

Honolulu, Hawaii

FEB 13 2014

RE: S.B. No. 3099

S.D. 1

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Seventh State Legislature  
Regular Session of 2014  
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred  
S.B. No. 3099 entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYMENT,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Amend various sections of the Hawaii Revised Statutes, to require the conversion of civil service exempt positions to civil service positions to conform to Act 253, Session Laws of Hawaii 2000, and Act 300, Session Laws of Hawaii 2006; and
- (2) Require any civil service exempt position created after July 1, 2014, to expire after three years of its enactment unless affirmatively extended by the Legislature.

Your Committee received testimony in support of this measure from the Hawaii Government Employees Association, AFSME Local 152, AFL-CIO; Society of Hawaiian Archaeology; and three individuals. Testimony in opposition to this measure was submitted by the Department of Human Resources Development, Department of Commerce and Consumer Affairs, and Department of Land and Natural Resources.

Your Committee finds that inequities exist between civil service exempt employees and civil service employees. For



example, exempt employees do not receive step movements in compensation, are precluded from earning overtime compensation, and are not protected from a reduction-in-force. The Department of Human Resources Development testified that a memorandum of agreement allows departments to provide their civil service exempt employees the option to convert their positions to civil service positions. However, the Hawaii Government Employees Association testified that this voluntary conversion process is not effective because the number of conversions over the past several years has been small. This measure mandates the conversion of exempt positions to civil service positions in several departments.

Your Committee recognizes the testimony submitted in opposition to this measure that the elimination of exempt positions may cause a number of valued employees to leave state employment because the resultant level of compensation will not be comparable to the compensation of similar positions in the private sector. Eliminating exempt positions may also pose difficulties in recruiting employees to fill positions that require specialized skills. Your Committee notes that there are several measures currently moving through the legislative process that require different departments to initiate the conversion of exempt positions to civil service positions. Thus, your Committee believes that it is more appropriate for each department to be discussed separately to uniquely consider the qualifications of the positions required to perform the functions of each department.

However, your Committee notes that the State Historic Preservation Division of the Department of Land and Natural Resources has begun to convert a number of its exempt positions to civil service positions, and your Committee believes that this conversion process should continue. The Hawaii Government Employees Association testified that conversion would affect approximately twenty to twenty-five positions. Your Committee further believes that the language requiring any civil service exempt position created after July 1, 2014, to expire after three years of its enactment unless affirmatively extended by the Legislature should be retained in this measure to discourage departments from creating additional civil service exempt positions.

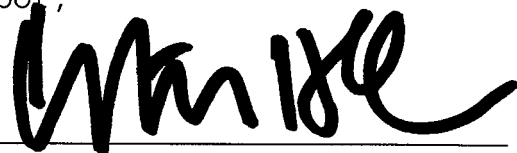
Your Committee has amended this measure by:



- (1) Deleting all sections that require various departments to convert exempt positions to civil service positions, except for the sections that relate to:
  - (A) The State Historic Preservation Division of the Department of Land and Natural Resources; and
  - (B) The expiration of any civil service exempt positions created after July 1, 2014, unless affirmatively extended by the Legislature;
- (2) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3099, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3099, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on  
behalf of the members of the  
Committee on Judiciary and  
Labor,



CLAYTON HEE, Chair



The Senate  
Twenty-Seventh Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Judiciary and Labor**  
**JDL**

Bill / Resolution No.:* <b>SB 3099</b>	Committee Referral: <b>JDL, WAM</b>	Date: <b>2/6/14</b>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile S.L. (VC)	✓			
GABBARD, Mike	✓			
GALUTERIA, Brickwood	✓			
IHARA, Jr., Les	✓			
SOLOMON, Malama		✓		<del>W</del>
SLOM, Sam		✓		
<b>TOTAL</b>	<b>5</b>	<b>2</b>	<b>0</b>	<b>0</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes