspects of finances necessary to oversee and develop projections for a \$1.8 billion dollar budget.

- Healthcare Services Branch Administrator: Extensive knowledge of the service delivery systems; experience in Hawaii as a nursing facility administrator; knowledge of best practices in health care, health care quality assurance practices, age appropriate services and related federal and state regulations; the procurement system (federal and state laws); health care billing and cost allocations; extensive experience in health services purchasing and health plans which are all necessary for the procurement of health plans and oversight of the contracts to ensure the delivery of health care services to those who are Medicaid eligible.
- Research Officer: This position oversees the data collection and analysis of complex healthcare data; develops reports as needed and translates data into useful information for mandatory federal reporting, decision making and other oversight requirements.

The DHS recognizes the physician (Medical Director), psychiatrist, pharmacist, dentists, and privacy and compliance security officer positions being requested for exemption are positions that may be needed by other departments and is willing to work toward establishing these positions per Chapter 76. For this reason, we are asking for temporary exemptions for these positions and will work with the Department of Human Resources and Development and others to establish these in accordance with Chapter 76.

Persons with the specialized experience and expertise necessary to effectively perform in the above-described positions have and will likely continue to come to us from the private sector, where commensurate salaries greatly exceed what is permitted when filling civil service positions.

The DHS respectfully requests your favorable consideration of the proposed H.D.1, which will assist us in ensuring the continuity of quality health care services for members of our community.

Thank you for the opportunity to testify on this bill.

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## A BILL FOR AN ACT

RELATING TO APPOINTMENT OF EXEMPT PERSONNEL IN THE DEPARTMENT OF  
HUMAN SERVICES FOR THE STATE MEDICAL ASSISTANCE PROGRAMS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. Section 346-2, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "**§346-2 Appointment of personnel.** (a) The director of  
4 human services shall appoint such personnel in conformity with  
5 law as the director deems necessary. All employees of the  
6 department of human services, except as otherwise provided in  
7 this section, shall be appointed subject to any civil service  
8 law relating to state employees; in the event there is no civil  
9 service law in effect, then in accordance with a merit system  
10 meeting applicable federal requirement; provided that in the  
11 event of any conflict between applicable mandatory federal  
12 requirements and any state civil service law or regulations, the  
13 former requirements shall prevail.

14 (b) The director may appoint and employ, exempt from  
15 chapter 76, a division administrator, branch and office

1 administrators, a finance officer, and a research officer[~~, a~~  
2 ~~privacy and security compliance officer, a health information~~  
3 ~~technology officer, physicians, pharmacists, and dentists;~~]  
4 prescribe their duties and qualifications; and fix their  
5 salaries, when in the determination of the director the services  
6 to be performed are unique and essential to the execution of the  
7 functions of the state medical assistance programs.

8 c) The director may appoint a privacy and security  
9 compliance officer, health information technology officer,  
10 physicians, pharmacists and dentists without regard to chapter  
11 76; provided that the exemption from chapter 76 shall expire  
12 three years after the effective date of Act , Session Laws of  
13 Hawaii 2014; thereafter the director shall appoint the privacy  
14 and security compliance officer, health technology officer,  
15 physicians, pharmacists and dentists pursuant to Chapter 76."

16 SECTION 2. New statutory material is underscored.

17 SECTION 3. This Act, upon its approval, shall take effect  
18 on July 1, 2014.

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**Report Title:**

Position exemptions; Department of Human Services

**Description:**

Director of Human Services may appoint and employ, professional staff, to include a division administrator, branch and office administrators, a finance officer, and a research officer, not subject to chapter 76, Hawaii Revised Statutes, when in the determination of the director the services to be performed are unique and essential to the execution of the functions of the state medical assistance programs. Specifies a three year exemption limit for other identified positions at which time conversion they will be appointed pursuant to chapter 76. Effective July 1, 2014.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*



## 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  
House of Representatives  
Committee on Labor and Public Employment

Testimony by  
Hawaii Government Employees Association  
March 18, 2014

S.B. 2845, S.D. 1, H.D.1 – RELATING TO APPOINTMENT  
OF EXEMPT PERSONNEL IN THE DEPARTMENT OF  
HUMAN SERVICES FOR THE STATE MEDICAL  
ASSISTANCE PROGRAMS

The Hawaii Government Employees Association supports S.B. 2845, S.D. 1, H.D. 1 with specific amendments. While we cannot support the exemption of a wide range of staff persons within the Department of Human Services (DHS) from Chapter 76, HRS, we can support more targeted exemptions from civil service. The exemption from civil service applied in this bill has become all too prevalent and is inconsistent with purpose and intent of Article XVI, Section 1 of the Hawaii State Constitution and Section 76-1 HRS. There are over 1,000 exempt employees under the specific exemption used in this bill – Section 76-16 (b) (17), HRS.

Through constructive discussions with the Department of Human Services, the Department agreed that the broad exemptions from Chapter 76, HRS originally sought in S.B. 2845 for employees of the State Medical Assistance Program are not necessary. We understand their need to exempt the division administrator, branch administrators, and a finance and research officer from civil service. However, we maintain that the other positions identified in the bill such as the privacy and security officer, health information technology officer, physicians, pharmacists and dentists should be subject to Chapter 76, HRS and included, for purposes of collective bargaining, under Chapter 89, HRS.

Therefore, we have mutually agreed to temporarily exempt these specific positions for three years, with the expressed understanding that these particular positions will become civil service after that time. We also suggest that Chapter 89, HRS be added to the provision requiring the conversion to civil service after three years. The state's civil service system needs significant modifications so that it can preserve the merit principle while at the same time being flexible and responsive enough to meet the demands of line departments like DHS.

The Civil Service System is an entity controlled by the Employer. The Employer must make the civil service system adaptable to change, including changes in the state's demographics, the organization of work, and the concepts of work and career on the part of employees. The lack of flexibility within state's civil service system should not be used to justify exempting positions from civil service. State departments need the mechanisms and incentives of a high quality and motivated workforce that is subject to Chapter 76, HRS. We appreciate the opportunity to testify in support of S.B. 2845, S.D. 1, H.D. 1 with the suggested amendments.

Respectfully submitted,  
  
Randy Perreira  
Executive Director