

HB  
1360



1 CPC House of representatives standing committee on  
2 consumer protection and commerce  
3 "Means of financing" or "MOF" means the source from which  
4 funds are appropriated or authorized to be expended for the  
5 programs and projects specified in this Act. All appropriations  
6 are followed by letter symbols. The letter symbols, where used,  
7 shall have the following meanings:

8 B Special funds

9 "Position ceiling" means the maximum number of permanent  
10 and temporary full-time equivalent positions authorized for a  
11 particular program during a specified period or periods, as  
12 denoted by an asterisk for permanent full-time equivalent  
13 positions and a pound sign for temporary full-time equivalent  
14 positions.

15 "Program ID" means the unique identifier for the specific  
16 program and consists of the abbreviation for the organization  
17 responsible for carrying out the program followed by the  
18 organization number for the program.

19 **PART II. PROGRAM APPROPRIATIONS**

20 SECTION 3. APPROPRIATIONS. The following sums, or so much  
21 thereof as may be sufficient to accomplish the purposes and



1 programs designated herein, are hereby appropriated or  
2 authorized, as the case may be, from the means of financing  
3 specified to the expending agency designated for the fiscal  
4 biennium beginning July 1, 2019, and ending June 30, 2021. The  
5 total expenditures and the number of positions in each fiscal  
6 year of the biennium shall not exceed the sums and the position  
7 ceilings indicated for each fiscal year, except as provided  
8 elsewhere in this Act or as provided by general law.



PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 2019-2020	M O F	FISCAL YEAR 2020-2021	M O F
1		CPC - CONSUMER PROTECTION & COMMERCE					
2	1.	CCA103 - CONSUMER ADVOCATE FOR COMMUNICATION, UTILITIES, AND					
3		TRANSPORTATION SERVICES					
4				5.00*		5.00*	
5		OPERATING	CCA	292,000B		584,000B	
6							
7	2.	CCA107 - POST-SECONDARY EDUCATION AUTHORIZATION					
8		OPERATING	CCA	1,988B		1,988B	
9							
10	3.	CCA110 - OFFICE OF CONSUMER PROTECTION					
11		OPERATING	CCA	50,000B		50,000B	
12							
13	4.	CCA111 - BUSINESS REGISTRATION AND SECURITIES REGULATION					
14		OPERATING	CCA	148,597B		148,597B	
15							
16	5.	CCA112 - REGULATED INDUSTRIES COMPLAINTS OFFICE					
17		OPERATING	CCA	364,098B		64,098B	
18							
19	6.	CCA191 - GENERAL SUPPORT					
20		OPERATING	CCA	110,605B		35,605B	
21							
22	7.	CCA901 - PUBLIC UTILITIES COMMISSION					
23				2.00*		2.00*	
24		OPERATING	CCA	1,632,938B		3,188,538B	
25							
26							



1                   PART III. PROGRAM APPROPRIATION PROVISIONS

2           SECTION 4. Provided that of the amounts appropriated out  
3 of the compliance resolution fund for the consumer advocate for  
4 communication, utilities, and transportation services (CCA103),  
5 the sum of \$292,000 or so much thereof as may be necessary for  
6 fiscal year 2019-2020 and \$584,000 or so much thereof as may be  
7 necessary for fiscal year 2020-2021 shall be expended to fund  
8 the following permanent positions:

- 9           (1) One full-time equivalent (1.0 FTE) attorney;
- 10           (2) One full-time equivalent (1.0 FTE) administrative  
11           specialist; and
- 12           (3) Three full-time equivalent (3.0 FTE) program  
13           specialists.

14           SECTION 5. Provided that of the amounts appropriated out  
15 of the compliance resolution fund for post-secondary education  
16 authorization (CCA107), the sum of \$1,988 or so much thereof as  
17 may be necessary for fiscal year 2019-2020 and the same sum or  
18 so much thereof as may be necessary for fiscal year 2020-2021  
19 shall be expended to fund fringe benefit costs for collective  
20 bargaining and salary adjustments.

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1 SECTION 6. Provided that of the amounts appropriated out  
2 of the compliance resolution fund for the office of consumer  
3 protection (CCA110), the sum of \$50,000 or so much thereof as  
4 may be necessary for fiscal year 2019-2020 and the same sum or  
5 so much thereof as may be necessary for fiscal year 2020-2021  
6 shall be expended to fund central services assessments.

7 SECTION 7. Provided that of the amounts appropriated out  
8 of the compliance resolution fund for business registration and  
9 securities regulation (CCA111):

10 (1) The sum of \$83,368 or so much thereof as may be  
11 necessary for fiscal year 2019-2020 and the same sum  
12 or so much thereof as may be necessary for fiscal year  
13 2020-2021 shall be expended to convert an office  
14 assistant III position to a securities staff attorney  
15 position, to address an increase in the number and  
16 complexity of financial fraud schemes occurring in the  
17 State;

18 (2) The sum of \$65,229 or so much thereof as may be  
19 necessary for fiscal year 2019-2020 and the same sum  
20 or so much thereof as may be necessary for fiscal year  
21 2020-2021 shall be expended to fund fringe benefit



1 costs for collective bargaining and salary  
2 adjustments; and  
3 (3) Eight temporary positions shall be converted to  
4 permanent positions to facilitate the recruitment and  
5 retention of key personnel; provided further that the  
6 conversion shall not affect the base budget.

7 SECTION 8. Provided that of the amounts appropriated out  
8 of the compliance resolution fund for the regulated industries  
9 complaints office (CCA112):

10 (1) The sum of \$350,000 or so much thereof as may be  
11 necessary for fiscal year 2019-2020 and \$50,000 or so  
12 much thereof as may be necessary for fiscal year 2020-  
13 2021 shall be expended to build on and maintain the  
14 regulated industries complaints office's case  
15 management system; and

16 (2) The sum of \$14,098 or so much thereof as may be  
17 necessary for fiscal year 2019-2020 and the same sum  
18 or so much thereof as may be necessary for fiscal year  
19 2020-2021 shall be expended to fund fringe benefit  
20 costs for collective bargaining and salary  
21 adjustments.





1           SECTION 9. Provided that of the amounts appropriated out  
2 of the compliance resolution fund for general support (CCA191):

3           (1) The sum of \$100,000 or so much thereof as may be  
4           necessary for fiscal year 2019-2020 and \$25,000 or so  
5           much thereof as may be necessary for fiscal year 2020-  
6           2021 shall be expended to fund software to assist with  
7           integrating and tracking data objects with newly  
8           developed systems;

9           (2) The sum of \$10,605 or so much thereof as may be  
10           necessary for fiscal year 2019-2020 and the same sum  
11           or so much thereof as may be necessary for fiscal year  
12           2020-2021 shall be expended to fund fringe benefit  
13           costs for collective bargaining and salary  
14           adjustments; and

15           (3) Five temporary positions shall be converted to  
16           permanent positions to facilitate the recruitment and  
17           retention of key personnel; provided further that the  
18           conversion shall not affect the base budget.

19           SECTION 10. Provided that of the amounts appropriated out  
20 of the public utilities commission special fund for the public  
21 utilities commission (CCA901):



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- 1           (1) The sum of \$500,000 or so much thereof as may be  
2                    necessary for fiscal year 2019-2020 and \$2,060,000 or  
3                    so much thereof as may be necessary for fiscal year  
4                    2020-2021 shall be expended to fund the development of  
5                    a document management system and corresponding  
6                    licensing, maintenance, and independent verification  
7                    and validation costs;
- 8           (2) The sum of \$200,240 or so much thereof as may be  
9                    necessary for fiscal year 2019-2020 and \$195,840 or so  
10                   much thereof as may be necessary for fiscal year 2020-  
11                   2021 shall be expended to fund two permanent full-time  
12                   equivalent positions (2.0 FTE) as authorized by Act  
13                   201, Session Laws of Hawaii 2018, to support the  
14                   monitoring of motor vehicle carrier activity;
- 15           (3) The sum of \$33,000 or so much thereof as may be  
16                    necessary for fiscal year 2019-2020 and the same sum  
17                    or so much thereof as may be necessary for fiscal year  
18                    2020-2021 shall be expended for information technology  
19                    equipment replacement costs; and
- 20           (4) The sum of \$899,698 or so much thereof as may be  
21                    necessary for fiscal year 2019-2020 and the same sum



1 or so much thereof as may be necessary for fiscal year  
 2 2020-2021 shall be expended to fund fringe benefit  
 3 costs for collective bargaining and salary  
 4 adjustments.

5 PART IV. MISCELLANEOUS AND EFFECTIVE DATE

6 SECTION 11. If any portion of this Act or its application  
 7 to any person, entity, or circumstance is held to be invalid for  
 8 any reason, then the legislature declares that the remainder of  
 9 this Act and each and every other provision thereof shall not be  
 10 affected thereby. If any portion of a specific appropriation is  
 11 held to be invalid for any reason, the remaining portion shall  
 12 be expended to fulfill the objective of the appropriation to the  
 13 extent possible.

14 SECTION 12. If manifest clerical, typographical, or other  
 15 mechanical errors are found in this Act, the governor may  
 16 correct the errors.

17 SECTION 13. This Act shall take effect on July 1, 2019.  
 18

INTRODUCED BY: T. Stalder

Linda Johnson

JAN 24 2019



# H.B. NO. 1360

**Report Title:**

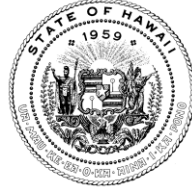
State Operating Budget; DCCA Programs; CCA103; CCA107; CCA110;  
CCA111; CCA112; CCA191; CCA901; CPC

**Description:**

Appropriates funds for the fiscal biennium 2019-2021 operating budget of Department of Commerce and Consumer Affairs programs under the purview of the House of Representatives Standing Committee on Consumer Protection and Commerce.

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





DAVID Y. IGE  
GOVERNOR

JOSH GREEN  
LT. GOVERNOR

**STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
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CATHERINE P. AWAKUNI COLÓN  
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JO ANN M. UCHIDA TAKEUCHI  
DEPUTY DIRECTOR

**Testimony of the Department of Commerce and Consumer Affairs**

**Before the  
House Committee on Consumer Protection and Commerce  
Thursday, January 31, 2019  
2:00 p.m.  
State Capitol, Conference Room 329**

**On the following measures:  
H.B. 759, RELATING TO THE DEPARTMENT  
OF COMMERCE AND CONSUMER AFFAIRS  
and**

**H.B. 1360, RELATING TO FISCAL BIENNIUM 2019-2021 BUDGET REQUESTS  
FOR THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

Chair Takumi and Members of the Committee:

My name is Catherine Awakuni Colón, and I am the Director of the Department of Commerce and Consumer Affairs (DCCA or Department). The Department supports H.B. 759, which appropriates funds for the fiscal biennium (FB) 2019-2021 operating budget of the DCCA's programs, under the purview of this committee. The Department also supports H.B. 1360, which establishes additional amounts to be appropriated or authorized and additional positions for the FB 2019-2021 operating budget of the DCCA's programs.

**OVERVIEW OF CCA**

The mission of the DCCA is to uphold fairness and public confidence in the marketplace, promote sound consumer practices, and increase knowledge, opportunity,

and justice in the community. The Department serves the public through a variety of functions, including business registration and professional licensure, monitoring the financial solvency of local financial institutions and insurance companies, and investigating complaints of unfair business practices and license violations. The DCCA has the following eleven program IDs<sup>1</sup>:

- CCA-102, Cable Television Division (CATV)
- **CCA-103, Division of Consumer Advocacy (DCA)**
- CCA-104, Division of Financial Institutions (DFI)
- CCA-105, Professional and Vocational Licensing Division (PVL)
- CCA-106, Insurance Division (INS)
- **CCA-107, Hawaii Post-Secondary Education Authorization Program (HPEAP)**
- **CCA-110, Office of Consumer Protection (OCP)**
- **CCA-111, Business Registration Division (BREG)**
- **CCA-112, Regulated Industries Complaints Office (RICO)**
- **CCA-191 General Support**, including: Director's Office, Administrative Services Office (ASO), Information Systems Communications Office (ISCO), and Office of Administrative Hearings (OAH)
- **CCA-901, Public Utilities Commission (PUC)**

This testimony is limited to CCA program IDs assigned to this committee (and highlighted above in bold): CCA-103, CCA-107, CCA-110, CCA-111, CCA-112, and CCA-191. With respect to CCA-901, the PUC, as an independent attached agency, will present testimony separately regarding its budget requests.

### **DCCA FUNDING STRUCTURE**

Unlike other departments, the DCCA receives no general fund appropriations. The Compliance Resolution Special Fund (CRF) is the primary funding source for the DCCA's programs, and the Department relies on fees and fines instead of general tax revenues. The DCCA's financial strategy helps ensure that divisions have revenues to pay expenses and contribute equitably to departmental overhead costs, while maintaining sufficient reserves to address planned or unexpected contingencies. As a non-general fund department, the DCCA is subject to the same legislative and executive budgetary controls as those for the general fund (Hawaii Revised Statutes

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<sup>1</sup> Copies of relevant organization charts are attached to this testimony.

(HRS) section 37-51, and the Department contributes to the overall cost of executive branch operations in a number of ways, including reimbursements for departmental administrative expenses (HRS section 36-30), central services assessment (HRS section 36-27), and payment to the Department of Budget and Finance to fund pro-rata pension and other post-employment benefits (OPEB).<sup>2</sup> The DCCA implements its financial strategy in accordance with the Hawaii Supreme Court’s opinion Hawaii Insurers Council v. Lingle, et al., 120 Hawaii 51 (2008), as DCCA fees are accounted for separately by division and used for the purposes collected.

DCCA divisions may spend only those amounts in the CRF that have been authorized by the Legislature. The DCCA’s budget requests reflected in H.B. 1360 seek legislative authorization to increase the respective division’s budget ceiling so that additional CRF monies can be expended. As reflected below, each division has sufficient reserves to increase its budget ceiling to pay for the additional expenses.

**SUMMARY OF DCCA CPC BASE BUDGET AND BUDGET “ADD-ON” REQUESTS**

The Department is advised that the Committee is charged with reviewing: (1) any new budget requests for CCA-103, CCA-107, CCA-110, CCA-111, CCA-112, CCA-191, and CCA 901, as reflected in H.B. 1360; and (2) the “base” budgets for CCA-103, CCA-110 and CCA-901, as reflected in H.B. 759.

Below is a table of “add-on” requests for CCA-103, CCA-107, CCA-110, CCA-111, CCA-112 and CCA-191. CCA-901’s requests are in its separate testimony.

CCA #	Priority	MOF	DESCRIPTION	FTE (P)	FTE (T)	\$ FY 20	\$ FY 21
CCA-103	1	B	Add 5 positions & funds	5.00		292,000	584,000
CCA-107	19	B	Fringe			1,988	1,988
CCA-110	15	B	Central Services Assessment			50,000	50,000
CCA-111	3	B	Convert Temp to Perm	8.00	(8.00)		
CCA-111	4	B	Convert OA to Staff Attorney			83,368	83,368
CCA-111	20	B	Fringe			65,229	65,229
CCA-112	5	B	Voyager Phase II IT			350,000	50,000

<sup>2</sup> See State of Hawaii Department of Budget and Finance Executive Memo 18-16, p. 6: “Non-general fund programs should plan for a fringe benefit assessment rate of 60% for FY 20 and FY 21. The projected cost to fund OPEB and the statutory increases in premium contribution rates account for significant portions of this rate, which is expected to remain at around 60% for FY 22 and beyond.”

CCA-112	21	B	Fringe			14,098	14,098
CCA-191/AA	22	B	Fringe			2,003	2,003
CCA-191/AH	2	B	Convert Temp to Perm	5.00	(5.00)		
CCA-191/AI	9	B	ISCO Source Data Repository			100,000	25,000
CCA-191/AI	23	B	Fringe			8,602	8,602

**CCA-103, DIVISION OF CONSUMER ADVOCACY**

**Functions**

The DCA represents, protects, and advances the interests of consumers of utility and transportation services before regulatory agencies, primarily the PUC. The DCA reviews requests for rate and tariff changes, capital improvement projects, integrated resource plans, certificates for authority to operate, and other applications filed by public utility and transportation companies, in addition to other proceedings opened by regulatory agencies to investigate or review generic issues. In representing the consumers of utility and transportation services before the PUC, the DCA must analyze financial and statistical data, prior docketed material, industry standards, and the information provided by the utility and transportation companies to support their applications. Based upon analyses of this information, the DCA files either written statements of position or testimonies explaining its analyses, findings, and recommendations with the PUC. When necessary, DCA analysts provide oral testimony, subject to utility company cross-examination, in contested case evidentiary hearings to resolve differences among the parties in utility proceedings.

**Sources of Revenue**

The DCA is funded through public utility fees paid to the PUC pursuant to HRS section 269-30 and placed in the PUC Special Fund. The PUC fee is set at 0.5% (0.25% collected in July and December) of the utility's gross income in the preceding year. Pursuant to HRS section 269-33, on a quarterly basis, an amount is allocated in accordance with legislative appropriations to the DCA and deposited in the CRF.



### **Non-General Fund Balances**

As noted above, the DCA is funded solely from PUC fees, and none of its funding comes from general fund sources.

	<b>\$ FY 2015</b>	<b>\$ FY 2016</b>	<b>\$ FY 2017</b>	<b>\$ FY 2018</b>
<b>Year Ending Cash Balance</b>	4,541,235	5,740,878	6,407,341	7,323,139

**Base Budget for Fiscal Year (FY) 2019: \$4,138,705.**

#### ***Number of Positions***

The DCA currently has authorization for 23 positions.

#### ***Number of Vacancies***

The DCA has seven vacancies. Of those vacancies, three are exempt-included positions, and four are civil service positions. Three of the seven positions have been vacant for six months or less. The DCA has authority to hire for all the vacant positions.

### **Requests for FB 2019-2021**

The DCA is requesting an appropriation out of the PUC Special Fund of \$292,000 for FY 2019-2020 and \$584,000 for FY 2020-2021 to fund five permanent positions in its division: one full-time equivalent (1.0 FTE) attorney; one full-time equivalent (1.0 FTS) administrative specialist; and three full-time equivalent (3.0 FTE) program specialists. These additional positions would increase the total number of DCA positions to 28 and help meet the division's increasing workload, both in terms of volume and complexity, and cases before the PUC. The DCA requests authorization to expend \$4,520,537 in FY 2020 and \$4,812,537 in FY 2021.

### **Reserve Amount**

The DCA has experienced some growth in its reserve amount, and one of the factors affecting this increase is the division's inability to find qualified candidates to fill its vacancies. At its current balance (\$7,323,139 at the end of FY 2018), the DCA's reserves and anticipated revenues should be sufficient to cover its base budget and requested additional positions, without affecting the Public Utilities Fee. Anticipated future expenditures, including replacing the air conditioning system of King Kalākaua

Building, repairing structural damage and roofing damage caused by Hurricane Lane, and developing a department-wide document management system, will require use of these reserves.

## **CCA-107, HAWAII POST-SECONDARY EDUCATION AUTHORIZATION PROGRAM**

### **Functions**

HPEAP was created in 2013 to bring Hawaii into compliance with Title IV of the Higher Education Act of 1965, as amended, by establishing a post-secondary education authorization program within the DCCA and creating the framework for authorizing private postsecondary educational institutions in the State. HPEAP serves as the authorizing agency and complaints processing agency for accredited, degree-granting post-secondary educational institutions. It also serves as the complaints processing agency for the institutions within the University of Hawaii System. Additionally, the program has been designated as the State portal agency for the State Authorization Reciprocity Agreement. HPEAP activities include providing information to post-secondary institutions and students on authorization requirements, reviewing and processing authorization applications, reviewing and investigating complaints, monitoring federal requirements, serving as the repository for transcripts for authorized institutions which have closed, and issuing transcripts to former students of these closed institutions.

### **Sources of Revenue**

HPEAP is funded through authorization, reauthorization, and complaints administration fees paid and placed in the HPEAP special fund pursuant to HRS section 305J-19.

### **Non-General Fund Balances**

As noted above, HPEAP is funded solely from fees, and none of its funding comes from general fund sources. The FY 2018 non-general fund balance was \$291,195.

**Base Budget for FY 2019: \$288,611.**

***Number of Positions***

HPEAP has authorization for two positions.

***Number of Vacancies***

HPEAP has no vacancies.

**Requests for FB 2019-2021**

For FY 2019, HPEAP is requesting an appropriation out of the CRF of \$1,988 for FY 2019-2020 and \$1,988 for FY 2020-2021, to fund fringe benefit costs for collective bargaining and salary adjustments.

**Reserve Amount**

HPEAP projects a beginning balance of \$126,678 in reserves in FY 2020. HPEAP anticipates that its reserves will cover its requested appropriation. Although HPEAP carries a small reserve amount, due to its revenue stream, reserves are required for the following FY to cover expenses.

**CCA-110, OFFICE OF CONSUMER PROTECTION**

**Functions**

The OCP provides protection to the public from businesses and individuals engaged in violations of applicable consumer protection statutes and rules, especially those involving unfair or deceptive trade practices. In this regard, the OCP initiates investigations and legal actions to enforce all applicable consumer protection laws. OCP activities include: receiving and investigating consumer complaints; providing information to consumers and businesses regarding applicable consumer protection laws; initiating lawsuits against violators of consumer protection laws; providing information to landlords and tenants regarding Hawaii's landlord tenant code; and recommending and drafting legislation pertaining to consumer protection.

**Sources of Revenue**

- **CRF (special fund):** This fund includes assessed penalties, fines, and reimbursement of costs or attorneys' fees from actions brought for violations of HRS chapters 480 and 487.

- **OCP Restitution Fund (trust fund):** This fund includes consumer restitution paid by respondents and disbursed by the OCP pursuant to a settlement or court order.
- **Multi-State Enforcement and Education Fund (trust fund):** This fund holds funds used by the OCP and the DFI that were received as part of a grant from the Department of the Attorney General and awarded to the Department.
- **Mortgage Foreclosure Dispute Resolution Fund (special fund):** This fund holds fees that would be collected from mortgagees and mortgagors to engage in alternative dispute resolution prior to a non-judicial mortgage foreclosure pursuant to HRS section 667-86, fees from mortgagees for publication of notices of public sale for foreclosed property pursuant to HRS section 667-27(d), and a portion of DFI fines collected from mortgage servicers pursuant to HRS section 454M-10.

#### **Non-General Fund Balances**

- CRF – OCP: \$9,225,303
- OCP Restitution Fund: \$979
- Multi-State Enforcement and Education Fund: \$470,167
- Mortgage Foreclosure Dispute Resolution Special Fund: \$102,226

**Base Budget for FY 2019:** \$2,605,494.

#### ***Number of Positions***

The OCP currently has authorization for the following:

- Permanent positions: 18
- Temporary positions: 2

#### ***Number of Vacancies***

The OCP currently has three civil service vacancies.

### **Requests for FB 2019-2021**

The OCP is requesting an appropriation out of the CRF of \$50,000 for FY 2019-2020 and \$50,000 for FY 2020-2021 to pay the central services assessment, which is based on a percentage of revenue.<sup>3</sup>

### **Reserve Amount**

The OCP projects a beginning balance of \$9.2M in reserves in FY 2020. However, after paying certain expenses, it will likely have \$8M. The OCP anticipates its reserves and revenues will cover its requested appropriation to fund the increased central services assessment.

## **CCA-111, BUSINESS REGISTRATION**

### **Functions**

BREG has three primary functions: (1) ministerial business registration, processing, and maintenance of business registration documents for public access, including corporations, general and limited partnerships, limited liability partnerships, limited liability limited partnerships, limited liability companies, cooperatives, trade names, trademarks, service marks, and publicity rights; (2) one-stop point-of-service assistance to the public to help businesses apply for state business and employer registrations and state taxpayer IDs; and (3) substantive regulatory oversight over the securities industry and franchises in the State in the following areas: registration of broker-dealers, securities agents, investment advisers, investment adviser representatives, investment companies, and securities and franchise offerings for sale in the State; field examinations of broker-dealers and investment advisers in the State; review of securities and franchise offerings for sale in the State; and enforcement of the Hawaii Uniform Securities Act and state franchise laws. BREG also conducts statewide outreach through its Investor Education Program, which provides the public with free presentations and resources relating to investment fraud protection.

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<sup>3</sup> Under HRS section 36-27(a), “[T]he director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds . . . shall deduct five per cent of all receipts of all other special funds, which deduction shall be transferred to the general fund of the State and become general realizations of the State.”

## **Sources of Revenue**

Pursuant to HRS chapters 414, 414D, 415A, 419, 420D, 421, 421C, 421H, 421I, 425, 425E, 425R, 428, 482, and 482P, BREG receives business registration fees for corporations, general and limited partnerships, limited liability partnerships, limited liability limited partnerships, limited liability companies, cooperatives, trademarks, trade names, service marks, and publicity rights. Pursuant to HRS chapter 482E, BREG receives franchise filing fees and penalties for franchise law violations. Pursuant to HRS chapter 485A, BREG receives filing fees for securities, broker-dealers, sales agents, investment adviser and investment adviser representatives and penalty fees for securities law violations.

## **Non-General Fund Balances**

CRF – BREG: \$18,443,748

**Base Budget for FY 2019: \$8,067,420.**

### ***Number of Positions***

BREG currently has authorization for the following:

- 71 permanent positions
- 8 temporary positions

### ***Number of Vacancies***

BREG has 12 vacancies: ten are civil service, one is exempt-included, and one is exempt-excluded.

## **Requests for FB 2019-2021**

BREG is requesting an appropriation out of the CRF of:

- \$83,368 for FY 2019-2020 and \$83,368 for FY 2020-2021 to convert an office assistant III position to a securities staff attorney position; and
- \$65,229 for FY 2019-2020 to fund fringe benefit costs for collective bargaining and salary adjustments.

In addition, BREG is requesting a conversion of eight temporary positions to permanent positions, with no fiscal impact.

### **Reserve Amount**

BREG projects approximately \$18M in reserves in FY 2020. Based on revenue and expenditure projections, BREG expects that its reserves and revenue will be sufficient to cover its requests. The reserve amount is higher than usual because the division has commenced development of the Securities Enforcement and Compliance information technology system and will also need to develop a replacement Business Registration Information Management System shortly thereafter. In anticipation of these significant expenses, the division's registration fees were not discounted last FY, as had been the practice in prior years.

### **CCA-112, REGULATED INDUSTRIES COMPLAINTS OFFICE**

#### **Functions**

RICO is the enforcement arm of over 51 professional boards, commissions, and programs that are administratively attached to the Department. RICO receives complaints, conducts investigations, and prosecutes licensing law violations. RICO also prosecutes unlicensed activity through the issuance of citations and by filing civil lawsuits in circuit court. Additionally, RICO provides educational information to consumers and industry members through brochures, presentations, and by participating in industry events and consumer fairs. The division's website also provides real-time licensing, business registration, and complaint history information to the public. Finally, RICO administers the State Certified Arbitration Program for "lemon" motor vehicle claims.

#### **Sources of Revenue**

RICO is funded by CRF fees paid by professional and vocational licensees within the DCCA's jurisdiction, as well as penalties and fines assessed from actions brought by RICO.

#### **Non-General Fund Balances**

CRF – RICO: \$10,567,864

**Base Budget for FY 2019:** \$7,167,144.

***Number of Positions***

RICO currently has authorization for 68 permanent positions.

***Number of Vacancies***

RICO currently has 11 vacancies: eight are civil service, one is exempt-included, and two are exempt-excluded.

**Requests for FB 2019-2021**

RICO is requesting an appropriation out of the CRF of:

- \$350,000 for FY 2019-2020 and \$50,000 for FY 2020-2121 to build on and maintain its case management system; and
- \$14,098 for FY 2019-2020 and \$14,098 for FY 2020-2021 to fund fringe benefit costs for collective bargaining and salary adjustments.

**Reserve Amount**

RICO projects a beginning balance of \$9,760,162 in reserves in FY 2020. However, after paying certain expenses, it will likely have \$8,779,827. RICO anticipates its reserves and revenues will cover its requested appropriation to fund both its case management replacement project and its fringe benefit costs. Anticipated future expenditures, including continually enhancing RICO's case management system and developing a department-wide document management system, will require use of these reserves.

**CCA-191, GENERAL SUPPORT**

**Functions**

This program ID includes the Office of the Director, the ASO, ISCO, and the OAH. The Office of the Director plans, directs, and coordinates the various activities of the Department within the scope of laws and established policies. The ASO provides the Department with internal controls and compliance, procurement, security, safety and facilities management, fiscal, budget, and office service functions. ISCO plans and directs the development, implementation, and maintenance of computerized information systems. The OAH conducts contested case administrative hearings and issues recommended or final decisions for all divisions within the Department, pursuant to HRS



chapters 91 and 92. Additional matters heard by the OAH are: (1) disputes arising from the State's procurement laws pursuant to HRS chapter 103D; (2) disputes among dealers and manufacturers or distributors of motor vehicles covered by part II of HRS chapter 417; (3) appeals of benefit determinations for the Employer-Union Health Benefits Trust Fund (EUTF); and (4) appeals of benefit determinations for the Employees' Retirement System (ERS).

HPEAP is organizationally attached to the Director's Office but has a unique program ID number (CCA-107) for budget purposes.

### **Sources of Revenue**

General Support is funded through the CRF. Divisions contribute to General Support through an equitable assessment of administrative overhead costs. In addition, the OAH assesses fees for cases brought before its Medical Inquiry Conciliation Panel pursuant to HRS section 671-11(d). It also receives payment from contracting agencies for work on EUTF and ERS appeals.

### **Non-General Fund Balances**

CRF – CCA-191: \$3,534,827

**Base Budget for FY 2019:** \$8,195,600.

### ***Number of Positions***

General Support currently has authorization for the following positions:

- Permanent: 45
- Temporary: 6

### ***Number of Vacancies***

General Support currently has the following vacancies:

- Hearings Officer (Position #101296), exempt-excluded
- Hearings Office Legal Clerk (Position #119019), exempt-included
- Information Technology Band B (Position #120567), civil service

### **Requests for FB 2019-2021**

General Support is requesting an appropriation out of the CRF of:

- Fringe increases in the amount of \$2,003 for both FY 2020 and FY 2021 for CCA-191/AA;

- Fringe increases in the amount of \$8,602 for both FY 2020 and FY 2021 for CCA-191/AI; and
- \$100,000 for FY 2019-2020 and \$25,000 for FY 2020-2021 so that ISCO may fund software to assist with integrating and tracking data objects with newly developed systems.

In addition, the OAH is requesting a conversion of five temporary positions to permanent status, with no fiscal impact.

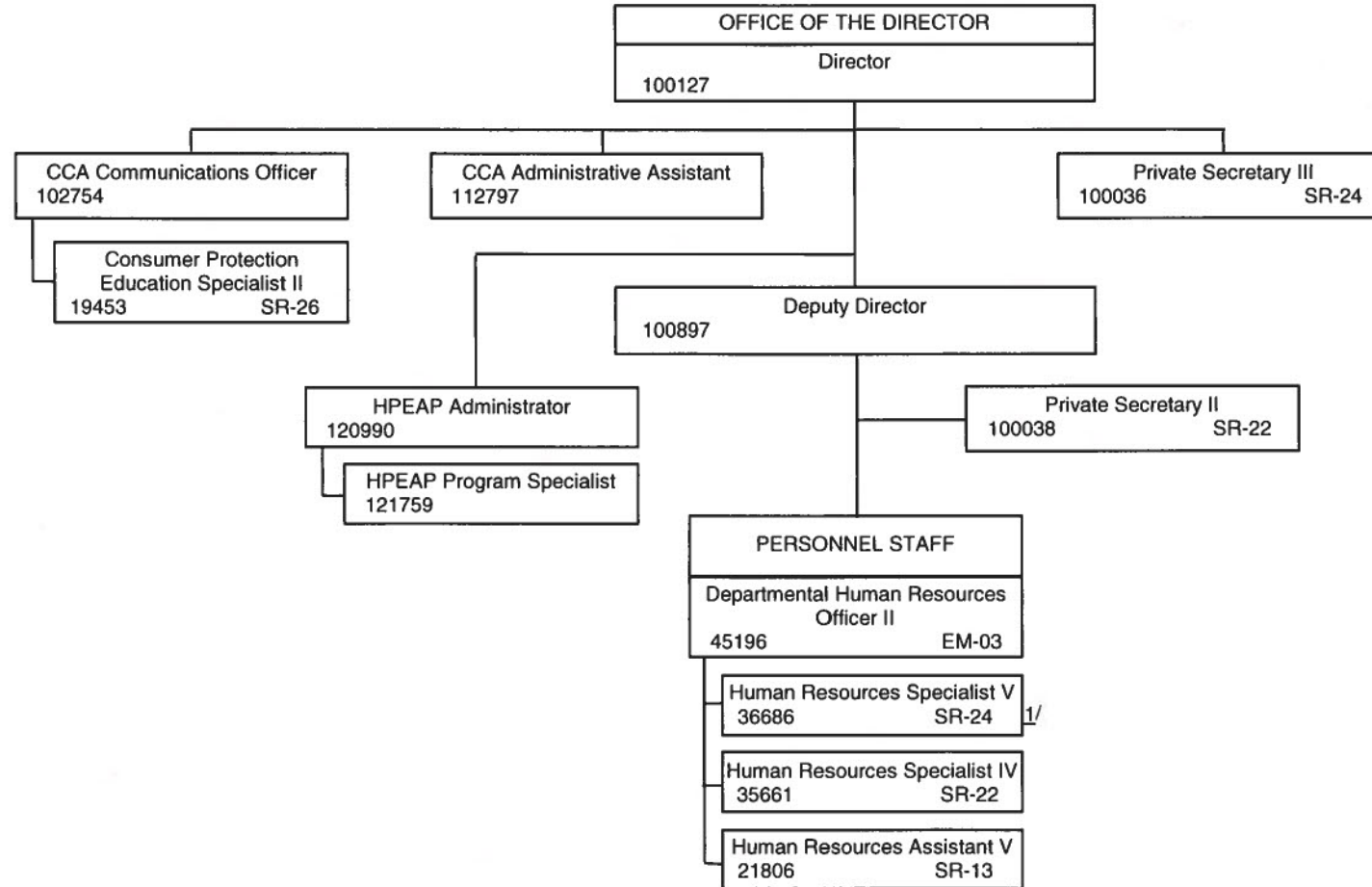
**Reserve Amount**

General Support projects a beginning balance of \$3,553,837 in reserves in FY 2020. The program has sufficient reserves to cover its requested appropriations. Anticipated future expenditures, including replacing the air conditioning system of King Kalākaua Building, repairing structural damage and roofing damage caused by Hurricane Lane, and developing a department-wide document management system, will likely impact reserve balances and may require equitable contributions from the Department's programs.

Thank you for the opportunity to testify on this bill.

