



THE HAWAII STATE SENATE
The Twenty-Seventh Legislature
Regular Session of 2014

COMMITTEE ON WAYS AND MEANS
The Honorable Sen. David Y. Ige, Chair
The Honorable Sen. Michele N. Kidani, Vice Chair

DATE OF HEARING: Friday, March 28, 2014
TIME OF HEARING: 9:35 AM
PLACE OF HEARING: Conference Room 211

**TESTIMONY ON HB1588 HD2 SD1 RELATING TO QUALITY COMMUNITY
REHABILITATION PROGRAMS**

By DAYTON M. NAKANELUA,
State Director of the United Public Workers,
AFSCME Local 646, AFL-CIO ("UPW")

My name is Dayton M. Nakanelua and I am the State Director of the United Public Workers, AFSCME, Local 646, AFL-CIO (UPW). The UPW is the exclusive representative for approximately 14,000 public employees, which include blue collar, non-supervisory employees in Bargaining Unit 1 and institutional, health and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties. The UPW also represents about 1,500 members of the private sector.

The UPW strongly opposes HB1588 HD2 SD1, which amends the civil service exemption for personal service contracts for custodial and grounds maintenance services with qualified community rehabilitation programs to last no more than one year and at a cost of \$850,000 per contract.

This measure seeks to replace positions and jobs traditionally fulfilled by public civil service employees. Changing Act 191, SLH 207 by increasing the cap to \$850,000 per contract promotes privatization and may create legal problems as it contradicts the findings in *Konno vs. County of Hawaii*.

We ask that you hold this bill in committee.

Thank you for the opportunity to testify on this measure.

March 25, 2014

Senator David Y Ige, Chair
Committee on Ways and Means
Hawaii State Capitol,
Honolulu, HI 96813

Re: Committee on Ways and Means Notice of Decision Making for HB1588 on Friday
March 28, 2014 at 9:35 a.m.

Dear Chair Ige:

I am writing in support of HB 1588, HD2, SD1 that clarifies the language in exemption # 16 of HRS 76-77. The bill amends the exemption from the civil service laws for contracts for personal services, building, custodial, and grounds maintenance services, with qualified community rehabilitation programs at a cost of no more than \$850,000 **by specifying that the \$850,000 maximum applies per contract.**

This effort was a result of a recent interpretation of exemption #16 from the County of Maui Corporation Counsel. Their current interpretation is that the cap of \$850,000 is for all contracts instead of per contract. **It is important to note that in 2008 when the cap amount of \$850,000 was put into law, Ka Lima O Maui already had \$1 million in contracts with the County of Maui.** All parties involved always intended for the amount of \$850,000 to be interpreted as per contract and not as a total amount. Otherwise, Ka Lima would have been out of compliance from the inception of the law.

Most recently, the State of Hawaii Attorney General has provided a favorable opinion on the interpretation of the language agreeing that it should be read as "per contract". I have attached a copy of his opinion. He also recommends passage of HB1588 to further clarify the issue.

The future of these contracts is crucial to the mission of our organization; "Enhancing Lives through Self-Reliance" for persons with disabilities through employment related programs. Our grounds and custodial service contracts, that currently total \$1.2 million, employ 50 persons with disabilities. The contracts allow us to deliver services such as assessments, evaluation and training and ultimately employment for a population that is often times overlooked. Employment opportunities provide dignity, self-respect, independence and the chance to become contributing members of our community.

Please help us by passing HB 1588 in its current version so we can continue to put paychecks in deserving hands. Thank you for your consideration and support.

Sincerely,

Chantal Ratte
Executive Director, Ka Lima O Maui

NEIL ABERCROMBIE
GOVERNOR



DAVID M. LOUIE
ATTORNEY GENERAL

RUSSELL A. SUZUKI
FIRST DEPUTY ATTORNEY GENERAL

STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL
EMPLOYMENT LAW DIVISION
235 SOUTH BERETANIA STREET, 15TH FLOOR
HONOLULU, HAWAII 96813
(808) 587-2900

February 19, 2014

The Honorable Rosalyn H. Baker
Senator, Sixth District
The Twenty-Seventh Legislature
State Capitol, Room 230
Honolulu, Hawaii 96813

The Honorable J. Kalani English
Senator, Seventh District
The Twenty-Seventh Legislature
State Capitol, Room 205
Honolulu, Hawaii 96813

The Honorable Gilbert S.C. Keith-Agaran
Senator, Fifth District
The Twenty-Seventh Legislature
State Capitol, Room 203
Honolulu, Hawaii 96813

Re: Interpretation of HRS §76-77 (16); SB 2744/HB 1588

Dear Senators:

In your letter of February 10, 2014, you asked for clarification regarding whether the \$850,000 limit in section 76-77 (16), Hawaii Revised Statutes is on a per contract basis. We answer in the affirmative. It is the opinion of the Department of the Attorney General that the \$850,000 limit prescribed in the above-referenced statute is a **per contract**, not aggregate, limit in the exemption from the civil service laws for personal service contracts for building, custodial, and grounds maintenance services with qualified community rehabilitation programs. We have found nothing in the legislative history that contradicts this conclusion and we agree that a plain reading of the statute supports this conclusion.

Because it appears that there is some confusion about the meaning of this provision, we would support the passage of either SB 2744 or HB 1588 to bring further clarity to this issue.

The Honorable Rosalyn H. Baker
The Honorable J. Kalani English
The Honorable Gilbert S.C. Keith-Agaran
February 19, 2014
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Please do not hesitate to contact the Department of the Attorney General should you need further clarification.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Bosko Petricevic', with a stylized flourish at the end.

Bosko Petricevic
Deputy Attorney General

APPROVED:

A handwritten signature in black ink, appearing to read 'David M. Louie', with a stylized flourish at the end.

DAVID M. LOUIE
Attorney General