

**STATE OF HAWAII  
DEPARTMENT OF HEALTH**

P. O. Box 3378  
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**Testimony SUPPORTING HB2353  
Relating to Exemptions from Civil Service**

REPRESENTATIVE MARK M. NAKASHIMA, CHAIR  
HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

REPRESENTATIVE HENRY J. C. AQUINO, CHAIR  
HOUSE COMMITTEE ON TRANSPORTATION

Hearing Date: February 9, 2016, 9:30 a.m. Room Number: 309

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

2 **Department Testimony:** The Department of Health (DOH) supports HB2353, which is part of  
3 the Governor's package of bills.

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

10 For the AMHD and the HSH, it is anticipated that this bill will apply to approximately 19  
11 positions including nine positions within the Community Mental Health Centers, seven positions  
12 within the Courts and Corrections Branch, and three positions at the HSH.

13

1 **Hawaii State Hospital (HSH) Physicians:**

2           The HSH continues to experience a high census exceeding licensed capacity which  
3 affects the quality of patient care and the safety of patients and staff at the HSH. Physicians at  
4 the HSH play a very critical role in providing quality health care to the HSH patients.

5           The HSH is in the process of converting two physician positions from exempt by special  
6 project to civil service. These HSH physicians are responsible for addressing the physical health  
7 needs of a patient population that has been court ordered to the care and custody of the Director  
8 of Health for the assessment and/or restoration of psychiatric fitness to stand trial or for mental  
9 health treatment following a verdict of “not guilty by reason of insanity.” This forensically  
10 encumbered population of individuals with severe and persistent mental illness, some of whom  
11 also present a high risk of dangerousness, poses unique challenges for physicians which, when  
12 coupled with a salary range that is not commensurate with the private sector in Hawaii or  
13 comparable to similar positions in other state operated psychiatric hospitals, results in difficulty  
14 in recruiting and retaining physicians to work in this direct patient care setting.

15           The complexity of the medical conditions treated by the Internists at the HSH has  
16 significantly changed in the past 10 years. In prior years, the HSH’s population was mainly  
17 civilly committed patients, most of whom were healthy adults except for their psychiatric  
18 condition. Medical care for that population consisted mostly of common conditions such as  
19 colds, flu, and high blood pressure.

20           Today, the health conditions of patients at the HSH, many of whom are older and have  
21 extensive drug use histories, include hepatitis, kidney failure, diabetes, endocrine conditions, and

1 obesity. Patients receive treatment for neurological disorders including seizures and  
2 Huntington's disease, head injuries, dementia, lung disease, pregnancy complications, bone  
3 fractures due to falls, and even tracheostomy (breathing tube) patients. HSH Internists must be  
4 well trained in urgent care, not just routine care. The experience and training required to recruit  
5 qualified candidates in the future will be significantly higher than that of the past, and the civil  
6 service salary structure is not commensurate with the salaries of internists in today's market.

7         According to Occupational Employment Statistics published by the United States Bureau  
8 of Labor Statistics, in 2014 (the most recent data available) the mean annual wage of General  
9 Internists was \$190,530. The State of Hawaii civil service pay scale range for internists is  
10 between \$75,588 and \$116,876. The current State of Hawaii civil service pay schedule, if  
11 applied to our internists, would compensate one doctor at \$88,404/year and another doctor at  
12 \$116,352/year and even after adding the shortage differential of \$4,800 and \$5,376 respectively  
13 per year, the compensation would be well below the current market. Allowing the HSH Internist  
14 positions to be exempt from civil service pay scales will allow competitive rates to be offered to  
15 attract qualified candidates to the HSH.

16 **AMHD and HSH Forensic Psychologists:**

17         The DOH plays a critical role in the State's justice system with regard to examinations of  
18 a criminal defendant's fitness to stand trial and penal responsibility, and monitoring of  
19 individuals on conditional release. Ensuring the timeliness and quality of forensic analyses in  
20 the state judicial system and establishing a system of accountability and efficiency in the

1 administration of forensic examinations are essential components that support appropriate access  
2 to justice for the citizens of Hawaii.

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

12 The DOH has experienced difficulties in attracting and retaining qualified candidates for  
13 its forensic psychologist positions and its forensic psychologist supervisor position due to low  
14 civil service pay scale ranges.

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

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



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

DAVID Y. IGE  
GOVERNOR

LUIS P. SALAVERIA  
DIRECTOR

MARY ALICE EVANS  
DEPUTY DIRECTOR

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Written Statement of  
**LUIS P. SALAVERIA**  
**Director**  
Department of Business, Economic Development, and Tourism  
before the  
**HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT**

February 9, 2016  
9:30 a.m.  
State Capitol, Conference Room 309

in consideration of  
**HB 2353**

**RELATING TO EXEMPTIONS FROM CIVIL SERVICE.**

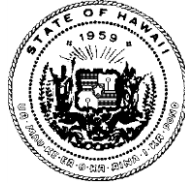
Chair Nakashima, Vice Chair Keohokalole, and Members of the Committee.

The Department of Business, Economic Development, and Tourism (DBEDT) supports HB 2353, which designates positions in the State Energy Office as permanently exempt.