STATE OF HAWAII  
 DEPARTMENT OF COMMERCE AND  
 CONSUMER AFFAIRS  
 OFFICE OF THE DIRECTOR

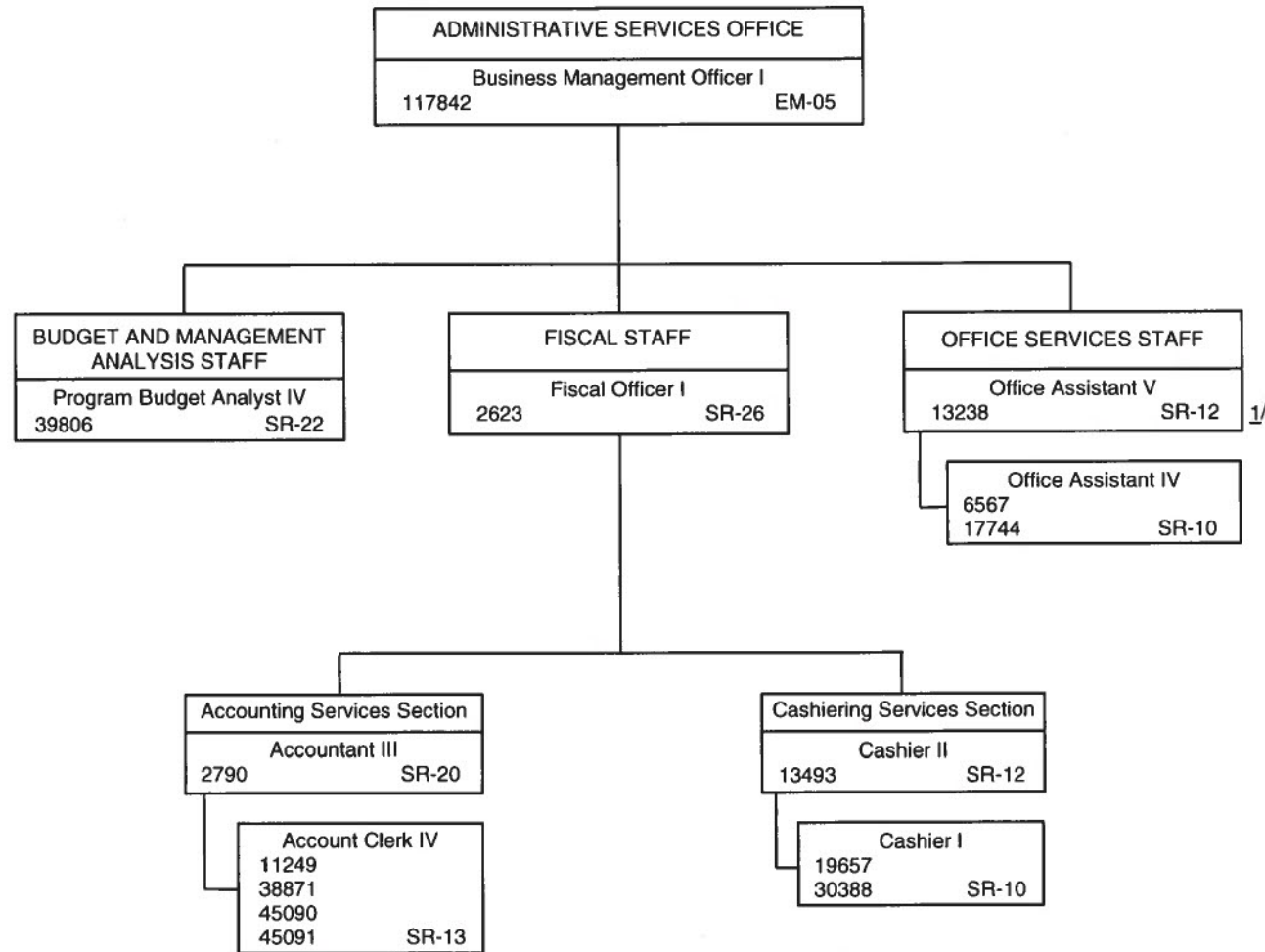
POSITION ORGANIZATION CHART



1/ Human Resources Specialist IV, SR-22, Position No. 36686, reallocated to Human Resources Specialist V, SR-24, effective April 1, 2018.

STATE OF HAWAII  
 DEPARTMENT OF COMMERCE AND  
 CONSUMER AFFAIRS  
 ADMINISTRATIVE SERVICES OFFICE

POSITION ORGANIZATION CHART



1/ Office Assistant V, SR-12, Position No. 13238, reallocated to Staff Services Supervisor II, SR-16, effective June 1, 2018.

ACKNOWLEDGED:

*Catherine P. Awakuni-Colon*

CATHERINE P. AWAKUNI-COLON  
Director of Commerce and Consumer Affairs

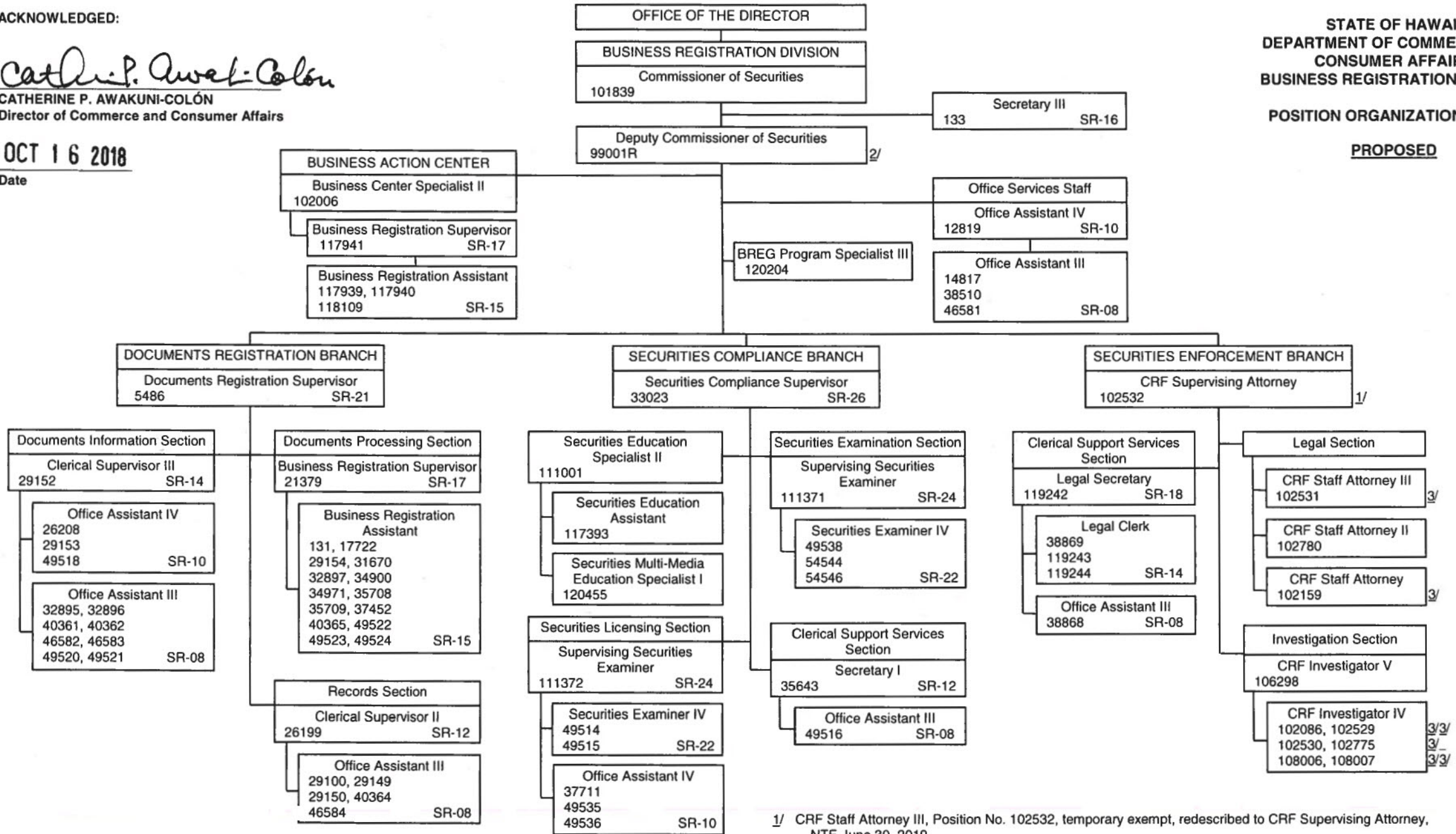
OCT 16 2018

Date

STATE OF HAWAII  
DEPARTMENT OF COMMERCE AND  
CONSUMER AFFAIRS  
BUSINESS REGISTRATION DIVISION

POSITION ORGANIZATION CHART

PROPOSED



Note: CRF denotes Compliance Resolution Fund

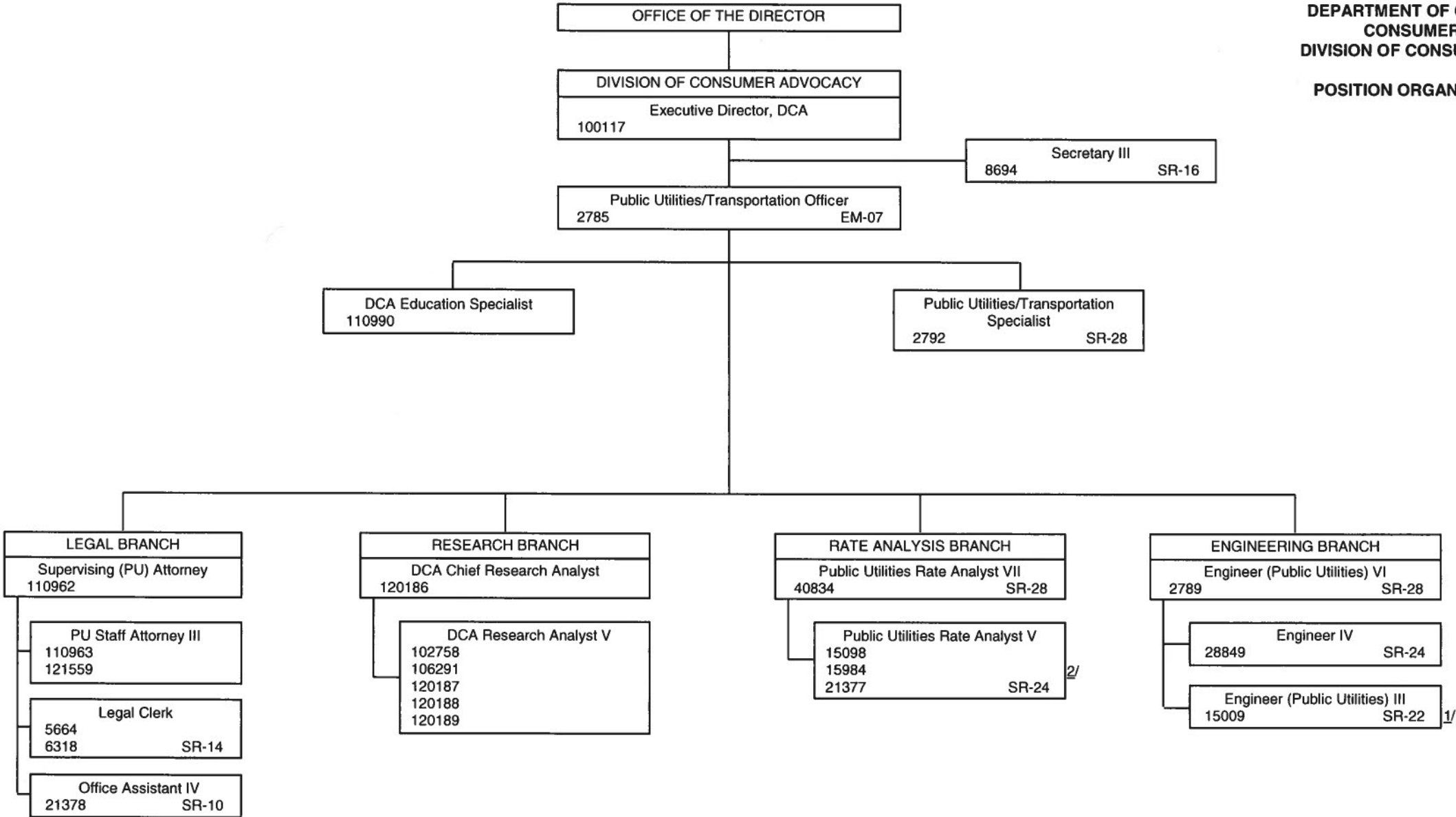
1/ CRF Staff Attorney III, Position No. 102532, temporary exempt, redescribed to CRF Supervising Attorney, NTE June 30, 2019.

