

# **SB 2897**

## **RELATING TO DEPARTMENT OF TAXATION CRIMINAL INVESTIGATORS.**

Clarify that Department of Taxation criminal investigators who are subject to chapter 76, Hawaii Revised Statutes, also have police powers.

PSM, JDL

NEIL ABERCROMBIE  
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To: The Honorable Will Espero, Chair  
and Members of the Senate Committee on Public Safety, Intergovernmental and  
Military Affairs

Date: Tuesday, February 11, 2014  
Time: 2:50 p.m.  
Place: Conference Room 224, State Capitol

From: Frederick D. Pablo, Director  
Department of Taxation

Re: S.B. No. 2897, Relating to Department of Taxation Criminal Investigators

The Department of Taxation (Department) strongly supports S.B. 2897, an Administration measure, clarifying that exempt and civil service investigators have the same police powers.

S.B. 2897 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.



**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 Senate  
Committee on Public Safety, Intergovernmental and Military Affairs

Testimony by  
Hawaii Government Employees Association  
February 11, 2014

**S.B. 2897 – RELATING TO DEPARTMENT OF  
TAXATION CRIMINAL INVESTIGATORS**

The Hawaii Government Employees Association supports the purpose and intent of S.B. 2897 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 13-15 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 article 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. Exempt employees are also not subject to the reduction-in-force article of our contracts. 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 XIII, Section 2 and the statement of purpose in Section 76-1, HRS. This statement of purpose is reiterated in Section 76-16, HRS.

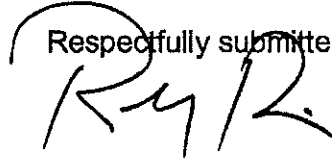
Many exempt employees have been employed by the State of Hawaii for years and provide valuable service to their respective departments, yet they are not treated fairly by the employer. Under all 27 exemptions listed in Section 76-16, HRS, there are 2,894 exempt employees within the state Executive Branch.

We estimate that between 8-9% of all Hawaii 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

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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 S.B. 2897 with the suggested amendment.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'RyR', is written over the text 'Respectfully submitted,'.

Randy Perreira  
Executive Director

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 06, 2014 1:14 PM  
**To:** PSMTestimony  
**Cc:** tina@tfhawaii.org  
**Subject:** Submitted testimony for SB2897 on Feb 11, 2014 14:50PM  
**Attachments:** s2897-14.pdf

**SB2897**

Submitted on: 2/6/2014

Testimony for PSM on Feb 11, 2014 14:50PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Thomas Yamachika	Tax Foundation of Hawaii	Comments Only	No

Comments: Here is the Tax Foundation of Hawaii testimony on SB 2897.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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# TAXBILLSERVICE

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TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

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: Upon approval

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 1/29/14