DBEDT strongly supports amending Section 76-16(b), Hawaii Revised Statutes, to permanently exempt from civil service certain DBEDT positions in the State Energy Office. The exempt positions are needed for sustained support for the Hawaii Clean Energy Initiative (HCEI) program and the State's renewable portfolio standards goal of achieving 100% renewable energy by 2045. DBEDT relies on exempt civil service positions to meet the challenges of the rapidly changing energy landscape. As energy-related priorities for the State continue to evolve, DBEDT must be able to adapt its resources to meet the expertise requirements for addressing technical energy-related issues. The ability to hire and retain highly qualified individuals to support HCEI is an important resource strategy aligned with the State's 2045 clean energy goals.

DBEDT strongly supports this bill as critical to continuing our long-term commitment to ensure continued progress and plan development for clean energy infrastructure in Hawaii. Thank you for the opportunity to offer testimony in support of HB 2353.

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 HUMAN SERVICES

P. O. Box 339  
Honolulu, Hawaii 96809-0339

February 9, 2016

TO: The Honorable Representative Mark M. Nakashima, Chair  
House Committee on Labor

FROM: Rachael Wong, DrPH, Director

SUBJECT: **HB 2353 – RELATING TO EXEMPTIONS FROM CIVIL SERVICE**

Hearing: Tuesday, February 9, 2016; 9:30 a.m.  
Conference Room 309, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) supports this administration request.

**PURPOSE:** The purpose of this bill is to restore the second deputy director position for the Department; designates identified positions in the Director's Office of the Department of Human Services as permanently exempt; converts identified positions in the Department of Health, the Department of Human Services, the Department of Public Safety, the Department of Labor and Industrial Relations, and the Department of Business, Economic Development and Tourism to permanent exempt status.

The Department of Human Services has the largest operating budget of any state department, approximately \$3,100,000,000, including 73% of the State's federal operating funds. The Department also has the fifth largest staff of any department, with over 2,000 employees staffing its four divisions and three administratively attached agencies in 88 offices throughout the state. The Department is transforming its practices to a whole-family, multi-generational approach, 'Ohana Nui, that ties together health, education, early childhood development, and supporting self-sufficiency of Hawaii's families. Because DHS serves 1 in 4 Hawaii residents, investing in DHS is investing in a healthier Hawaii and the future of our families.

Currently, the Department has only one deputy director. Act 223, Session Laws of Hawaii 1994, deleted the second deputy director position, which was prompted by the State's poor economy at that time.

The Department is proposing to establish the community/project development director and policy director positions within the office of the Director. These positions will assist with managing the numerous projects assigned to the department, including addressing homelessness; the individual and family functions of the State-based Marketplace using the Federal Platform (SBM-FP, previously under the Hawaii Health Connector); ensuring continued access to health coverage for State residents from the Compact of Free Association nations; and building a collaborative, and integrated multi-generational service model for children and families. The new mandates and initiatives have increased the demands on the Director's office as they require changes to the operations of multiple divisions, and coordination with and participation of other state and federal agencies, community agencies and key stakeholders.

The Med-QUEST division Medicaid program is the most effective and cost efficient way to provide health care coverage to low-income adults and children. The program is complex as it requires compliance with complex federal regulations and integration of current health care trends in service delivery, while meeting the unique needs of Hawaii's population.

The Med-QUEST division, seeks to convert six identified management level positions within the Med-QUEST division to permanent exempt status (division administrator, finance officer, health care services branch administrator, medical director, clinical standards administrator, and research/health analytics manager) because they require unique knowledge and experience typically gained through employment in health care-related organizations (e.g., hospitals, clinics, insurance companies, etc.) or the federal government, or require clinical credentials or licenses. The conversion to permanent exempt status for these positions is necessary to allow flexibility to hire and retain highly qualified staff to manage critical on-going functions over the \$2 billion medical assistance programs.

The Department is seeking permanent exempt status for these positions because Chapter 76-16 (b)(17), HRS, provides that position exemptions created after July 1, 2014, shall expire after three years unless affirmatively extended by an act of the legislature. The Med-QUEST positions are currently subject to expire on June 30, 2016.

This limitation on the duration of exempt positions creates several challenges. First, successfully filling these positions requires attracting seasoned, knowledgeable individuals with expertise in specialized areas that may not be reflective of the current civil service classification system. Secondly, the department needs the flexibility of permanent exempt status to easily restructure and redefine the roles and responsibilities of these positions to meet evolving demands, while offering some measure of employment stability. Thirdly, DHS needs to be able to attract qualified candidates by offering competitive salaries which may at times be beyond or contrary to current civil service compensation provisions. Lastly, permanent exempt status for these positions will provide the necessary flexibility to hire and retain qualified staff to meet the department's on-going needs – needs which have existed for decades and will continue indefinitely.

