



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

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Written Statement of
LUIS P. SALAVERIA
Director

Department of Business, Economic Development, and Tourism
before the
SENATE COMMITTEE ON WAYS AND MEANS

Monday, April 4, 2016
9:10 a.m.
State Capitol, Conference Room 211

in consideration of
HB 2353, HD2, SD1

RELATING TO EXEMPTIONS FROM CIVIL SERVICE.

Chair Tokuda, Vice Chair Dela Cruz, and Members of the Committee.

The Department of Business, Economic Development, and Tourism (DBEDT) supports with comments HB 2353, HD2, SD1 which extends the civil service exemption for positions in the State Energy Office for three years.

DBEDT supports the provision in HB2353, HD2, SD1 which exempts from civil service certain DBEDT positions in the State Energy Office for three years. We respectfully submit, however, that in the case of the Hawaii State Energy Office, the public interest would be best served by restoring the permanent exempt status for its positions because it would continue the flexibility needed to adapt its resources to meet the challenges of the rapidly changing energy landscape as we pursue a 100 percent renewable future by 2045. As energy priorities for the State continue to evolve, DBEDT must be able to recruit and retain highly qualified individuals possessing the expertise for addressing technical energy-related issues to support Hawaii's ambitious energy transformation agenda.

DBEDT appreciates the opportunity to offer testimony in support of HB 2353, HD2, SD1.

DBEDT respectfully defers to the Departments of Health, Human Services, Public Safety, and Labor and Industrial Relations on their respective sections.



**STATE OF HAWAII
DEPARTMENT OF HEALTH**

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**Testimony SUPPORTING HB2353, H. D. 2, S. D. 1
Relating to Exemptions from Civil Service**

SENATOR JILL N. TOKUDA, CHAIR
SENATE COMMITTEE ON WAYS AND MEANS

Hearing Date: April 4, 2016, 10:00 a.m. Room Number: 211

1 **Fiscal Implications:** Undetermined at this time.

2 **Department Testimony:** The Department of Health (DOH) supports HB2353, H.D. 2, S.D. 1
3 which is part of the administration's proposed legislation. The DOH respectfully suggests
4 amendments to this measure and has included proposed language for your consideration at the
5 end of this testimony.

6 Specifically for positions within the Adult Mental Health Division (AMHD) and the
7 Hawaii State Hospital (HSH), a statutory exemption from civil service requirements for these
8 critically important positions will allow recruitment and retention to be greatly improved and
9 will provide an increased degree of flexibility in the compensation rates of these positions, which
10 are highly specialized, require significant professional experience, and historically have been
11 very difficult to fill.

12 For the AMHD and the HSH, it is anticipated that this bill will apply to 20 positions
13 including nine positions within the Community Mental Health Centers, eight positions within the
14 Courts and Corrections Branch, and three positions at the HSH.

1 The HSH continues to experience a high census exceeding licensed capacity which
2 affects the quality of patient care and the safety of patients and staff at the HSH. Physicians at
3 the HSH play a very critical role in providing quality health care to the HSH patients. These
4 HSH physicians are responsible for addressing the physical health needs of a patient population
5 that has been court ordered to the care and custody of the Director of Health for the assessment
6 and/or restoration of psychiatric fitness to stand trial or for mental health treatment following a
7 verdict of “not guilty by reason of insanity.” This forensically encumbered population of
8 individuals with severe and persistent mental illness, some of whom also present a high risk of
9 dangerousness, poses unique challenges for physicians which, when coupled with a salary range
10 that is not commensurate with the private sector in Hawaii or comparable to similar positions in
11 other state operated psychiatric hospitals, results in difficulty in recruiting and retaining
12 physicians to work in this direct patient care setting.

13 The complexity of the medical conditions treated by the Internists at the HSH has
14 significantly changed in the past 10 years. In prior years, the HSH’s population was mainly
15 civilly committed patients, most of whom were healthy adults except for their psychiatric
16 condition. Today, the health conditions of patients at the HSH includes providing care to many
17 older patients including patients who have extensive drug use histories such as hepatitis, kidney
18 failure, diabetes, endocrine conditions, and obesity. Patients receive treatment for neurological
19 disorders including seizures and Huntington’s disease, head injuries, dementia, lung disease,
20 pregnancy complications, bone fractures due to falls, and even tracheotomy (breathing tube)
21 patients. The HSH Internists must be well trained in urgent care, not just routine care. They are
22 providing care to patients with complex combinations of conditions not being addressed is other

1 settings. The experience and training required to provide this care requires that their
2 compensation be commensurate with that of other internists of similar background providing
3 equivalent care in analogous settings.

4 Regarding the forensic psychologist positions; the DOH plays a critical role in the State's
5 justice system with regard to examinations of a criminal defendant's fitness to stand trial and
6 penal responsibility, and monitoring of individuals on conditional release. Ensuring the
7 timeliness and quality of forensic analyses in the state judicial system and establishing a system
8 of accountability and efficiency in the administration of forensic examinations are essential
9 components that support appropriate access to justice for the citizens of Hawaii.

