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

Date: Friday, February 7, 2014

Time: 9:00 a.m.

Place: Conference Room 309, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: H.B. No. 2347, H.D.1, Relating to Department of Taxation Criminal
Investigators

The Department of Taxation (Department) strongly supports H.B. 2347, H.D. 1, an Administration measure, clarifying that exempt and civil service investigators have the same police powers.

H.B. 2347, H.D. 1, amends section 231-4.3, Hawaii Revised Statutes, to make it clear that: (1) Department criminal investigators have police powers at all times; (2) civil service investigators, as well as exempt investigators, have police powers; and (3) the Director of Taxation may adopt administrative rules.

The Department's criminal investigation unit is currently structured such that its supervisor is a civil service employee. This measure would clarify that all Department criminal investigators, including the unit's civil service supervisor, have police powers.

Thank you for the opportunity to provide comments.

TAXBILLSERVICE

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SUBJECT: ADMINISTRATION, Criminal investigators

BILL NUMBER: SB 2897; HB 2347 (Identical)

INTRODUCED BY: SB by Kim by request; HB by Souki by request

BRIEF SUMMARY: Amends HRS section 231-4.3 to provide that criminal investigators with police powers may consist of both civil service (HRS chapter 76) and non civil service employees.

EFFECTIVE DATE: July 1, 2050

STAFF COMMENTS: This is an administration measure submitted by the department of taxation TAX-13 (14). When the department of taxation was authorized to hire criminal investigators by Act 136, SLH 2003, it specified that the investigators shall be exempt from HRS chapter 76 (civil service). It appears that the criminal investigation unit of the department of taxation is now supervised by a civil service employee. Thus, that employee has no police power. This measure would allow all criminal investigators to have police powers, civil service or not.

From a technical point of view, if the amendments made to (a) are made, the added paragraph (b) is unnecessary and, if adopted, would be redundant.

Digested 2/6/14



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

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

Testimony by
Hawaii Government Employees Association
February 7, 2014

**H.B. 2347, H.D. 1 – RELATING TO DEPARTMENT OF
TAXATION CRIMINAL INVESTIGATORS**

The Hawaii Government Employees Association supports the purpose and intent of H.B. 2347, H.D. 1 with an amendment. This legislation clarifies that criminal investigators employed by the Department of Taxation who are classified as civil service employees have the powers, authority, benefits and privileges of a police officer or deputy sheriff. These powers and authority are already provided to investigators who are exempt from civil service (Chapter 76, HRS).

We recommend that the bill be amended to require the conversion of the exempt criminal investigators to civil service by changing the language on page 1, lines 14-15 bill to read as follows: “Persons appointed and commissioned under this section shall be subject to Chapter 76, HRS”. There is no legitimate rationale to exempt criminal investigators from Chapter 76, HRS.

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.

Many exempt employees have been employed by the State of Hawaii for years and provide valuable provision 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. 2347, H.D. 1 with the suggested amendment.

Respectfully submitted,

Randy Perreira
Executive Director