July 8, 2008

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith SB2334 SD2 HD1 CD1, without my approval, and with the statement of objections relating to the measure.

SB2334 SD2 HD1 CD1

A BILL FOR AN ACT RELATING TO PUBLIC SAFETY.

Sincerely,

LINDA LINGLE
EXECUTIVE CHAMBERS
HONOLULU
July 8, 2008

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2334

Honorable Members
Twenty-Fourth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2334, entitled "A Bill for an Act Relating to Public Safety."

The purposes of this bill are to (1) repeal the civil service exemption for the positions of First Deputy Sheriff and Second Deputy Sheriff, and (2) require that the Deputy Director for Law Enforcement of the Department of Public Safety and the Sheriff be graduates of a law enforcement academy.

This bill is objectionable because it unnecessarily limits the Governor's ability to appoint the best qualified candidate for the positions of Deputy Director for Law Enforcement and the Sheriff. The issue of whether a person has graduated from a law enforcement academy is only one of the criteria to consider in selecting the best qualified candidate and should not automatically exclude an otherwise qualified candidate with experience in related fields such as prosecutors, public defenders, law enforcement experts, or military police.

For the foregoing reasons, I am returning Senate Bill No. 2334 without my approval.

Respectfully,

LINDA LINGLE
Governor of Hawaii
A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

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

SECTION 1. Section 76-16, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The civil service to which this chapter applies shall comprise all positions in the State now existing or hereafter established and embrace all personal services performed for the State, except the following:

(1) Commissioned and enlisted personnel of the Hawaii national guard as such, and positions in the Hawaii national guard that are required by state or federal laws or regulations or orders of the national guard to be filled from those commissioned or enlisted personnel;

(2) Positions filled by persons employed by contract where the director of human resources development has certified that the service is special or unique or is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel
to perform the service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;

(3) Positions that must be filled without delay to comply with a court order or decree if the director determines that recruitment through normal recruitment civil service procedures would result in delay or noncompliance, such as the Felix-Cayetano consent decree;

(4) Positions filled by the legislature or by either house or any committee thereof;

(5) Employees in the office of the governor and office of the lieutenant governor, and household employees at Washington Place;

(6) Positions filled by popular vote;

(7) Department heads, officers, and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;

(8) Judges, referees, receivers, masters, jurors, notaries public, land court examiners, court commissioners, and
attorneys appointed by a state court for a special
temporary service;

(9) One bailiff for the chief justice of the supreme court
who shall have the powers and duties of a court
officer and bailiff under section 606-14; one
secretary or clerk for each justice of the supreme
court, each judge of the intermediate appellate court,
and each judge of the circuit court; one secretary for
the judicial council; one deputy administrative
director of the courts; three law clerks for the chief
justice of the supreme court, two law clerks for each
associate justice of the supreme court and each judge
of the intermediate appellate court, one law clerk for
each judge of the circuit court, two additional law
clerks for the civil administrative judge of the
circuit court of the first circuit, two additional law
clerks for the criminal administrative judge of the
circuit court of the first circuit, one additional law
clerk for the senior judge of the family court of the
first circuit, two additional law clerks for the civil
motions judge of the circuit court of the first
circuit, two additional law clerks for the criminal
motions judge of the circuit court of the first
circuit, and two law clerks for the administrative
judge of the district court of the first circuit; and
one private secretary for the administrative director
of the courts, the deputy administrative director of
the courts, each department head, each deputy or first
assistant, and each additional deputy, or assistant
deputy, or assistant defined in paragraph (16);
(10) First deputy and deputy attorneys general, the
administrative services manager of the department of
the attorney general, one secretary for the
administrative services manager, an administrator and
any support staff for the criminal and juvenile
justice resources coordination functions, and law
clerks;
(11) (A) Teachers, principals, vice-principals, complex
area superintendents, deputy and assistant
superintendents, other certificated personnel,
not more than twenty noncertificated
administrative, professional, and technical
personnel not engaged in instructional work;
(B) Effective July 1, 2003, teaching assistants, educational assistants, bilingual/bicultural school-home assistants, school psychologists, psychological examiners, speech pathologists, athletic health care trainers, alternative school work study assistants, alternative school educational/supportive services specialists, alternative school project coordinators, and communications aides in the department of education;

(C) The special assistant to the state librarian and one secretary for the special assistant to the state librarian; and

(D) Members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work, and administrative, professional, and technical personnel of the university;

(12) Employees engaged in special, research, or demonstration projects approved by the governor;

(13) Positions filled by inmates, kokuas, patients of state institutions, persons with severe physical or mental
handicaps participating in the work experience training programs, and students and positions filled through federally funded programs that provide temporary public service employment such as the federal Comprehensive Employment and Training Act of 1973;

(14) A custodian or guide at Iolani Palace, the Royal Mausoleum, and Hulihee Palace;

(15) Positions filled by persons employed on a fee, contract, or piecework basis, who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;

(16) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, Article V, of the State Constitution; three additional deputies or assistants either in charge of the highways, harbors, and airports divisions or other functions within the department of transportation as may be assigned by the
director of transportation, with the approval of the
governor; four additional deputies in the department
of health, each in charge of one of the following:
behavioral health, environmental health, hospitals,
and health resources administration, including other
functions within the department as may be assigned by
the director of health, with the approval of the
governor; an administrative assistant to the state
librarian; and an administrative assistant to the
superintendent of education;

(17) Positions specifically exempted from this part by any
other law; provided that all of the positions defined
by paragraph (9) shall be included in the position
classification plan;

(18) Positions in the state foster grandparent program and
positions for temporary employment of senior citizens
in occupations in which there is a severe personnel
shortage or in special projects;

(19) Household employees at the official residence of the
president of the University of Hawaii;

(20) Employees in the department of education engaged in
the supervision of students during meal periods in the
distribution, collection, and counting of meal
tickets, and in the cleaning of classrooms after
school hours on a less than half-time basis;

(21) Employees hired under the tenant hire program of the
Hawaii public housing authority; provided that not
more than twenty-six per cent of the authority's work
force in any housing project maintained or operated by
the authority shall be hired under the tenant hire
program;

(22) Positions of the federally funded expanded food and
nutrition program of the University of Hawaii that
require the hiring of nutrition program assistants who
live in the areas they serve;

(23) Positions filled by severely handicapped persons who
are certified by the state vocational rehabilitation
office that they are able to perform safely the duties
of the positions;

(24) One public high school student to be selected by the
Hawaii state student council as a nonvoting member on
the board of education as authorized by the State
Constitution;
(25) [Sheriff, first deputy sheriff, and second deputy sheriff;] The position of the sheriff;

(26) A gender and other fairness coordinator hired by the judiciary; and

(27) Positions in the Hawaii national guard youth challenge academy.

The director shall determine the applicability of this section to specific positions.

Nothing in this section shall be deemed to affect the civil service status of any incumbent as it existed on July 1, 1955."

SECTION 2. Section 353C-3, Hawaii Revised Statutes, is amended to read as follows:

"§353C-3 Deputy directors; sheriff; appointment qualifications; exemption. (a) The director shall appoint, without regard to chapter 76, three deputy directors to serve at the director's pleasure. Unless otherwise assigned by the director, one deputy director shall oversee the correctional programs and facilities of the department, one deputy director shall oversee the law enforcement programs of the department, and one deputy director shall oversee administration of the department."
(b) The deputy director for law enforcement and the
sheriff shall be graduates of a law enforcement academy.

(c) Any existing deputy director for law enforcement and
the sheriff that is employed in that respective position before
July 1, 2008, shall not be required to be a graduate of a law
enforcement academy."

SECTION 3. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2008.