

# HB 2368

RELATING TO  
SERVICES BY  
CIVIL SERVICE  
EMPLOYEES

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# 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  
17 lower cost. However, Act 90, Part II, was repealed on June 30,  
18 2007.

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1           After Act 90 was repealed, the United Public Workers filed  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

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

16           Without a sufficient number of civil service positions and  
17 employees to perform services historically and customarily  
18 performed by United Public Workers-type employees, state  
19 agencies have had to resort to contracting for these services.  
20 In order to address this situation and enable state agencies to  
21 comply with the Konno ruling, it is estimated that the State  
22 will need an additional 598 permanent positions and

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1 approximately \$75,571,516 (for positions and associated  
2 equipment) in general and non-general funds in order to provide  
3 necessary services to the public through civil service employees  
4 rather than through contractors.

5 SECTION 3. In an effort to facilitate the provision of  
6 refuse collection for the Hawaii Public Housing Authority, and  
7 in order to fulfill operational needs with regard to work  
8 historically and customarily performed by civil service  
9 personnel, a total of 27 permanent positions are requested for  
10 the Hawaii Public Housing Authority for refuse collection  
11 workers, as follows:

- 12 (1) Fifteen (15) Heavy Truck Driver positions;
- 13 (2) Four (4) Refuse Collector positions;
- 14 (3) Seven (7) Truck Driver/Laborer positions;
- 15 (4) One (1) welder position;

16 Only partial funding will be required based on use of  
17 existing special funds. Position funding is requested at a cost  
18 of \$472,783.

19 Eight Hundred and Fifteen (815) Refuse collection bins are  
20 requested at a cost of \$2,900 each totaling \$1,764,475.

21 Nineteen (19) Refuse collection front loader trucks are  
22 requested at a cost of \$168,000 each totaling \$3,180,000.

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1           Eight (8) Scout Trucks are requested at a cost of \$90,000  
2 each totaling \$720,000.

3           Welding equipment is requested at a cost of \$42,000.

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

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INTRODUCED BY: \_\_\_\_\_



7

BY REQUEST

8

JAN 22 2018

# H.B. NO. 2368

**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 refuse collection.

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

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 refuse collection for the Hawaii Public Housing Authority. For these particular positions and related equipment and an appropriation of funds is being requested in the amount of \$6,651,509.

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 27 permanent civil service positions for the HPHA to establish and facilitate refuse collection for the Hawaii Public Housing Authority.

Impact on the public: It is anticipated that increased personnel and equipment for HPHA will enable the agency to more effectively



provide refuse collection services for HPHA and eliminate the need to privately contract for work historically and customarily performed by civil service employees.

Impact on the department and other agencies:  
None expected.

GENERAL FUND: \$6,651,509.  
OTHER FUNDS: None requested.  
PPBS PROGRAM DESIGNATION: None.  
OTHER AFFECTED AGENCIES: DAGS.  
EFFECTIVE DATE: Upon approval.

**HB 2368**

**TESTIMONY**

DAVID Y. IGE  
GOVERNOR



RYKER WADA  
INTERIM DIRECTOR

JASON MINAMI  
DEPUTY DIRECTOR

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

February 14, 2018

TESTIMONY TO THE  
HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT  
For Hearing on Thursday, February 15, 2018  
10:30 a.m., Conference Room 309

By

RYKER WADA  
INTERIM DIRECTOR

**House Bill No. 2368**  
**Relating to Services Performed by Civil Service Employees**

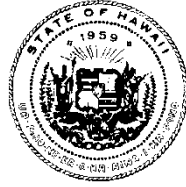
CHAIRPERSON JOHANSON, VICE CHAIR HOLT AND MEMBERS OF THE  
COMMITTEE:

H.B. No. 2368 proposes to authorize the 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 relation to refuse collection.

The Department of Human Resources Development **strongly supports** H.B. 2368, as the requested twenty-seven (27) permanent civil service positions and associated equipment and vehicles will enable the HPHA to facilitate and provide refuse collection services for the agency. While funding is being requested for the equipment and vehicles, it is our understanding, according to the HPHA, that appropriation of partial funding is being requested for the positions.

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE  
GOVERNOR



HAKIM OUANSAFI  
EXECUTIVE DIRECTOR

BARBARA E. ARASHIRO  
EXECUTIVE ASSISTANT

**STATE OF HAWAII**  
HAWAII PUBLIC HOUSING AUTHORITY  
1002 NORTH SCHOOL STREET  
POST OFFICE BOX 17907  
HONOLULU, HAWAII 96817