However, DHS understands per discussion with Hawaii Government Employees Association (HGEA) representatives and by testimony submitted in reference to HB 2348, the DHS administrative measure requesting these positions and appropriations, that HGEA agreed to the creation of the Second Deputy Position, but opposed the permanent exemption for the other DHS positions. Instead, HGEA proposed language removing the permanent exemption and to amend Section 76-16(b), to read as follows:

(27) positions in the Med-QUEST division of the department of human services division[sic] which include an administrator, finance officer, health care services branch administrator, medical director, clinical standards administrator, and research/health analytics manager; and positions in the director's office of the department of human services which include a community/project development director, and policy director provided that these exemptions shall expire three years after its enactment unless affirmatively extended by an act of the legislature;

We would like to committee to consider that DHS requires general fund appropriation of \$371,364 for the proposed positions: Deputy Director (\$125,700), the secretary for the Deputy Director (\$60,000), the community/project development director (\$105,648), and policy director (\$80,016).

The funds for the six Med-QUEST positions already exist in the DHS budget. However, it is imperative that these positions are extended as they are scheduled to expire on June 30, 2016.

Thank you for the opportunity to testify on this bill.



DAVID Y. IGE  
GOVERNOR

SHAN S. TSUTSUI  
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA  
DIRECTOR

LEONARD HOSHIO  
DEPUTY DIRECTOR

**STATE OF HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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February 7, 2016

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

Date: Tuesday, February 9, 2016  
Time: 9:30 a.m.  
Place: Conference Room 309, State Capitol

From: Linda Chu Takayama, Director  
Department of Labor and Industrial Relations (DLIR)

**Re: H.B. No. 2353 Relating to Exemptions from Civil Service**

**I. OVERVIEW OF PROPOSED LEGISLATION**

For DLIR, this proposal permits the department to hire Hawaii Occupational Safety & Health (HIOSH) inspectors without regard to chapter 76, Hawaii Revised Statutes (HRS). DLIR supports this exemption from civil service for HIOSH inspectors to address historical recruiting and retention challenges.

**II. CURRENT LAW**

Chapter 76 does not allow the department to use exempt positions for HIOSH inspectors.

**III. COMMENTS ON THE HOUSE BILL**

This proposal would enable HIOSH to recruit and retain inspectors by permitting the use of exempt positions to address the historical staffing challenges faced by HIOSH.

The U.S. Government Accountability Office (GAO) issued a report to Congress in April 2013 that identified staffing as the primary problem experienced by state-run

programs. "States have difficulty filling vacant inspector positions, obtaining training for inspectors, and retaining qualified inspectors... Officials noted that, once state inspectors are trained, they often leave for higher paying positions in the private sector or federal government." *GAO-13-320, Workplace Safety and Health: OSHA Can Better Respond to State-Run Programs.*

DAVID Y. IGE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
919 Ala Moana Boulevard, 4th Floor  
Honolulu, Hawaii 96814

**NOLAN P. ESPINDA**  
DIRECTOR

**Cathy Ross**  
Deputy Director  
Administration

**Jodie F. Maesaka-Hirata**  
Deputy Director  
Corrections

**Shawn H. Tsuha**  
Deputy Director  
Law Enforcement

No. \_\_\_\_\_

TESTIMONY ON HOUSE BILL 2353  
RELATING TO EXEMPTIONS FROM CIVIL SERVICE

By  
Nolan P. Espinda, Director

House Committee on Labor and Public Employment  
Representative Mark M. Nakashima, Chair  
Representative Jarrett Keohokalole, Vice Chair

Tuesday, February 9, 2016; 9:30 a.m.  
State Capitol, Conference Room 309

Chair Nakashima, Vice Chair Keohokalole, and Members of the Committee:

The Department of Public Safety (PSD) **supports** House Bill (HB) 2353.

HB 2353 seeks to amend Hawaii Revised Statutes Section 76-16(b), at the behest of the respective departments, by designating certain positions at the Department of Human Services, Department of Health, Department of Public Safety, Department of Labor and Industrial Relations, and Department of Business, Economic Development and Tourism as permanently exempt, for reasons to be provided by each department.

Because DHRD is responsible for administering HRS Section 76-16(b), HB 2353 serves as the vehicle to seek these permanent exemptions from civil service. PSD provided DHRD supporting justification and rationale for the proposed exemptions.

Thank you for the opportunity to present this testimony.

## **TESTIMONY IN OPPOSITION of HB2353 – Relating to Exemptions from Civil Service**

For: Hearing on Tuesday, February 9, 2016 at 9:30 a.m.

From: Kevin Won -- Occupational Safety and Health Compliance Officer, HIOSH

Submitted to: House Committee on Labor and Public Employment

Representative Mark M. Nakashima, Representative Jarrett Keohokaole and other distinguished committee members, I thank you for the opportunity to address HB-2353.

I am in strong opposition of HB2353. This bill is stating that converting current positions to an exempt status in order to raise salaries would increase employee retention rates within the stated departments. There are three major issues with this statement:

- 1) There are no documented facts showing that the salary is the main cause for low recruitment and retention rates.

In the report cited on the bill, *GAO-13-320, Workplace Safety and Health: OSHA Can Better Respond to State-Run Programs*, none of the studies conducted unequivocally validated the effectiveness of an exemption status.

- 2) There is no guarantee the funding will be available to pay higher salaries.