2/ New permanent civil service position, Deputy Commissioner of Securities (Pseudo No. 99001R), EM-07, as authorized by Act 53, SLH 2018.

3/ Temporary exempt position, NTE June 30, 2019.

STATE OF HAWAII  
 DEPARTMENT OF COMMERCE AND  
 CONSUMER AFFAIRS  
 DIVISION OF CONSUMER ADVOCACY

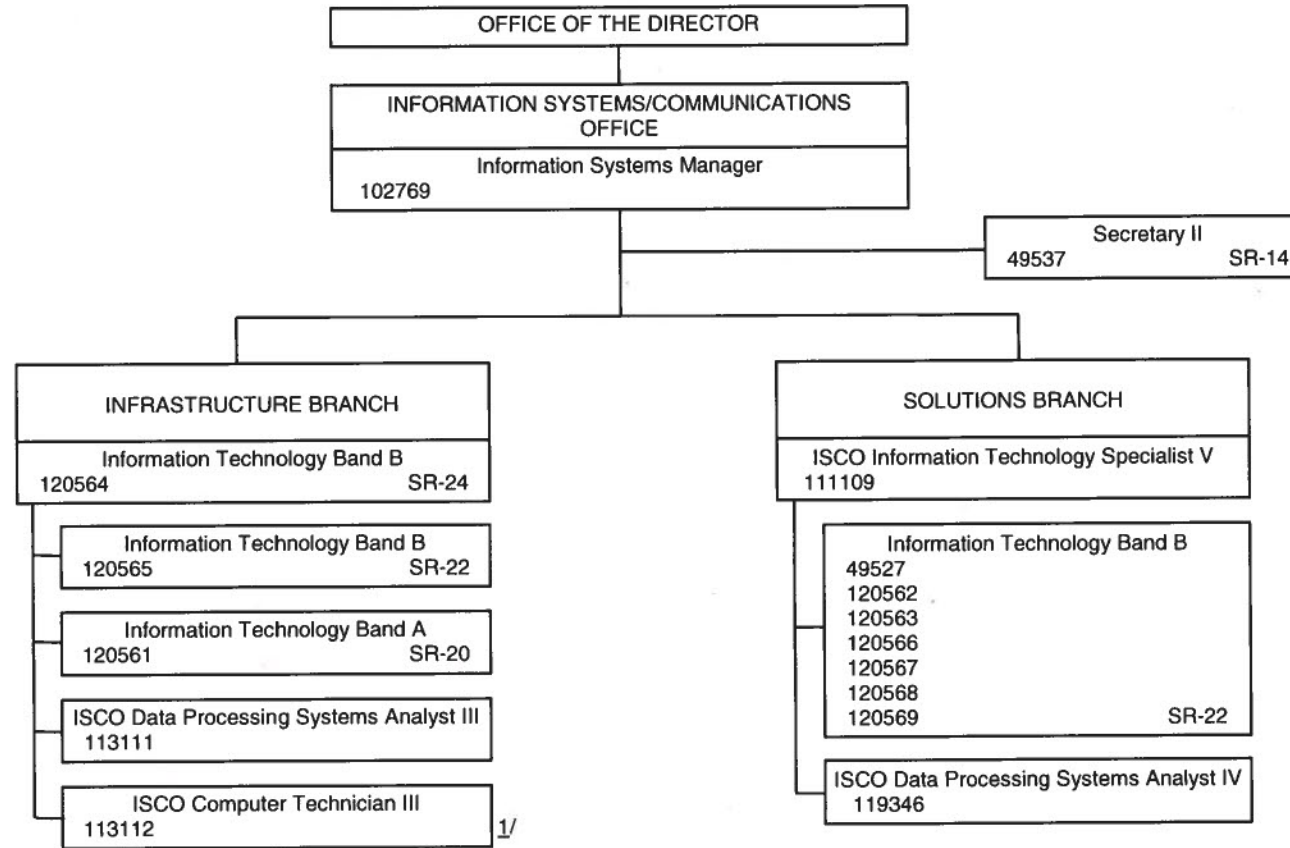
POSITION ORGANIZATION CHART



<sup>1/</sup> Engineer (PU) IV, SR-24, Position No. 15009, temporarily downgraded to Engineer (PU) III, SR-22.  
<sup>2/</sup> Public Utilities Rate Analyst V, SR-24, Position No. 15984, proposed for abolishment effective July 1, 2018.

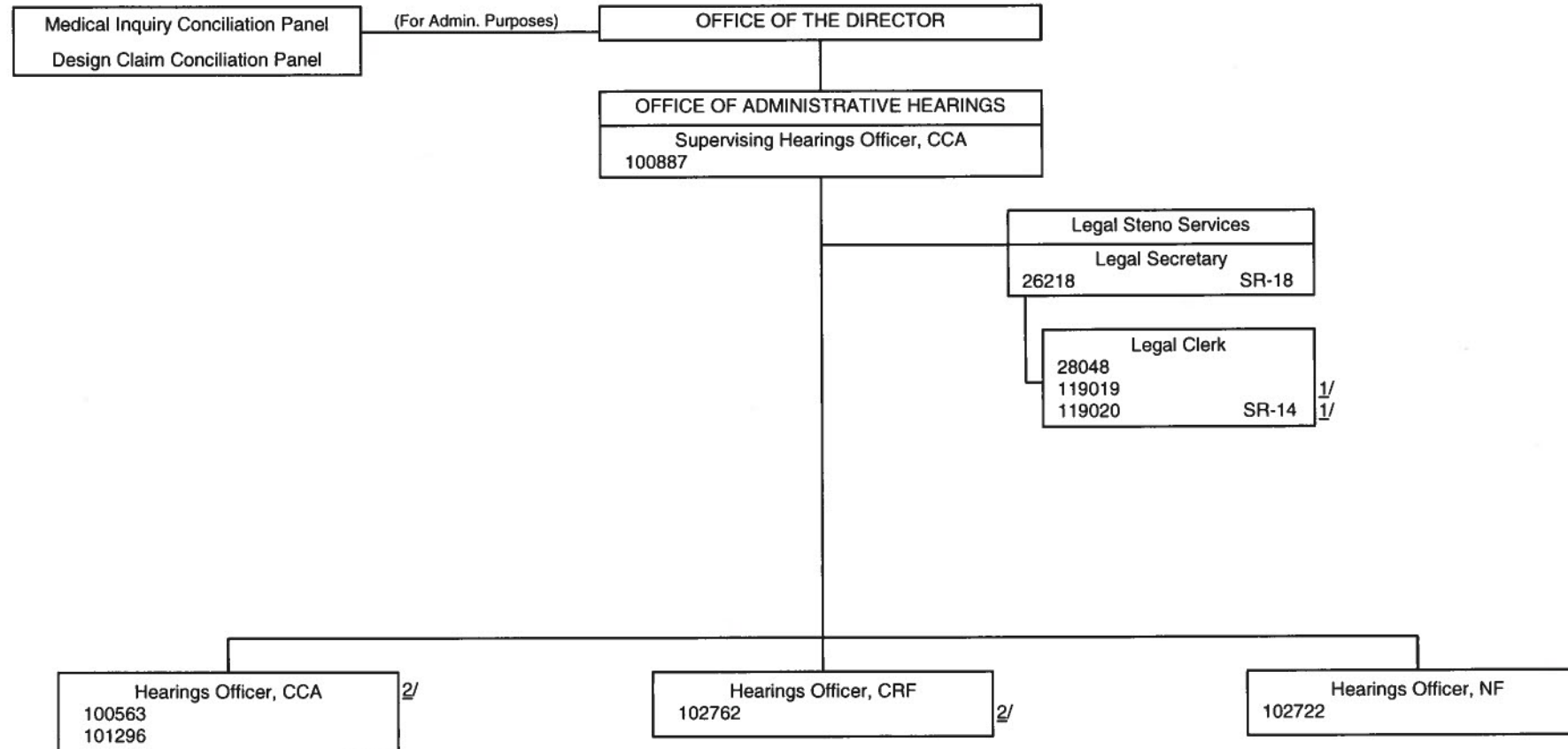
STATE OF HAWAII  
 DEPARTMENT OF COMMERCE AND  
 CONSUMER AFFAIRS  
 INFORMATION SYSTEMS/COMMUNICATIONS  
 OFFICE

POSITION ORGANIZATION CHART



1/ ISCO Computer Technician II, exempt, Position No. 113112, redescribed to ISCO Computer Technician III, effective July 16, 2017.

STATE OF HAWAII  
 DEPARTMENT OF COMMERCE AND  
 CONSUMER AFFAIRS  
 OFFICE OF ADMINISTRATIVE HEARINGS  
 POSITION ORGANIZATION CHART

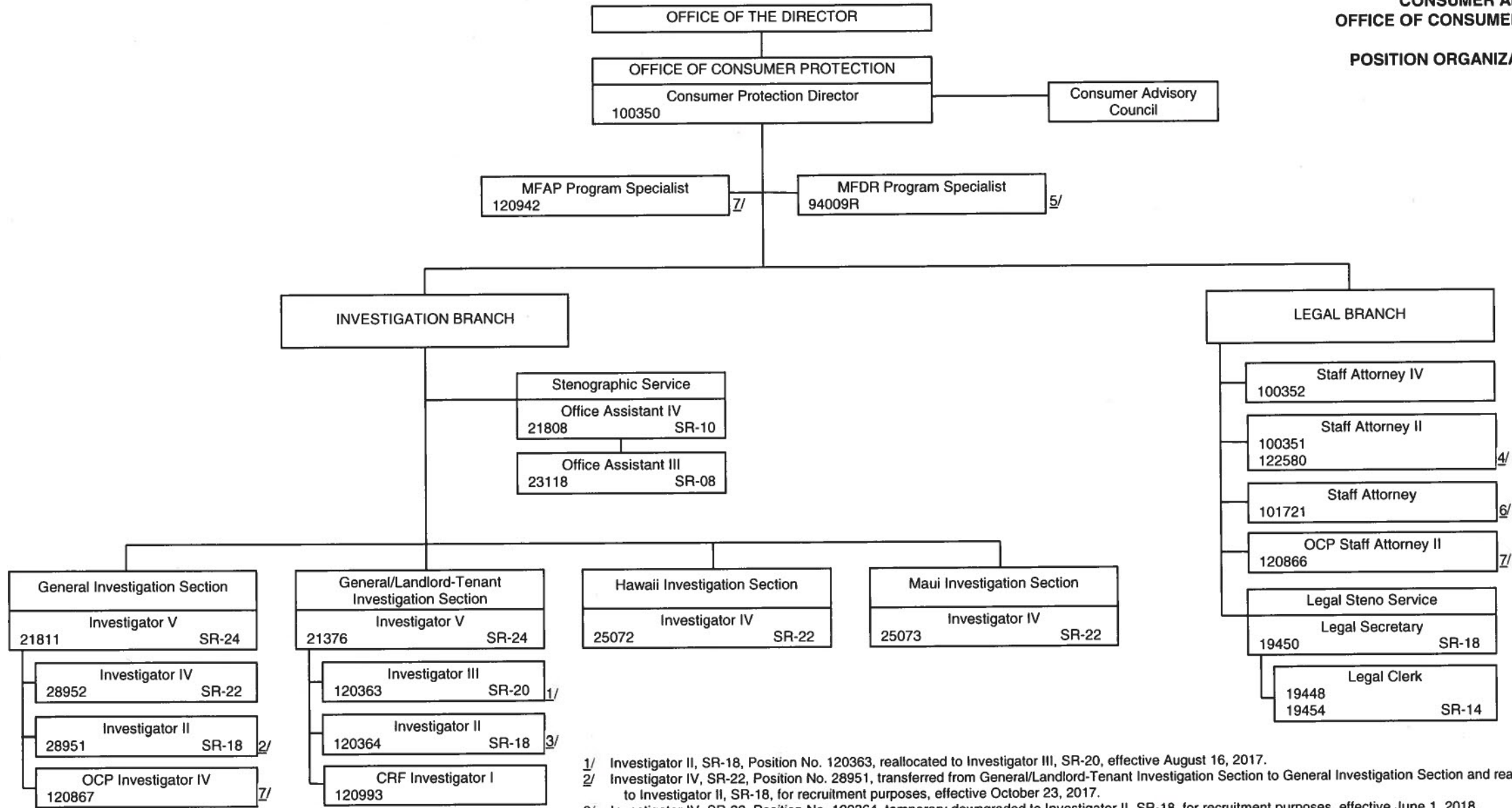


1/ Temporary civil service position, NTE June 30, 2019.  
 2/ Temporary exempt position, NTE June 30, 2019.