10 Forensic psychologists require highly specialized training and expertise for the proper
11 administration of court-ordered examinations. The available pool of qualified professionals is
12 very small. The expert opinions and conclusions provided in a court-ordered report and
13 testimony are heavily considered by the judiciary, and accordingly, are a significant factor in
14 legal claims and defenses available to a defendant, subsequent adjudication, and the final ruling
15 of the court. In fact, these court cases cannot proceed without the completion of these court-
16 ordered examinations. Therefore, numerous and/or lengthy vacancies among the state-employed
17 forensic psychologists will delay court proceedings and potentially interfere with a defendants'
18 right to due process and will affect the high census at the HSH.

19 The DOH is faced with serious challenges and the need to immediately fulfill our legal
20 mandates for this forensic mental health population which is often a population that no other
21 community of private entity will serve. The DOH has experienced difficulties in attracting and

1 retaining qualified candidates for its forensic psychologist positions and its forensic psychologist
2 supervisor position due to low civil service pay scale ranges. We have looked at and have tried
3 different strategies to adjust compensation so we can recruit and/or retain staff.

4 Within the past year, a complaint was lodged with the Special Litigation Section of the
5 U.S. Department of Justice alleging a violation of the Civil Right of Institutional Persons Act
6 (CRIPA) due to lengthy delays in state-employed forensic psychologist court-ordered
7 examinations related to the position vacancies. This drew the attention of the Hawaii Disability
8 Rights Center. If not remedied, the Office of Civil Rights could launch a full investigation
9 leading to legal action and oversight.

10 Thank you for your consideration and the opportunity to testify.

11 **Offered Amendments:** SECTION 2. The department of health may
12 establish up to eighteen permanent or temporary exempt positions
13 known as forensic psychologists, to include one court examiner
14 supervisor, that shall perform court ordered forensic
15 examinations requiring a state designee, monitor individuals
16 pursuant to a court order in the community, or coordinate
17 forensic activities. The permanent or temporary exempt
18 positions shall be appointed by the director without regard to
19 chapter 76, provided that exemptions shall expire three years
20 after enactment unless affirmatively extended by an act of the
21 legislature.

1 The department of health may establish up to two permanent
2 or temporary exempt positions known as Hawaii State Hospital
3 primary care physicians that shall serve as an attending
4 physicians for Hawaii State Hospital patients. The permanent or
5 temporary exempt positions shall be appointed by the director
6 without regard to chapter 76, provided that exemptions shall
7 expire three years after enactment unless affirmatively extended
8 by an act of the legislature.

DAVID Y. IGE
GOVERNOR



JAMES K. NISHIMOTO
DIRECTOR

CINDY S. INOUE
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
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April 1, 2016

TESTIMONY TO THE
SENATE COMMITTEE ON WAYS AND MEANS
For Decision Making on Monday, April 4, 2016
9:10 a.m., Conference Room 211

By

JAMES K. NISHIMOTO
DIRECTOR
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT

House Bill No. 2353, H.D. 2, S.D. 1
Relating to Exemptions from Civil Service

WRITTEN TESTIMONY ONLY

CHAIRPERSON TOKUDA, VICE-CHAIRPERSON DELA CRUZ MEMBERS OF THE
COMMITTEE:

The Department of Human Resources Development (DHRD) **SUPPORTS THE INTENT** of H.B. 2353 H.D.2, S.D.1 and offers the following comments:

While DHRD supports the provision in H.B. 2353, H.D.2, S.D. 1 authorizing a permanent exemption from civil service for a second deputy director position at the Department of Human Services, DHRD is uncertain whether a three-year exemption from civil service for specified positions at the Department of Human Services, Department of Public Safety, Department of Health, Department of Labor and Industrial Relations, and Department of Business, Economic Development and Tourism is sufficient to allow these departments to address their operational issues. DHRD defers to these departments to provide information regarding the impact of temporary exemptions upon their operations.

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
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Shawn H. Tsuha
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON HOUSE BILL 2353, HOUSE DRAFT 2, SENATE DRAFT 1
RELATING TO EXEMPTIONS FROM CIVIL SERVICE

By

Nolan P. Espinda, Director

Senate Committee on Ways and Means
Senator Jill N. Tokuda, Chair
Senator Donovan M. Dela Cruz, Vice Chair

Monday, April 4, 2016; 10:00 a.m.
State Capitol, Conference Room 211

Chair Tokuda, Vice Chair Dela Cruz, and Members of the Committee:

The Department of Public Safety (PSD) **supports** House Bill (HB) 2353, House Draft (HD) 2, Senate Draft (SD) 1 which is part of the Governor's package of bills.

For Department of Public Safety positions, this measure will provide a three year statutory exemption from civil service requirements for 20.5 FTE positions, including 15 Clinical Psychologists, 1.5 Dentists, 1 Mental Health Branch Administrator and 3 Mental Health Section Administrators, positions that provide constitutionally-mandated dental and mental health services to our inmate population.

This measure's proposed statutory exemption from civil service will greatly improve PSD's ability to recruit and retain qualified candidates in these treatment positions by providing the Department with greater flexibility in structuring the compensation rates for these positions. Positions in the correctional health care field have been historically difficult to fill due to low compensation rates as compared to community rates and the perceived dangers of the correctional environment.

Thank you for the opportunity to provide this testimony.