Specifically to those positions funded by a combination state and other entities. For example, those positions matched by Federal grant funding have no requirement to increase the amount of the grant just because the state decides to increase the salary amount for the position, thus defeating the purpose of creating and converting position to exempt status.

- 3) Employees work for the state for the stability of being a civil service employee.

By converting positions to exempt status, the corresponding benefits would no longer be available. These benefits come with long-term rewards, which better markets the position for long-term retention. Therefore, a higher salary without current benefits will not increase recruitment and retention rates as the bill states.

A solution could involve collaboration between current employees and recruitment and retention departments, ie Department of Human Resources and Development, has the potential to result in an increase in these rates while maintaining current civil service status.

Creating and converting positions to exempt status is not a correction to the stated issues and in my opinion would result in an even bigger decrease in these rates, because of the lack of stability and long-term reward that accompanies being a civil service employee.

Best regards,

Kevin Won

February 8, 2016

House Committee on Labor & Public Employment  
Rep. Mark M. Nakashima, Chair  
Rep. Jarrett Keohokalole, Vice Chair  
Hearing on February 9, 2016 at 9:30 a.m.

**STRONG OPPOSITION** to HB2353 – Relating to Exemptions from Civil Service

Dear Chair Nakashima, Vice Chair Keohokalole, and Members of the Committee,

As an inspector working for the Hawaii Occupational Safety and Health Division (HIOSH), I am in **strong opposition** of HB2353.

This bill introduces the idea that by creating and converting current positions from civil service to exempt will produce a higher salary, thereby increasing employee recruitment and retention rates within the stated departments. There are three major issues with this statement:

- 1) The main cause for low recruitment and retention rates does not fall on salary alone.

For the Department of Labor and Industrial Relations, recruitment and retention of employees could potentially be increased by developing a focused and specific description for the position. Currently inspectors fall under the position “Environmental Health Specialist” which should be titled “Industrial Hygienist.” The current position’s title misleads individuals looking for positions as industrial hygienists. It also advertises to those in pursuit of employment within the field of environmental science, which the inspector position has nearly nothing to do with. A simple and clear **solution** on recruitment and retention rates would be to create an Industrial Hygienist position with a different bargaining unit than other Environmental Health Specialists.

- 2) Funding is not guaranteed to pay higher salaries.

HIOSH inspectors are paid fifty per cent by the state and fifty per cent by Federal funding. There is no guarantee our Federal grant funding will increase the amount and match what the state decides to pay should our positions become exempt.

- 3) Civil service status provides stability for employees who work for the state

The lack of civil service benefits by converting positions to exempt would only dissuade job seekers from applying for the position. On top of that, we may lose several competent and skilled inspectors who are staying because of these benefits despite the lower pay. Civil service rewards long-term employment and is a major contributing factor toward recruitment and retention rates.

This testimony is in **strong opposition of HB2353**. There are several solutions to assist with the recruitment and retention rates, as well as salary competition by the private sector, but exempting employees from civil service status is definitely not one of them. Following through with HB2353 will only decrease our current recruitment and retention rates due to the aforementioned reasons. I appreciate your time regarding this matter of concern.

Sincerely,



Kristin Takaba

# STRONG OPPOSITION, H.B. 2353

## Testimony in opposition of HB2353, Relating to Exemptions from Civil Service

Submitted to: The House Committee on Labor & Public Employment

Hearing: February 9, 2016 at 9:30 a.m.

Dear Chair Nakashima and Members of the Committee,

I am in **opposition** of HB2353. This bill is stating that converting and creating positions in an exempt status instead of civil service status in order to pay a higher salary would increase employee retention rates within the stated departments.

1. When they first created the Environmental Health Specialist series (EHS), they did not create it correctly, they just tagged it on as EHSs but actually we are doing the job of an Industrial Hygienist. Since DOH already has several thousand EHSs, it is easy just to add a few positions to it.
2. We are doing more than what the same counter parts are doing therefore, repricing is necessary. The federal government has separated different job series. Safety inspector only do safety inspection, Health inspector only do health inspection but can do safety inspection as well. A separate Discrimination office only does discrimination investigation they do not do inspections at all. We do all three as EHSs. We should be compensated accordingly.
3. There is a need to reprice the job series to match the work we did and not just change us to exempt status. This is **WRONG** way to solve this problem.
4. We get certain Federal Funding every year, and our job is 50/50% Federal/State matching funds. There is **NO** **GARANTEE** the Federal government will give more funding and there is no guarantee the State will match with more funding.
5. Many attempt has tried to fix the root problem price it right but were unsuccessful. May be now is a good time to do so.
6. Why all the Engineers can get an automatic \$1000 per month for shortage and the department can work something out as to our job series.
7. Many employees are opposing this bill, given that we continue to stay because of the retirement benefits and vacation/sick leave benefits. Passing this bill is telling us to quit and look for a new job that will continue such benefits. All of the valuable experience will be lost.
8. The affected employees should have been consulted before introducing this bill.
9. If the Employer is worried about retention, civil services status is all about long term retention and should not be taken away.