Note: CRF denotes Compliance Resolution Fund



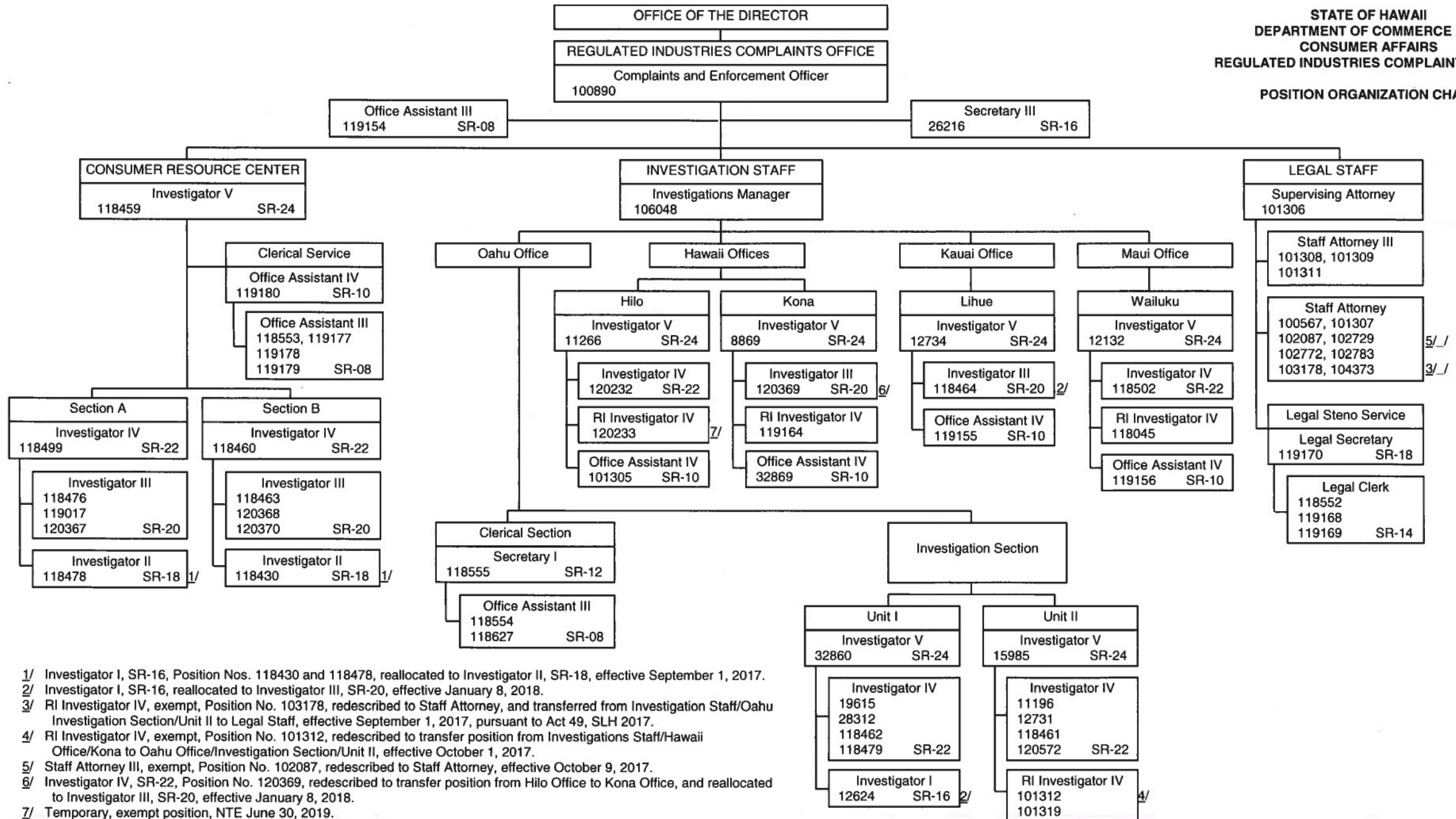
STATE OF HAWAII  
DEPARTMENT OF COMMERCE AND  
CONSUMER AFFAIRS  
OFFICE OF CONSUMER PROTECTION  
  
POSITION ORGANIZATION CHART



- 1/ Investigator II, SR-18, Position No. 120363, reallocated to Investigator III, SR-20, effective August 16, 2017.
- 2/ Investigator IV, SR-22, Position No. 28951, transferred from General/Landlord-Tenant Investigation Section to General Investigation Section and reallocated to Investigator II, SR-18, for recruitment purposes, effective October 23, 2017.
- 3/ Investigator IV, SR-22, Position No. 120364, temporary downgraded to Investigator II, SR-18, for recruitment purposes, effective June 1, 2018.
- 4/ New, permanent exempt position, Staff Attorney II, (Pseudo No. 98001R) established February 1, 2018, as authorized by Act 49, SLH 2017.
- 5/ Unestablished, temporary position, transferred from Office of the Director, effective July 1, 2017, NTE June 30, 2019, pursuant to Act 49, SLH 2017.
- 6/ Temporary, exempt position, NTE June 30, 2019.
- 7/ Temporary, unbudgeted, trust-funded position, NTE June 30, 2019.

STATE OF HAWAII  
DEPARTMENT OF COMMERCE AND  
CONSUMER AFFAIRS  
REGULATED INDUSTRIES COMPLAINTS OFFICE

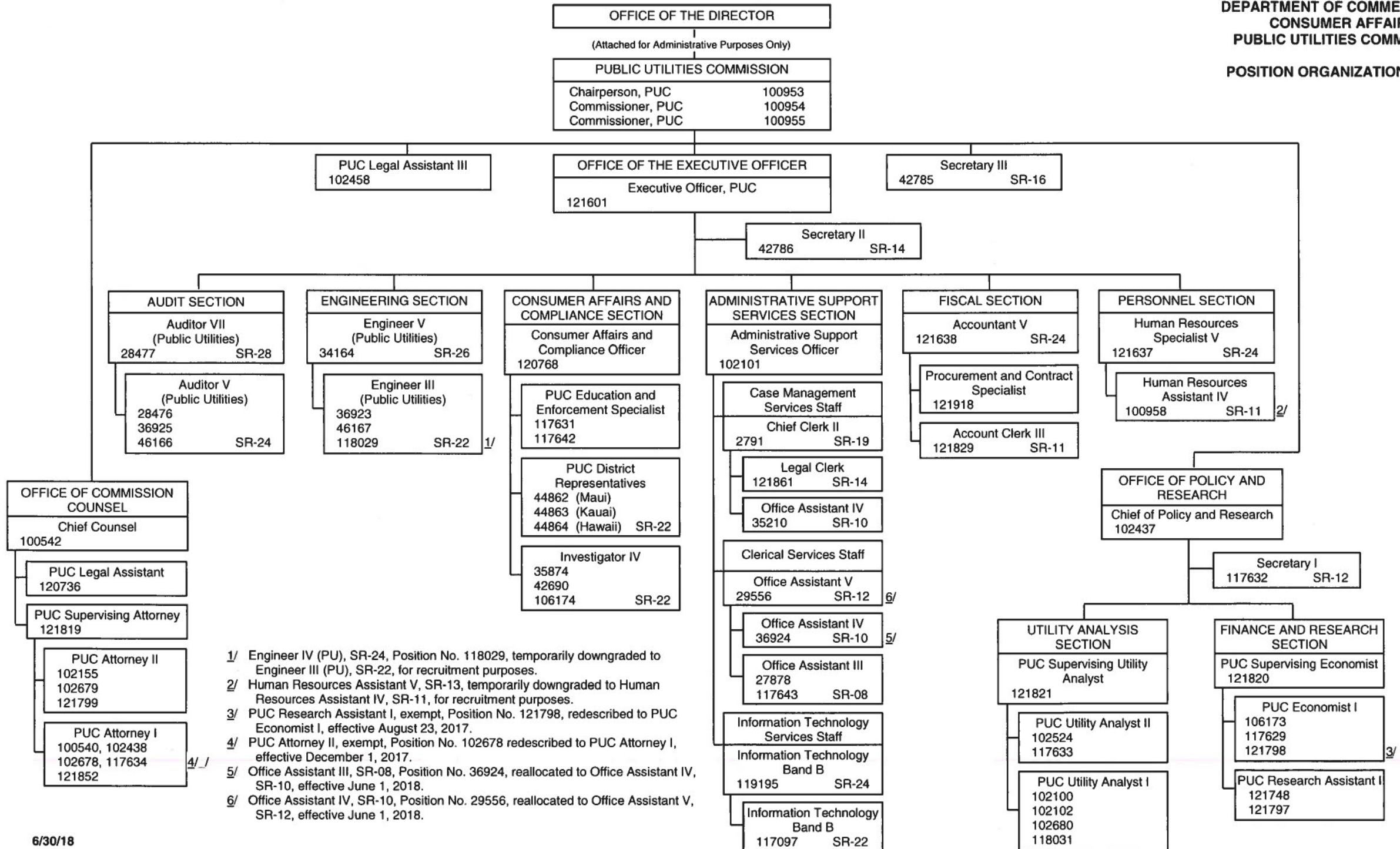
POSITION ORGANIZATION CHART



- 1/ Investigator I, SR-16, Position Nos. 118430 and 118478, reallocated to Investigator II, SR-18, effective September 1, 2017.
- 2/ Investigator I, SR-16, reallocated to Investigator III, SR-20, effective January 8, 2018.
- 3/ RI Investigator IV, exempt, Position No. 103178, redescribed to Staff Attorney, and transferred from Investigation Staff/Oahu Investigation Section/Unit II to Legal Staff, effective September 1, 2017, pursuant to Act 49, SLH 2017.
- 4/ RI Investigator IV, exempt, Position No. 101312, redescribed to transfer position from Investigations Staff/Hawaii Office/Kona to Oahu Office/Investigation Section/Unit II, effective October 1, 2017.
- 5/ Staff Attorney III, exempt, Position No. 102087, redescribed to Staff Attorney, effective October 9, 2017.
- 6/ Investigator IV, SR-22, Position No. 120369, redescribed to transfer position from Hilo Office to Kona Office, and reallocated to Investigator III, SR-20, effective January 8, 2018.
- 7/ Temporary, exempt position, NTE June 30, 2019.

Note: RI denotes Regulated Industries

STATE OF HAWAII  
 DEPARTMENT OF COMMERCE AND  
 CONSUMER AFFAIRS  
 PUBLIC UTILITIES COMMISSION  
 POSITION ORGANIZATION CHART



1/ Engineer IV (PU), SR-24, Position No. 118029, temporarily downgraded to Engineer III (PU), SR-22, for recruitment purposes.  
 2/ Human Resources Assistant V, SR-13, temporarily downgraded to Human Resources Assistant IV, SR-11, for recruitment purposes.  
 3/ PUC Research Assistant I, exempt, Position No. 121798, redescribed to PUC Economist I, effective August 23, 2017.  
 4/ PUC Attorney II, exempt, Position No. 102678 redescribed to PUC Attorney I, effective December 1, 2017.  
 5/ Office Assistant III, SR-08, Position No. 36924, reallocated to Office Assistant IV, SR-10, effective June 1, 2018.  
 6/ Office Assistant IV, SR-10, Position No. 29556, reallocated to Office Assistant V, SR-12, effective June 1, 2018.

