

HB 1102

RELATING TO SERVICES PERFORMED
BY CIVIL SERVICE EMPLOYEES.

LAB, FIN

HB1102



Submit Testimony

Measure Title: RELATING TO SERVICES PERFORMED BY CIVIL SERVICE EMPLOYEES.

Report Title: Civil Service; Establish Positions

Description: Authorizes establishment of permanent civil service positions for the Hawaii Public Housing Authority to provide services historically and customarily performed by civil service employees in connection with creating housing opportunities for homeless individuals and others in need.

Companion: [SB968](#)

Package: Governor

Current Referral: LAB, FIN

Introducer(s): SOUKI (Introduced by request of another party)

<u>Sort by Date</u>		Status Text
1/23/2017	H	Pending introduction.
1/25/2017	H	Pass First Reading
1/27/2017	H	Referred to LAB/HSG, FIN, referral sheet 5
2/9/2017	H	Re-referred to LAB, FIN, referral sheet 15
2/10/2017	H	Bill scheduled to be heard by LAB on Tuesday, 02-14-17 10:00AM in House conference room 309.

S = Senate | **H** = House | **D** = Data Systems | **\$** = Appropriation measure | **ConAm** = Constitutional Amendment
Some of the above items require Adobe Acrobat Reader. Please visit [Adobe's download page](#) for detailed instructions.

H.B. NO. 1102

A BILL FOR AN ACT

RELATING TO SERVICES PERFORMED BY CIVIL SERVICE EMPLOYEES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purpose of this Act is to seek
2 authorization of permanent civil service position counts and
3 appropriate out of the general and non-general funds of the
4 State of Hawaii for these positions to support state agency
5 operations.

6 SECTION 2. In 1997, the Hawaii supreme court ruled in
7 Konno v. Hawaii County that Hawaii county violated civil service
8 laws and merit principles when it hired private contractors to
9 perform landfill operations work. The court ruled that state
10 civil service laws allowed only civil service employees to
11 perform work historically and customarily done by civil service
12 employees.

13 In response to Konno, Act 90 was enacted in 2001. Act 90,
14 part II, allowed the State of Hawaii to contract for services
15 historically and customarily performed by civil service
16 employees if equivalent or better services could be provided at

1 lower cost. However, Act 90, part II, was repealed on June 30,
2 2007.

3 After Act 90 was repealed, the United Public Workers filed
4 class grievances as well as lawsuits in circuit court arguing
5 that the State of Hawaii and the counties should cease the
6 practice of contracting for services historically and
7 customarily performed by civil service employees. Over time,
8 the counties reached settlements with the United Public Workers,
9 leaving only the claims against the State of Hawaii.

10 Through court-ordered mediation, an agreement was reached
11 between the United Public Workers and the State of Hawaii
12 executive branch relating to services historically and
13 customarily performed by civil service employees as it relates
14 to the United Public Workers. This agreement reflected the
15 State's commitment to comply with the Hawaii supreme court's
16 ruling in Konno, while concurrently recognizing the State's duty
17 to provide services to the public.

18 Without a sufficient number of civil service positions and
19 employees to perform services historically and customarily
20 performed by United Public Workers-type employees, state
21 agencies have had to resort to contracting for these services.
22 In order to address this situation and enable state agencies to
23 comply with the Konno ruling, it is estimated that the State

1 will need an additional 599 permanent positions and
2 approximately \$105,091,764 (for positions and associated
3 equipment) in general and non-general funds in order to provide
4 necessary services to the public through civil service employees
5 rather than through contractors.

6 SECTION 3. In an effort to facilitate the provision of
7 housing opportunities for homeless individuals and others in
8 need, and in order to fulfill operational needs with regard to
9 work historically and customarily performed by civil service
10 personnel, a total of 34 permanent positions are requested for
11 the Hawaii public housing authority for multi-skilled worker
12 teams, as follows:

- 13 (1) Three (3) general construction and maintenance
14 supervisor I positions;
- 15 (2) Three (3) building maintenance worker II positions;
- 16 (3) Five (5) building maintenance worker I positions;
- 17 (4) Four (4) building maintenance helper positions;
- 18 (5) Three (3) general laborer I positions;
- 19 (6) Three (3) carpenter I positions;
- 20 (7) Four (4) plumber I positions;
- 21 (8) Two (2) plumber helper positions;
- 22 (9) Five (5) electrician I positions;
- 23 (10) One (1) painter I position; and

H.B. NO. 1102

1 (11) One (1) welder I position.

2 Only permanent position counts are being requested; funding
3 is not required.

4 SECTION 4. This Act shall take effect upon its approval.

5

6

INTRODUCED BY:

 _____

7

BY REQUEST

8

JAN 23 2017

H.B. NO. 1102

Report Title:

Civil Service; Establish Positions

Description:

Authorizes establishment of permanent civil service positions for the Hawaii Public Housing Authority to provide services historically and customarily performed by civil service employees in connection with creating housing opportunities for homeless individuals and others in need.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

HB1102

JUSTIFICATION SHEET

DEPARTMENT: HUMAN RESOURCES DEVELOPMENT

TITLE: A BILL FOR AN ACT RELATING TO SERVICES PERFORMED BY CIVIL SERVICE EMPLOYEES.

PURPOSE: To comply with the Konno decision and a letter of understanding with the United Public Workers. The goal is to obtain authorization and funding to establish United Public Workers (UPW)-type positions needed to perform services that are currently being contracted out by the Executive Branch departments. Specifically, the bill seeks authorization for the Hawaii Public Housing Authority (HPHA) to establish civil service positions needed to perform services that will facilitate the creation of housing opportunities for the homeless and others in need, and that will perform maintenance services for facilities managed by HPHA. For these particular positions, no appropriation of funds is being requested.