Respectfully submitted by: Tin Shing Chao

From: Edmar Castillo

Submitted On: Monday, February 8, 2016

Testimony in opposition on Bill # HB2353, RELATING TO EXEMPTIONS FROM CIVIL SERVICE, on Tuesday, February 09, 2016 in front of Rep. Mark M. Nakashima, Chair, Rep. Jarrett Keohokalole, Vice Chair, Rep. Henry J.C. Aquino, Rep. Sharon E. Har, Rep. Linda Ichiyama, Rep. Aaron Ling Johanson, Rep. Matthew S. LoPresti, Rep. Joy A. San Buenaventura, Rep. Roy M. Takumi, Rep. Kyle T. Yamashita, Rep. Andria P.L. Tupola, in Conference Room #309 9:30AM.

Testimony in opposition of HB2353, Relating to Exemptions from Civil Service

Submitted to: The House Committee on Labor & Public Employment,

Dear Honorable Committee Chair Representative Labor & Public Employment:

I oppose HB2353. I do not agree that this is the best course of action for the Department of Labor and Industrial Relations (DLIR) and its employees who would negatively benefit from this bill. As an employee, we have earned the rights and privileges of civil service benefits (e.g. retirement, medical benefits) through strong support of the union.

After reading the U.S. Government Accountability Office (GAO) 13-320, *Workplace Safety and Health: OSHA Can Better Respond to State-Run Programs*, sourced in the HB2353 for the justification of the bill, I understand there is a concern regarding the challenges state-run programs (in this case HIOSH) encounter in meeting their performance goals largely due to staff retention. In response to the issues presented in the material, I agree that HIOSH do need strong political support from their own state in order to develop concrete plans necessary to address these specific challenges and performance issues.

However, by providing higher paying positions in HIOSH at the expense of civil service benefits would be a temporary solution at best. The staff retention issue might be emblematic of a much larger issue such as lack of political support or it might be reflective of the economic turmoil that occurred in 2007-2009, as supported by the GAO report. More information is needed to combat the issue and I would like to tackle this for the betterment of our staff and department.

Sincerely,

Edmar Castillo

Employee of Department of Labor and Industrial Relations (DLIR)

From: Nicole Bennett, Department of Labor Employee  
Submitted on: February 8, 2016

**Testimony in opposition of HB2353, Relating to Exemptions from Civil Service**

Submitted to: The House Committee on Labor & Public Employment  
Hearing: February 9, 2016 at 9:30 a.m.

Good Day Chair Nakashima and Members of the Committee,

I am in opposition of HB2353. This bill is stating that converting and creating positions in an exempt status instead of civil service status in order to pay a higher salary would increase employee retention rates within the stated departments. There are three major issues with this statement:

- 1) There is no guarantee the funding will be available to pay higher salaries.

Specifically to those positions funded by state and other entities, there is no guarantee that the matching-fund entity will agree to match an increase in funding for higher salaries. For example, those positions matched by Federal grant funding have no requirement to increase the amount of the grant just because the state decides to increase the salary amount for the position. Defeating the purpose of creating and converting position to exempt status.

- 2) There are no facts showing that low salary is the direct cause of low recruitment and retention rates for Hawaii.

For the Department of Labor and Industrial Relations, recruitment and retention of employees could potentially be increased by creating a more specific position description. Currently inspectors fall under the position Environmental Health Specialist, when in reality the position is that of an Industrial Hygienist. The current position description misleads the actual position from those individuals looking for positions as industrial hygienists. It also advertises to those in pursuit of employment within the field of environmental science, which the inspector position is far from. Therefore, there are more avenues to increase recruitment and retention rates while keeping the benefits of civil service status.

- 3) Employees work for the state of Hawaii for the stability of being a civil service employee.

By converting positions to exempt status, the corresponding benefits would no longer be available. After discussion with those currently in civil service inspector positions, the job would be less appealing as exempt status with a higher salary than with the current salary and the dependability that comes with civil service status. These benefits come with long-term rewards, which markets the position for long-term retention. Therefore, a higher salary without current benefits will not increase recruitment and retention rates as the bill states.

As stated previously, this testimony is in opposition of HB2353. Efforts and funds could be invested in better alternatives to the issues stated with recruitment and retention of the employee positions listed on the bill. Collaboration between current employees and recruitment and retention departments, ie Department of Human Resources and Development, has the potential to result in an increase in these rates while maintaining current civil service status.

Creating and converting positions to exempt status is not a correction to the stated issues and in my opinion would result in an even bigger decrease in these rates, because of the lack of stability and long-term reward that accompanies being a civil service employee.

Best Regards,

Nicole Bennett



## **Testimony in opposition of HB2353, Relating to Exemptions from Civil Service**

Submitted to: The House Committee on Labor & Public Employment

Hearing: February 9, 2016 at 9:30 a.m.

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Specifically to those positions funded by state and other entities, there is no guarantee that the matching-fund entity will agree to match an increase in funding for higher salaries. For example, those positions matched by Federal grant funding have no requirement to increase the amount of the grant just because the state decides to increase the salary amount for the position. Defeating the purpose of creating and converting position to exempt status.