TESTIMONY OF  
JAMES P. GRIFFIN, Ph.D.  
CHAIR, PUBLIC UTILITIES COMMISSION  
STATE OF HAWAII

TO THE  
HOUSE COMMITTEE ON  
CONSUMER PROTECTION & COMMERCE

January 31, 2019  
2:00 p.m.

Chair Takumi and Members of the Committee:

**MEASURE:** H.B. No. 1360

**TITLE:** RELATING TO FISCAL BIENNIUM 2019-2021 BUDGET REQUESTS  
FOR THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS.

**DESCRIPTION:** Appropriates funds for the fiscal biennium 2019-2021 operating budget of Department of Commerce and Consumer Affairs programs under the purview of the House of Representatives Standing Committee on Consumer Protection and Commerce.

**POSITION:**

The Public Utilities Commission is in **support** of this measure offers the following comments for consideration.

**COMMENTS:**

The Public Utilities Commission (“Commission”) is in support of this measure. The Commission offers the following overview and description of the agency (CCA-901, Public Utilities Commission) and the Commission’s budget addition requests.

I. **FUNCTIONS**

The Public Utilities Commission regulates all chartered, franchised, certificated, and registered public service companies operating in the State of Hawaii (“State”) that provide electricity, telecommunication, gas, private water and sewage, motor and water carrier transportation services and other entities as required by law. The Commission has the statutory authority to enforce applicable State statutes, and to establish and enforce administrative rules and regulations, and to set policies and standards.

During the prior Fiscal Year (“FY18”) (July 1, 2017 – June 30, 2018) the Commission regulated 1,806 public utilities and other entities in the State with revenues totaling more than \$2.5 billion. In carrying out its duties, the Commission issued a total of 862 decisions and orders during the fiscal year.

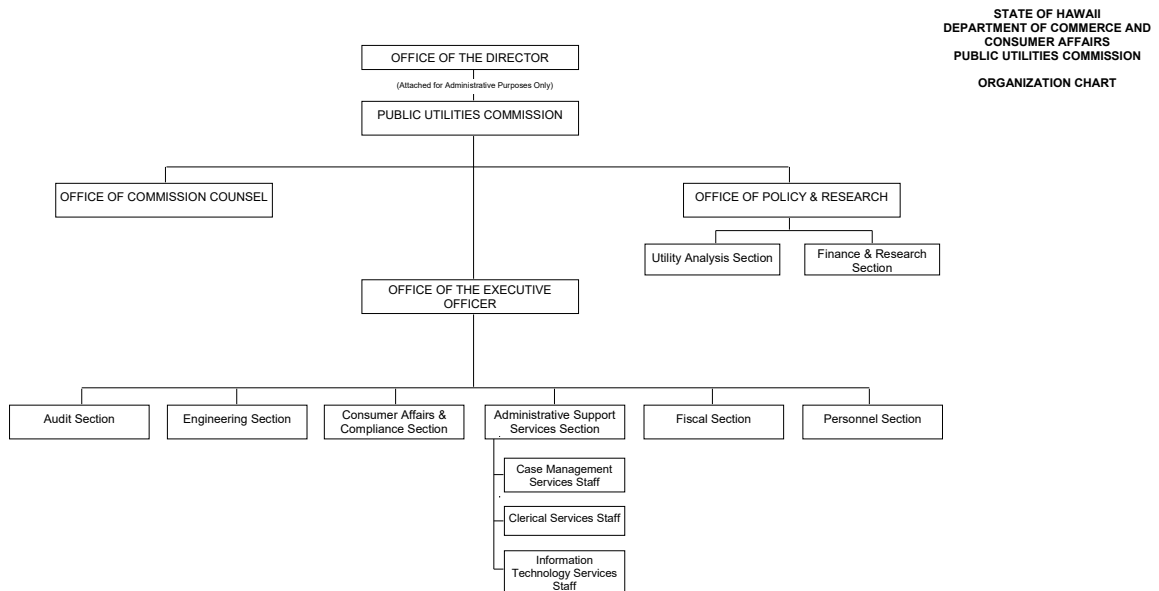
The Commission began FY18 with 163 open dockets that had been initiated in previous fiscal years. During FY18, an additional 429 new dockets were opened (most of which were applications and other requests filed by entities regulated by the Commission), and 451 dockets were completed (closed). As of the end of FY18, 141 open dockets carried over into the current fiscal year.

Functions and duties of the Commission include, but are not limited to:

- Establishing rates, tariffs, charges and fees, including determining the allowable rate of earnings for regulated entities in establishing rates;
- Issuing orders and guidelines concerning the general management and safe operation of regulated utility businesses;
- Adopting and promulgating rules and regulations pertaining to standards of efficient and reasonable services, safety of operations, adequacy of facilities, accounting methods and records, financial and statistical reports, filings with the Commission, and practices and procedures before the Commission;
- Acting on applications for certification and for the extension or abandonment of services;
- Prescribing methods, service, lives and annual rates of depreciation for utility properties;
- Responding to requests for the acquisition, sale, disposition or other exchange of utility properties, including mergers and consolidations;
- Acting on requests for the issuance and disposition of securities and other evidences of long-term indebtedness; and
- Implementing the State’s policies and performs oversight duties of legislatively mandated initiatives, including clean energy initiatives such as renewable portfolio standard, energy efficiency portfolio standard, and public benefits fee.

## II. ORGANIZATIONAL STRUCTURE

Act 177, SLH 2007 provided for a restructuring of the Commission to improve operational effectiveness, including 12 new positions and the conversion of 7 temporary positions to permanent status. In 2014, Act 108, SLH 2014 (“Act 108”), transitioned the Commission’s administrative status within the Department of Budget and Finance to the Department of Commerce and Consumer Affairs (“DCCA”). Act 108 provided the Commission with more decision-making discretion and enabled the Commission to hire an (1) executive officer, (2) fiscal officer, and (3) personnel officer to support the administrative functions of the Commission. The Office of the Executive Officer, Fiscal section and Personnel section were then added to the Commission’s organizational chart.



6/30/18

### Office of Commission Counsel

The Office of Commission Counsel provides in-house legal counsel to the Commission and its staff. The functions of this Office include but are not limited to:

- Furnishing general legal advisory services in all matters involving the Commission's functions and activities under governing statutes, rules, and policies applicable to or affecting the Commission;

- Managing and drafting Commission orders and Decisions & Orders;
- Representing the Commission before reviewing courts the State Legislature and other State and Federal agencies; and
- Assisting in the formulation of rules and regulations and of legislative matters pertaining to the Commission.

### **Office of the Executive Officer**

The Office of the Executive Officer plans, directs, and manages the operations of the Commission. This Office is also comprised of the following sections: (i) Audit, (ii) Engineering, (iii) Consumer Affairs and Compliance, (iv) Administrative Support Services, (v) Fiscal, and (vi) Personnel. The functions of this Office, broadly, are as follows:

- Administers the daily operations of the Commission ensuring availability of appropriate resources to effectively perform daily tasks and meet organizational goals and objectives;
- Oversees the personnel functions of the Commission, including management and recruitment of personnel, and staff development; fiscal functions of the Commission, including budget planning and implementation, procurement and contract administration, transactional functions, and payroll; and implementation of administrative and legislatively directed programs and projects;
- Plans, organizes, coordinates, and directs the formulation of plans, strategies, and implementation actions that support the Commission's short and long-term goals; and
- Develops and coordinates the plans, functions, and production of the Audit, Engineering, Consumer Affairs and Compliance, Administrative Support Services, Fiscal, and Personnel Sections to ensure effective achievement of Commission tasks and goals.

### **Audit Section**

The Audit Section aids in conducting audit projects that involve the examination of accounts and records; the review and evaluation of reports, working papers and

expenditures; the development and implementation of research projects and audit studies; and the preparation of reports of audits and special projects for matters under consideration by the Commission. The primary focus of the Audit Section is the examination of accounting records to check for accuracy, conformance to prescribed standards, and propriety of transactions. The Office of Policy and Research uses the data gathered by the Audit Section and from other sources in its financial analyses of the regulated companies. The Audit Section:

- Assists the Commission in research, analysis and preparation of summaries in exhibits and information for matters before the Commission;
- Examines accounts and records of regulated companies to ascertain compliance with the Commission's policies, orders, and records keeping requirements and regulations.
- Reviews and evaluates reports, working papers, and expenditures of public utilities to determine whether the public utilities' operations are consistent with the Commission's objectives to provide reasonable rates and charges; and
- Furnishes reports to the Commission on its audit activities.

#### Engineering Section

The Engineering Section provides assistance to carry out engineering functional duties, preparing and/or compiling data into comprehensive studies and reports, and conducts investigations requiring technical determinations on complaints and compliance by the regulated entities. The Engineering Section:

- Assists the Commission by providing engineering data and studies concerning system design, construction, maintenance, and operation of entities regulated by the Commission;
- Conducts investigations, studies, and prepares reports relating to overhead line construction by electric and telephone companies for compliance with standards;
- Conducts investigations to enforce compliance with service standards for all regulated companies;



- Reviews and reports on studies utilized to justify recommendations for revision of existing rules and regulations;
- Analyzes and evaluates depreciation studies or electric, gas, and telephone utilities to determine service lives of equipment used or useful for public utility purposes, including analysis of retirement dispersions, annuity rates, salvage ratio and other factors affecting the depreciation rates;
- Reviews capacity studies based on load growth and system reliability to determine future requirements of the regulated utility companies;
- Reviews, analyzes, and evaluate capital expenditure requests by regulated companies to install and construct equipment and facilities or to lease or purchase property for public utility purposes; and
- Analyzes and evaluates all testimony and exhibits in cases relating to fuel oil, maintenance, generation transmission, distribution costs including all factors relating to cost of service, rate base, and revenue requirements, advocated by the respective parties to assist the Commission in this deliberation of the proceeding.

#### Consumer Affairs and Compliance Section

The Consumer Affairs and Compliance Section establishes and maintains contact with the media, regulated entities, government agencies, and the public; disseminates public information; provides investigation, complaint resolution, enforcement services, and conducts community outreach and educational services on behalf of the Commission. The Consumer Affairs and Compliance Section:

- Receives, reviews, attempts to resolve informal inquiries and complaints or refers to appropriate government agency for follow up action;
- Plans, organizes, coordinates, and directs the Commission's education and community outreach activities and tasks;
- Plans, coordinates and implements the Commission's public information, programs and activities across all media;
- Oversees the administration of projects and legislatively mandated programs as appropriate;
- Conducts inspection, surveys, tests, and inquiries into the operations,

practices, services, records, and property of the regulated entities and submits reports to the Commission regarding these studies; and

- Issues citations and serves subpoenas to alleged violators of Commission statutes, rules, and regulations.

#### Administrative Support Services Section

The Administrative Support Services Section provides specialized staff support to the Executive Officer in the administration of the daily operations of the Commission and assists with the planning, coordination, execution, and oversight of Commission special projects and activities.

Within the Administrative Support Services Section, the *Case Management Services Staff* maintains and preserves the Commission's official docket files and quasi-judicial records and provides support services to the Chief Counsel and Legal Section. The Case Management Services Staff:

- Receives, records, issues, and preserves the quasi-judicial records and tariffs of the Commission in official hard-copy, electronic, and permanent (e.g., microfilm) forms;
- Maintains a register of all Commission decisions, orders, records all votes and official acts of the Commission;
- Schedules and arranges for Commission hearings and other official proceedings and issues required official public notices;
- Assists regulated entities, their counsel, other stakeholders, and the public with docketed matters; and
- Files/transmits official Commission documents all rules and regulations with respective courts and government offices and agencies.

Within the Administrative Support Services Section, the *Clerical Services Staff* provides clerical support services such as records and system maintenance, typing, duplicating, travel voucher preparation, processing mail, messenger services, reception activities, and administrative and clerical support for all Commission staff. The Clerical Services Staff:

- Maintains Commission's non-docketed files and records;

- Receives and processes informal complaints and inquiries; and
- Provides reception services to the general public.