Statement of  
**Hakim Ouansafi**  
Hawaii Public Housing Authority  
Before the

**HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT**

**Thursday, February 15, 2018**  
**10:30 AM - Room 309, Hawaii State Capitol**

In consideration of  
**HB 2368**

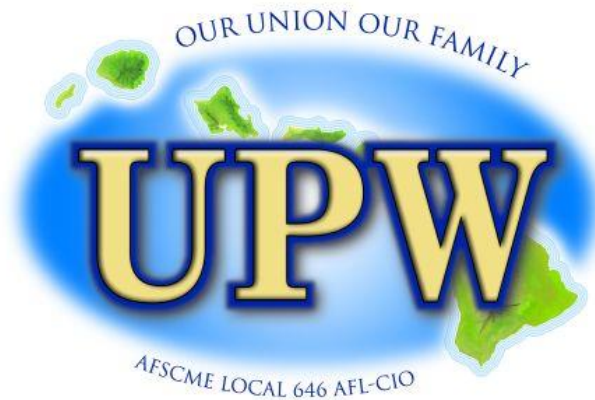
**RELATING TO SERVICES PERFORMED BY CIVIL SERVICE EMPLOYEES**

Honorable Chair Johanson, and Members of the House Committee on Labor & Public Employment, thank you for the opportunity to provide testimony for House Bill (HB) 2368, relating to services performed by civil service employees.

The Hawaii Public Housing Authority (HPHA) supports the enactment of HB 2368, with amendments. HB 2368 authorizes the 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 refuse collection.

The HPHA would like to humbly request to amend the effective date to July 1, 2020 so that the HPHA may have the time needed to establish the positions, hire for those positions, procure all of the equipment, and construct a base yard to store all of the equipment. Please know that the HPHA stands ready to implement a refuse collection program if the Legislature so chooses.

The HPHA appreciates the opportunity to provide the House Committee on Labor & Public Employment with the HPHA's testimony regarding HB 2368. We thank you very much for your dedicated support.



THE HAWAII STATE HOUSE OF REPRESENTATIVES  
The Twenty-Ninth Legislature  
Regular Session of 2018

COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

The Honorable Aaron Ling Johansen, Chair  
The Honorable Daniel Holt, Vice Chair

DATE OF HEARING: Thursday, February 15, 2018  
TIME OF HEARING: 10:30 a.m.  
PLACE OF HEARING: State Capitol  
415 South Beretania Street  
Conference Room 309

**TESTIMONY ON HOUSE BILL 2368 RELATING TO SERVICES PERFORMED BY CIVIL  
SERVICE EMPLOYEES**

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

My name is Dayton M. Nakanelua, State Director of the United Public Workers, AFSCME, Local 646, AFL-CIO. The UPW is the exclusive bargaining representative for approximately 12,000 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.

HB2368 authorizes the establishment of 27 permanent positions, automotive equipment and funding for the Hawaii Public Housing Authority (HPHA) refuse collection on various public housing sites. This will allow the HPHA to more effectively provide refuse collection services for the health and safety of State public housing tenants and visitors. The UPW strongly supports this bill.

Thank you for the opportunity to submit this testimony.



February 15, 2018

10:30 AM

Conference Room 309

**To: House Committee on Labor and Public Employment**

**Rep. Aaron Ling Johanson, Chair**

**Rep. Daniel Holt, Vice Chair**

**From: Grassroot Institute of Hawaii**

**Vice President of Research, Joe Kent**

RE: HB2368 – RELATING TO SERVICES PERFORMED BY CIVIL SERVICE EMPLOYEES

***Comments Only***

Dear Chair and Committee Members:

The Grassroot Institute of Hawaii would like to offer its comments on HB2368, which would authorize the establishment of permanent civil service positions for the Hawaii Public Housing Authority to provide service in connection with refuse collection.

While this bill repeatedly references the *Konno* decision in justifying more permanent civil service positions, the Grassroot Institute is concerned that the legislature is moving too quickly to create protected civil service jobs without fully weighing the benefits of continuing to employ private contractors.

Judicious use of private contractors can allow the government to save money and operate more efficiency. However, creation of new civil service positions (the bill speaks of 27 positions in particular but contemplates adding 598 permanent positions in the future) carries substantial costs – not only in terms of salaries and equipment, but also in terms of the generous benefits provided to public employees.

The bill estimates that in addition to nearly half a million dollars in salaries, creating these 27 positions will require an additional \$5.7 million for equipment. The bill also states that adding a full 598 employees will add \$75.5 million to the state budget for salaries and equipment. Before committing to such significant expenditures, the legislature should fully consider whether creating civil service positions is the most cost effective and fiscally responsible option available when compared to the costs of private contracting.

Considering the long-term obligations involved, we should be cautious in exchanging private contractors for more civil service employees. Rather, the state’s focus should be on spending less while getting more for the taxpayers’ money. And it is indisputable that one of the best ways to achieve that is to privatize government services.

According to the *2017 Economic Freedom of North America*<sup>1</sup> report — which ranked Hawaii a low 44 among the U.S. states in terms of economic freedom — privatization is a significant measure in helping communities prosper.

Instead of “governmentizing” services now being provided by the private sector, Hawaii should move the other way — toward greater privatization, with the goal of more efficient and less costly delivery of public services. This would create more private sector job opportunities and ease the burden on Hawaii’s beleaguered taxpayers.

Thank you for the opportunity to submit our testimony.

Sincerely,  
Joe Kent  
Vice President of Research

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<sup>1</sup> Available at <http://www.grassrootinstitute.org/2017/12/aloha-economic-freedom/>.

**HB 2368**

**LATE  
TESTIMONY**