- 2) There are no facts showing that the salary is the main cause for low recruitment and retention rates.

For the Department of Labor and Industrial Relations, recruitment and retention of employees could potentially be increased by creating a more specific position description. Currently inspectors fall under the position Environmental Health Specialist, when in reality the position is that of an Industrial Hygienist. The current position description misleads the actual position from those individuals looking for positions as industrial hygienists. It also advertises to those in pursuit of employment within the field of environmental science, which the inspector position is far from. Therefore, there are more avenues to increase recruitment and retention rates while keeping the benefits of civil service status.

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Creating and converting positions to exempt status is not a correction to the stated issues and in my opinion would result in an even bigger decrease in these rates, because of the lack of stability and long-term reward that accompanies being a civil service employee.

Best Regards,

Nika Tarr

From: mailinglist@capitol.hawaii.gov  
Sent: Monday, February 08, 2016 12:37 PM  
To: LABtestimony  
Cc: Charles.B.Clark@hawaii.gov  
Subject: Submitted testimony for HB2353 on Feb 9, 2016 09:30AM

**HB2353**

Submitted on: 2/8/2016

Testimony for LAB on Feb 9, 2016 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Charles Clark	Individual	Oppose	No

Comments: As a 29 year employee with the state I would like to retain the civil service benefits I have worked so hard for over the years. The pay is very low compared to the private sector but the benefits help.

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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# Testimony in Opposition of House Bill 2353 Relating to Exemptions from Civil Service

Submitted To: House Committee on Labor & Public Employment

Hearing Date: Tuesday, February 09, 2016

Hearing Time: 9:30 a.m.

Dear House Committee on Labor & Public Employment,

My name is Conroy Dang, and I am a Department of Labor and Industrial Relations, Hawaii Occupational Safety and Health Division (HIOSH) employee that will be affected by HB #2353. My current title is Occupational Safety and Health Compliance Officer, referred to as Occupational Safety and Health Inspector in HB #2353. I have worked in HIOSH for the past 20 years, and fear that if this Bill passes as written, it will hurt HIOSH in the short and long-run. I am requesting that provisions pertaining to the Department of Labor & Industrial Relations, Hawaii Occupational Safety & Health Division (HIOSH) be removed from HB #2353.

Should HB #2353 pass, the Bill will penalize current employees of HIOSH. By changing our status to exempt, our future years of work service will no longer be credited towards our retirement benefits such as medical and retirement. For those of us who have been with the agency for a number of years, it will force us to leave the agency so that we may gain credited years of work service elsewhere.

While changing our status to exempt will allow the State the possibility to pay us more money, please understand that money is not everything. I came into this job knowing and accepting the fact that I will not become monetarily rich by working for the State of Hawaii. The reason why I came to the State was for the stability of the job, the benefits of the job, and to serve the public. I am here and remain here because I believe in the mission of HIOSH, because I enjoy ensuring that employers provide a safe work environment to their employees, and because I believe that my job is very fulfilling. At the end of the day, I can look back and say that I have positively affected the lives of the employees of Hawaii by preventing fatalities, preventing accidents, and ensuring that the employees of Hawaii have a safe place to work.

When making a decision on HB #2353, one must also consider how HIOSH will pay for the pay increases, and what the increases will mean. HIOSH is funded through a Federal grant, a grant in which the State matches either 50% or 10%, depending on the position. In order for pay for the pay increases, the State would be required to contribute more money to HIOSH each year to fund the pay increases since the Federal grant will not increase. Also, changing our status to exempt will create dissension amongst the employees and will create a stratification within the pay classes. Employees of the same classification and level, but being paid less than others of the same classification and level will have a negative attitude towards the work being assigned and towards those being paid more. The attitude will become "Make so-and-so do it, they're being paid more," or the workload of the higher paid person will be more because they are being

paid more. This will destroy the morale of the agency and cause more internal problems for HIOSH.

While I applaud the effort being made to attract and retain HIOSH employees, I cannot help but feel that this is a short-cut answer to the problem. While it may increase the pay to the employees, the change will force a lot of the current employees out of HIOSH, as the change will take away key benefits such as union representation and years of service being counted towards retirement benefits. I can honestly say that if HB #2353 passes as written, I, and many of my colleagues, will be forced to seek employment in other State or County Departments, decimating the knowledge base of HIOSH and putting to waste the 20 years of education and skills that the State of Hawaii has invested in me.

Please remove all provisions pertaining to the Department of Labor & Industrial Relations, Hawaii Occupational Safety & Health Division (HIOSH) from HB #2353.

Thank you for your consideration,

A handwritten signature in black ink, appearing to read "Conroy Dang", with a long horizontal flourish extending to the right.

Conroy Dang

# Testimony Against House Bill #2353

House Committee on Labor & Public Employment Hearing

DATE: Tuesday, February 09, 2016

TIME: 9:30 a.m.