Within the Administrative Support Services Section, the *Information Technology Staff* provides Information Technology (“IT”) support and information to the Commissioners and staff. The Information Technology Staff:

- Administers, maintains, enhances, and procures the Commission’s IT infrastructure that includes equipment, cabling/wiring, and services for the Commission’s Wide Area Network (WAN), Local Area Network (LAN), telecommunication network, servers, workstations, mobile devices, communication devices, copy/scan/print devices, and Audio/Video systems;
- Recommends, develops, maintains, and enhances IT systems and applications;
- Provides end user support for IT infrastructure, systems, and office applications through onsite and help desk support, documentation, and training; and
- Serves as a knowledge base for IT standards and trends.

#### Fiscal Section

The Fiscal Section plans, develops, coordinates, and implements the Commission’s fiscal and procurement activities ensuring compliance and completeness of all processes. The Fiscal Section:

- Plans, executes, manages, and reconciles the Commission’s budget; prepares budget proposals, reports and testimonies; and formulates responses to audit inquiries and investigations;
- Manages and processes payroll and all related transactions;
- Provides clerical fiscal support for all matters concerning the Commission’s fiscal activities, maintains the Commission’s physical inventory, and maintains fiscal records;
- Plans, and conducts the Commission’s procurement activities, including travel requests, prioritizing and coordinating requests from

the different offices and sections while adhering to the budget execution plan; and

- Coordinates and administers contract activities such as development and preparation of specifications, requests for proposals, review and selection of proposals, publication notices, contract execution, and vendor compliance and satisfactory performance to program standards.

### Personnel Section

The Personnel Section oversees and performs internal personnel support functions for the Commission ensuring compliance and completeness for all personnel support activities. The Personnel Section:

- Coordinates, assists, and processes recruitment, on boarding, orientation activities; and completes and files necessary forms and documents with respective agencies;
- Maintains and updates Commission's personnel records and files, distributes personnel related documents, assists with staff personnel inquiries, and maintains confidentiality;
- Oversees and coordinates staff development and discipline; Performance Appraisal System (PAS) execution and compliance; developing, budgeting, and tracking of training activities; and coordination of Commission initiated staff training sessions; and
- Provides support and guidance to staff on Human Resource related inquiries and requests.

### Office of Policy and Research

The Office of Policy and Research provides comprehensive technical policy analysis and research; financial, statistical, and economic evaluations; legislative and media support functions; and assists with the development of Commission rules and policies. The Office of Policy and Research is comprised of the following two sections: (i) Utility Analysis, and (ii) Economics and Research.

### Utility Analysis Section

- Conducts analyses of all phases of utility and transportation company operations dealing with financial needs, methods, practices, costs thereof, and rates of return;
- Analyzes emerging issues and developing trends in industries regulated by the Commission;
- Identifies objectives and policies the Commission should pursue and develops programs to support stated policies;
- Advises the Commission on all regulated industry and government policy matters;
- Develops strategies and oversees implementation of action plans and programs that carry out legislatively mandated goals and objectives including the State's clean energy initiatives; and
- Coordinates, manages, and oversees Commission Legislative team and related efforts.

*Economics and Research Section*

- Prepares financial analyses on pending applications involving regulated companies' requests to issue securities or assume liabilities and obligations thereof, to modify capital structures, and to reorganize;
- Plans, organizes and performs economic analyses of operations, methods, and costs of financing, rates of return and other financial and economic information regarding matters under consideration by the Commission;
- Investigates, reviews and evaluates operating activities of franchised or certified public service companies, including rates, tariffs, charges, rules and regulations, practices, services, capital improvement plans, blueprints, facilities, transactions with affiliates, agreements, load growth projections and peak load requirements;
- Conducts studies and renders technical assistance, advice, and evaluation of mathematical and statistical aspects of matters subject to the Commission's jurisdiction; and
- Provides research support and analytical functions to the Commission.

**III. SOURCES OF REVENUE**

The Commission is entirely funded by the entities it regulates. Pursuant to HRS §§ 269-30(b) and 271-36, the Commission collects fees from public utilities and motor carriers subject to the jurisdiction of the Commission. In addition, pursuant to existing statutory authority and the Commission's administrative rules, the Commission collects additional fees, charges, penalties, and fines during the course of its work. All fees, charges, and other revenues are deposited in the PUC Special Fund.

The table below provides the Commission's Special Fund Revenues for FY17 and FY18.

<b>Description of Revenues</b>	<b>FY 2017</b>	<b>FY 2018</b>
Public Utility Fees	\$17,193,514	\$14,798,891
Motor Carrier Fees	1,747,764	1,809,299
Hawaii One Call Center Fees	70,553	86,352
Filing Fees and Other Revenues	55,637	160,278
Motor Carrier Interest, Penalties, and Fines	80,912	50,511
<b>Total Revenues</b>	<b>\$19,148,380</b>	<b>\$16,905,331</b>

**IV. NON-GENERAL FUND BALANCES**

The Commission's special fund balance at the end of the last fiscal year was \$4,155,566.

**V. BASE BUDGET FOR 2019**

The base budget for Fiscal Year 2019 is \$15,470,219.

**VI. NUMBER OF POSITIONS**

The Commission currently has 65 approved positions. Act 177 SLH 2007 initially provided approval for the restructuring of the PUC to improve operational effectiveness,

including 12 new positions and the conversion of 7 temporary positions to permanent status. Subsequently, Act 108 allowed the addition of the executive officer, fiscal officer, and personnel officer.

## **VII. NUMBER OF VACANCIES**

Currently, the Commission has 6 vacancies that include Commissioner, Secretary I, Human Resources Assistant V, PUC Legal Assistant, Investigator IV, and Auditor V.

The position of Commissioner was recently vacated due to the retirement of Chair Randy Iwase. The Commission has had difficulty filling the Investigator IV and Auditor V positions due to the very limited number of qualified applicants at these levels. The Commission is pursuing options with the Department of Human Resources Development with respect to the classification, compensation, and recruitment of the Investigator IV position. The Commission is reviewing the position descriptions for the Secretary I, Human Resources Assistant V, and PUC Legal Assistant for re-description and possible reclassification that would better suit the Commission's needs.

Additionally, the Commission has two vacant temporary Enforcement Officers that were established pursuant to Act 201 SLH 2018. As described below, the Commission is requesting a budget addition to reclassify these positions as permanent positions.

## **VIII. REQUESTS FOR THE NEXT BIENNIUM (FYs 2020 and 2021)**

The Commission's requests for the next biennium are as follows:

- 1. Request to replace the commission's document management system (DMS).** Per Report No. 18-05 Audit of the Public Utilities Commission issued in February 2018, the State Auditor recommended that the Commission address shortfalls in its Document Management System (DMS) as soon as possible to avoid additional maintenance for the current system. The Commission has procured a vendor to conduct a Feasibility Study to determine whether an enhancement of the current system or replacement of the entire system is the best course of action. It has been recommended that the system be replaced. The requested amount is \$500,000 and \$2,060,000 in FY 20 and FY 21 respectively.
- 2. Request to convert two temporary Enforcement positions to permanent to increase enforcement activities in its oversight of motor carriers.** The

Consumer Affairs and Compliance section works to resolve complaints for all the Commission's regulated entities. Two temporary enforcement positions (effective July 1, 2018 for one year) were appropriated in Act 201 SLH 2018 HB2684 HD1 SD1 CD1. The enforcement positions authorized will allow the department to increase its presence in monitoring motor carrier activity and compliance with Commission laws, rules, regulations and orders. These positions have been difficult to fill because they are temporary. The Commission is requesting to convert them to permanent positions. The requested amount is \$200,240 and \$195,840 in FY 20 and FY 21 respectively.

- 3. Request to replace aging IT equipment for staff.** This request includes but is not limited to, laptops, desktops, and monitors needed to provide adequate equipment to new staff as well as replace aging equipment. The requested amount is \$33,000 for both FY 20 and FY 21.

Purchases for FY20 include:

- 10 monitors;
- 27 laptops;
- UPS Smart UPS for LAN Servers & Network Equipment (2x).

Purchases for FY21 include:

- 17 laptops;
- 20 monitors;
- LAN File Servers (Replacement) (2x)

- 4. Request to increase Fringe.** Pursuant to Finance Memorandum No. 18-16, the State's fringe benefit assessment rate for non-general fund programs is 60% for FY 20 and FY 21 primarily due to the projected costs for the prefunding of other post-employment benefits. The Commission requires the requested budget increase to effectively fund all authorized positions.
- 5. Request to fund additional positions for the Division of Consumer Advocacy (CCA-103).** The Division of Consumer Advocacy funded from the PUC Special Fund and is requesting an appropriation for \$292,000 for FY 19 and \$584,000 for FY 20, to fund five permanent positions in its division: one staff attorney, one



administrative specialist, and three program specialists. These additional positions would increase the total number of DCA positions to 28 and help meet the division's increasing workload, both in terms of volume and complexity, and cases before the PUC. Recognizing the time required to establish and fill these positions, the DCA is requesting that the positions be hired as follows: one program specialist in FY 2020; the attorney, the administrative specialist and the second program specialist in the second half of FY 2020; and the third program specialist in FY 2021.

The requested additions are summarized in the table below.

<b>Requested Additions</b>	<b>FY20</b>	<b>FY21</b>
DMS	\$500,000	\$2,060,000
Permanent Enforcement Positions	200,240	195,840
IT Equipment Replacement	33,000	33,000
Fringe Benefits	899,698	899,698
CCA-103	292,000	584,000
<b>Total</b>	<b>\$1,924,938</b>	<b>\$3,772,538</b>

Thank you for the opportunity to testify on this measure.

TESTIMONY OF  
JAMES P. GRIFFIN, Ph.D.  
CHAIR, PUBLIC UTILITIES COMMISSION  
STATE OF HAWAII

TO THE  
HOUSE COMMITTEE ON  
CONSUMER PROTECTION & COMMERCE

January 31, 2019  
2:00 p.m.

Chair Takumi and Members of the Committee:

**MEASURE:** H.B. No. 1360

**TITLE:** RELATING TO FISCAL BIENNIUM 2019-2021 BUDGET REQUESTS  
FOR THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS.

**DESCRIPTION:** Appropriates funds for the fiscal biennium 2019-2021 operating budget of Department of Commerce and Consumer Affairs programs under the purview of the House of Representatives Standing Committee on Consumer Protection and Commerce.

**POSITION:**

The Public Utilities Commission is in **support** of this measure offers the following comments for consideration.

**COMMENTS:**

The Public Utilities Commission ("Commission") is in support of this measure and previously provided written testimony regarding CCA-901, Public Utilities Commission.

In addition, after discussing this measure with the Department of Commerce and Consumer Affairs, the Commission respectfully recommends Sections 3 and 10 of this measure be appropriately amended to ensure the budget additions requested by the Division of Consumer Advocacy ("Consumer Advocate") are included in the Commission's budget addition request.

The Consumer Advocate's primary source of funding is the PUC Special Fund. As such, in order to ensure the Commission's appropriation is sufficient to cover the Consumer

Advocate's budget addition request, a corresponding increase reflecting CCA-103 (the Consumer Advocate) should be made to CCA-901.

With respect to Section 3, the Commission requests that item (7) "CCA-901 - Public Utilities Commission" include a total requested amount of \$1,924,938 for fiscal year 2019-2020 and \$3,772,538 for fiscal year 2020-2021.

With respect to Section 10, the Commission has consulted with the Department of Commerce and Consumer Affairs on proposed language and requests this section be amended to include an item (5): "The sum of \$292,000 or so much thereof as may be necessary for fiscal year 2019-2020 and \$584,000 or so much thereof as may be necessary for fiscal year 2020-2021 shall be expended to fund the following permanent positions for the Division of Consumer Advocacy: (1) One full-time equivalent (1.0 FTE) attorney; (2) One full-time equivalent (1.0 FTE) administrative specialist; and (3) Three full-time equivalent (3.0 FTE) program specialists."

Thank you for the opportunity to testify on this measure.