MEANS: Legislative authorization to establish positions for HPHA. No statutory changes required.

JUSTIFICATION: In 1997, the Hawaii Supreme Court ruled in the case Konno v. Hawaii County that the county violated civil service laws and merit principles when it hired private contractors to perform landfill operations work. The Court held that civil service laws required that only civil service employees perform work historically and customarily performed by civil service employees.

Subsequent to the Konno case, the Legislature enacted Act 90 (SLH 2001). Act 90, part II, allowed the State to contract for services historically and customarily performed by civil service employees if

equivalent or better services could be provided at lower cost. Act 90, part II, however, was repealed on June 30, 2007.

Shortly after Act 90, part II, was repealed, the United Public Workers sought to have the State and all other jurisdictions terminate all of their contracts. The United Public Workers later filed class grievances in 2007 and prohibited practice complaints in 2009 against the State and other jurisdictions, thereby initiating years of litigation.

In June 2015, the State Executive Branch and the United Public Workers entered into a letter of understanding through court-ordered mediation which placed a moratorium on all pending litigation. In compliance with the letter of understanding, the Department of Human Resources Development has implemented a process of reviewing departmental contracts for work historically and customarily performed by United Public Workers-type employees to confirm that there is a valid basis for exemption from civil service. The letter of understanding also contemplates that departments will identify positions and/or other resources needed in order to enable contracted work to be done by civil service employees, and to seek such positions and/or other resources from the legislature. This bill is an effort to comply with this requirement.

In addition to providing estimates regarding the overall positions and/or resources needed by the State Executive Branch departments, the bill specifically seeks authorization for the establishment of a total of 34 permanent civil service positions for the HPHA to facilitate the creation of housing opportunities for the homeless and others in need.

Impact on the public: It is anticipated that increased personnel for HPHA will enable the agency to more quickly renovate or repair

public housing units, thereby increasing the housing available for homeless individuals and others in need.

Impact on the department and other agencies:
None expected.

GENERAL FUND: None requested.

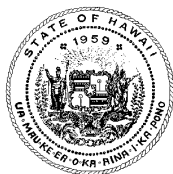
OTHER FUNDS: None requested.

PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.

DAVID Y. IGE
GOVERNOR



JAMES K. NISHIMOTO
DIRECTOR

RYKER WADA
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
HONOLULU, HAWAII 96813-2437

February 10, 2017

TESTIMONY TO THE
HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
For Hearing on Tuesday, February 14, 2017
10:00 a.m., Conference Room 309

By

JAMES K. NISHIMOTO
DIRECTOR

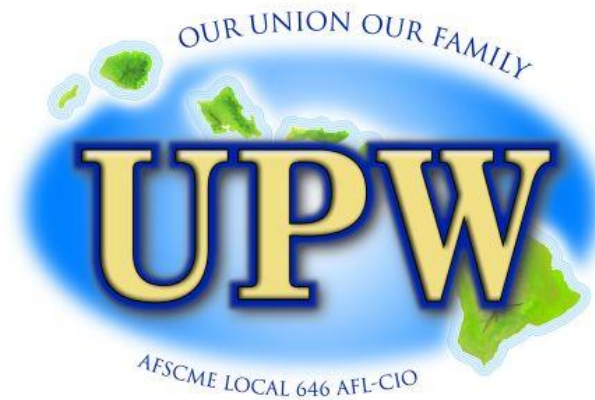
House Bill No. 1102
Relating to Services Performed by Civil Service Employees

CHAIRPERSON JOHANSON, VICE CHAIR HOLT AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT:

H.B. 1102 authorizes establishment of permanent civil service positions for the Hawai'i Public Housing Authority (HPHA) to provide services historically and customarily performed by civil service employees in connection with creating housing opportunities for homeless individuals and others in need.

The Department of Human Resources Development (DHRD) **strongly supports** H.B. 1102 as we believe the additional thirty-four permanent civil service positions being sought would enable the HPHA to continue its multi-skilled worker teams to quickly renovate or repair public housing units in its effort to provide housing for homeless individuals and others in need. It is our understanding, according to HPHA, that no appropriation of funds is being requested.

Thank you for the opportunity to testify on this measure.



THE HAWAII STATE HOUSE OF REPRESENTATIVES
The Twenty-Ninth Legislature
Regular Session of 2017

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Representative Aaron Ling Johanson Chair
Representative Daniel Holt, Vice Chair

DATE OF HEARING: Tuesday, February 14, 2017
TIME OF HEARING: 10:00 a.m.
PLACE OF HEARING: State Capitol, Rm. 309
415 South Beretania Street

**TESTIMONY ON HOUSE BILL 1102 RELATING TO SERVICES PERFORMED BY CIVIL
SERVICE EMPLOYEES**

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

My name is Dayton M. Nakanelua, State Director of the United Public Workers, AFSCME, Local 646, AFL-CIO (UPW). The UPW is the exclusive bargaining representative for approximately 14,000 public employees, which include blue collar, non-supervisory employees in Bargaining Unit 01 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.

HB1102 proposes to increase the civil service position count of the Hawaii Public Housing Authority with additional 34 positions including construction, labor, maintenance and trade skills. No funding is being requested. The UPW fully supports this request by the HPHA; the department needs these resources to increase the availability of state public housing to needy and qualified residents of Hawaii.

The UPW requests that the committee pass this important bill.

Thank you for the opportunity to submit this testimony.

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Late Testimony