PLACE: Conference Room 309

State Capitol

415 South Beretania Street

Aloha House Committee on Labor & Public Employment,

My name is Alan Yamamoto, and I am a Department of Labor and Industrial Relations, Hawaii Occupational Safety and Health Division (HIOSH) employee that will be affected by HB #2353. My current title is Environmental Health Specialist IV, referred to as Occupational Safety and health Advisor in HB #2353. I have worked in HIOSH for the past 16 years, and fear that if this Bill passes as written, it will hurt HIOSH in the short and long-run. I am requesting that provisions pertaining to the Department of Labor & Industrial Relations, Hawaii Occupational Safety & Health Division (HIOSH) be removed from HB #2353.

Should HB #2353 pass, the Bill will penalize current employees of HIOSH. By changing our status to exempt, our future years of service will no longer be credited towards our retirement benefits such as medical and retirement. For those of us who have been with the agency for a number of years, it will force us to leave the agency so that we may gain credited years of service elsewhere.

While changing our status to exempt will allow the State to pay us more money, please understand that money isn't everything. I came into this job knowing and accepting the fact that I will not become monetarily rich by working for the State of Hawaii. The reason why I came to the State was for the stability of the job, the benefits of the job, and to serve the public. I am here and remain here because I believe in the mission of HIOSH, because I enjoy educating and assisting employers, and because I believe that my job is very fulfilling. At the end of the day, I can look back and say that I have positively affected the lives of the employees of Hawaii by preventing fatalities, preventing accidents, and ensuring that the employees of Hawaii have a safe place to work.

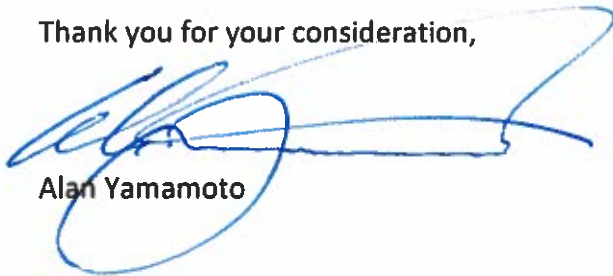
When making this decision, one must also consider how HIOSH will pay for the pay increases, and what the increases will mean. HIOSH is funded through a Federal grant, a grant in which the State matches either 50% or 10%, depending on the position. In order for pay for the pay increases, the State would be required to contribute more money to HIOSH each year to fund the pay increases since the Federal grant will not increase. Also, changing our status to exempt will create dissension amongst the employees and will create a stratification within the classes. Employees of the same classification and level, but being paid less than others of the same

classification and level will have a negative attitude towards the work being assigned and towards those being paid more. The attitude will become "Make so-and-so do it, they're being paid more," or the workload of the higher paid person will be more because they are being paid more. This will destroy the morale of the agency and cause more internal problems for HIOSH.

While I applaud the effort being made to attract and retain HIOSH employees, I cannot help but feel that this is a short-cut answer to the problem. While it may increase the pay to the employees, the change will force a lot of the current employees out of HIOSH, as the change will take away key benefits such as union representation and years of service being counted towards retirement benefits. I can honestly say that if HB #2353 passes as written, I, and many of my colleagues, will be forced to seek employment in other State or County Departments, decimating the knowledge base of HIOSH and putting to waste the 16 years of education and skills that the State of Hawaii has invested in me.

Please remove all provisions pertaining to the Department of Labor & Industrial Relations, Hawaii Occupational Safety & Health Division (HIOSH) from HB #2353.

Thank you for your consideration,

A handwritten signature in blue ink, appearing to read 'Alan Yamamoto', with a large, sweeping flourish extending to the right.

Alan Yamamoto

## Opposition

From: Darrell Suzuki

Submitted On: Monday, February 8, 2016

Testimony on Bill # HB2353, RELATING TO EXEMPTIONS FROM CIVIL SERVICE, on Tuesday, February 09, 2016 in front of Rep. Mark M. Nakashima, Chair, Rep. Jarrett Keohokalole, Vice Chair, Rep. Henry J.C. Aquino, Rep. Sharon E. Har, Rep. Linda Ichiyama, Rep. Aaron Ling Johanson, Rep. Matthew S. LoPresti, Rep. Joy A. San Buenaventura, Rep. Roy M. Takumi, Rep. Kyle T. Yamashita, Rep. Andria P.L. Tupola, in Conference Room #LAB 309.

Testimony in opposition of HB2353, Relating to Exemptions from Civil Service

Submitted to: The House Committee on Labor & Public Employment,

Dear Honorable Committee Chair Representative Labor & Public Employment:

I oppose HB2353. As an employee of the Department of Labor and Industrial Relations (DLIR) I urge that Bill #HB2353 be completely rescinded. As an employee, we have earned the rights and privileges of civil service benefits through strong support of the union that we fought for (e.g. retirement, medical benefits). To see a bill that conflicts our current plans and interests would be detrimental to our welfare. Not only would we suffer but our families would also be effected in a negative way.

Best regards,

Darrell Suzuki





From: Jerell Viray, OSH Advisor  
Consultation & Training Branch  
Occupational Safety & Health Division  
Department of Labor & Industrial Relations



To: Committee on Labor & Public Employment  
Rep. Mark M. Nakashima, Chair & Rep. Jarrett Keohokalole, Vice Chair

Hearing: February 09, 2016. 9:30 a.m.  
Conference Room 309, State Capitol  
415 South Beretania Street

Testimony in opposition of HB 2353 – Relating to Exemptions from Civil Service

Good afternoon members of the committee. As a member of the Department of Labor & Industrial Relations - Occupational Safety & Health Division who shares a strong commitment in working together with employers to provide a safe and healthful work places and practices that protect the employees of Hawai'i, I am in opposition of HB2353. Those members of the Department of Labor & Industrial Relations who have already sacrificed 10 years or more of service rely on the current benefits and the prospect of a retirement. I am here today to ask you to not support the proposal of HB 2353, converting identified positions in the Department of Labor and Industrial Relations as permanent exempt status instead of civil service status in order to pay a higher salary in the hopes to increase employee retention rates. I am here today to ask you to not let Hawai'i's employees be hurt by the effects of this bill.

While I am one member of many who has a strong commitment to the Department of Labor & Industrial Relations feel that nothing beneficial can come out of the proposed "exemptions from Civil Service". Increasing the salaries cannot guarantee higher retention rates. It has been expressed that a position without long-term benefits and security will become less of interest. Newly hired employees may start to look elsewhere for positions with stability but there are those who have already given a great amount of commitment simply cannot afford it. By supporting this proposed bill broken promises will be made. Seniors on the path of retirement will no longer be given what they have long worked hard for.

Its unfortunate jobs at the state typically do not pay well as those in private industries and we miss out on quality candidates, however, the current benefits and the prospect of a retirement make up for it. It is our greatest recruiting techniques and is also one of the reasons why I started my career with the Department of Labor and Industrial Relations.

I hope my testimony will help influence your vote to ensure that those of us who have begun our careers, those who have already dedicated a great amount of our time, and those somewhere in between, will not have to be placed as permanent exempt status and lose our retirement benefits.

Thank you for your time and consideration.  
Sincerely,

Jerell Viray



## HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

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

**LATE**

Testimony by  
Hawaii Government Employees Association

February 9, 2016

### H.B. 2353 – RELATING TO EXEMPTIONS FROM CIVIL SERVICE

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly opposes the purpose and intent of H.B. 2353, which expands the number of positions exempt from civil service in various state departments. The expansion of exempt positions in state government is direct conflict with the Article XVI, Section 1 of the Hawaii State Constitution and Chapter 76, Hawaii Revised Statutes, which establish a merit-based civil service system free from coercive political influences.

The use of exempt employees, which are considered “at will” by the state, is completely contrary to the principles of civil service. Exempt employees do not have the same rights and benefits of civil service employees and that is inherently unfair. For over a decade, we have consistently opposed the creation of more exempt positions in state government, while simultaneously advocating for civil service reform.

According to the most recent report submitted to the Legislature by DHRD, there are 2,796 exempt positions in state government. We estimate that between 18% and 19% of all positions in the personnel system administered by DHRD are exempt. That is almost one out of every five positions, and that ratio is even higher in Bargaining Unit 13. California, which has more than 200,000 state employees in 21 bargaining units, limits their exempt employee count to one-half of one percent (.5%) of its workforce.

Instead of establishing more exempt positions, the civil service system must become more flexible and competitive. For example, the HGEA is willing to negotiate a separate salary schedule in Unit 13 for psychologists, physicians, dentists and other professionals cited in this bill. Doing so is not difficult and other states have successfully incorporated these classes within civil service. Surely, Hawaii can do the same. The answer to the challenges faced by these state departments is not the creation of more exempt employees, but substantive reform of the state’s civil service system.

Thank you for the opportunity to testify in strong opposition of H.B. 2353. We respectfully request that the Committee defer this measure.

Respectfully submitted,

Randy Perreira  
Executive Director

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  
HONOLULU, HAWAII 96813-2437

## LATE TESTIMONY

February 1, 2016

TESTIMONY TO THE  
HOUSE COMMITTEE ON HUMAN SERVICES  
For Hearing on Thursday, February 4, 2016  
8:30 a.m., Conference Room 329

By

JAMES K. NISHIMOTO  
DIRECTOR  
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT

**House Bill No. 2353**  
**Relating to Exemptions from Civil Service**

CHAIRPERSON MORIKAWA, VICE CHAIR KOBAYASHI AND MEMBERS OF THE  
HOUSE COMMITTEE ON HUMAN SERVICES:

The Department of Human Resources Development (DHRD) **supports** H.B. No. 2353.

H.B. No. 2353 seeks to amend Hawaii Revised Statutes Section 76-16(b) by restoring the second deputy director position at the Department of Human Services, and also by designating certain positions at the Department of Human Services, Department of Health, Department of Public Safety, Department of Labor and Industrial Relations, and Department of Business, Economic Development and Tourism as permanently exempt, for reasons to be provided by each department. Because DHRD is responsible for administering Hawaii Revised Statutes Section 76-16(b), H.B. No. 2353 serves as the vehicle to seek these permanent exemptions from the civil service. DHRD defers to the respective departments to provide the supporting justification and rationale for the proposed exemptions.

Thank you for the opportunity to testify on this measure.