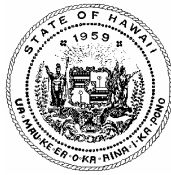


HB1966

HD1

NEIL ABERCROMBIE
GOVERNOR



BARBARA A. KRIEG
DIRECTOR

LEILA A. KAGAWA
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
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March 11, 2014

**TESTIMONY TO THE
SENATE COMMITTEE ON JUDICIARY AND LABOR**

For Hearing on Friday, March 14, 2014
10:00 a.m. Conference Room 016

BY

BARBARA A. KRIEG
DIRECTOR

**House Bill No. 1966, HD1
Relating to Public Employees**

TO CHAIRPERSON CLAYTON HEE AND MEMBERS OF THE COMMITTEE:

House Bill 1966, House Draft 1, requires the state auditor to (1) review the current civil service exemption process in section 76-16, Hawaii Revised Statutes and recommend procedures and guidelines to ensure the appropriate utilization of this process, (2) determine the reasons State departments and agencies have “circumvented the civil service exemption process” and (3) work with the departments and agencies to update the process for updating position descriptions to accurately reflect duties that employees are expected to perform. The Department of Human Resources Development (DHRD) has comments on the proposed draft.

DHRD is ready and willing to assist the State Auditor in connection with any subject matter review. However, as summarized below, we have concerns about the inaccuracy of statements in Section 1 and the language in Section 2.

First, the State Executive branch departments under DHRD have recently converted or are in the process of converting close to 500 positions from exempt to civil service. This is a substantial number of positions.

Second, DHRD is not aware of any correlation between civil service exemptions and any lack of updated position descriptions. We agree that departments should maintain accurate position descriptions at all times, although we understand this is not always done, whether for exempt or civil service positions, due to the challenges of competing priorities. We also note there are existing policies and procedures for the establishment of position descriptions, including the update of position descriptions when there are significant changes to the job duties and responsibilities.

Finally, we disagree with the stated assumption that State departments and agencies are “circumventing” the civil service or civil service exemption process. Exempt positions can only be established where there is statutory authority for the exemption. Departments and agencies should not be faulted for complying with the law. There are also good reasons for civil service exemptions in appropriate circumstances, including but not limited to where funding is temporary, the function is of short duration, or the positions require highly specialized skills.

Thank you for the opportunity to present testimony on H.B.1966, H.D.1.



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March 12, 2014

To: The Honorable Clayton Hee, Chair
Maile S.L. Shimabukuro, Vice Chair; and
Members of the Senate Committee on Judiciary and Labor

From: Office of Community Services (OCS),
Department of Labor and Industrial Relations (DLIR)
Mila Kaahanui, Executive Director

Subject: HB1966 HD1 Relating to Public Employees

Date: Friday, March 14, 2014
Time: 10:00 a.m.
Place: Senate Conference Room 016

POSITION: **Support with Comments**

The Office of Community Services (OCS), a State agency administratively located in the DLIR, supports the intent of this bill and respectfully offers comments. Our comments here are basically the same as we offered to the House Committee on Labor & Public Employment when that committee considered this bill last month.

OCS currently has 12 staff members, all but two of whom have begun State employment within the past three years. All of the OCS staff are Civil-Service exempt.

I. OVERVIEW OF THIS PROPOSAL

This bill proposes to direct the State Auditor to review the current civil service exemption process and recommend procedures and guidelines to ensure the appropriate use of this process in extraordinary circumstances. The bill would also direct the State Auditor to examine how to update and modernize the job descriptions and expectations of various State personnel. The State Auditor would be required to report to the Legislature 20 days before the commencement of the 2015 Session of the Legislature.

II. CURRENT LAW

Converting more staff to Civil Service is a goal set out in Act 253, SLH 2000, and Act 300, SLH 2006. However, the actual rate of conversions is not as swift as may have been anticipated.

III. COMMENTS ON THE HOUSE BILL

OCS believes that it is appropriate to have a greater dialogue to provide exempt employees an opportunity to fully understand the advantages and disadvantages of conversion to civil service.

Thank you for the opportunity to provide our comments.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

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

The Twenty-Seventh Legislature, State of Hawaii
The Senate
Committee on Judiciary and Labor

Testimony by
Hawaii Government Employees Association
March 14, 2014

H.B. 1966, H.D. 1 – RELATING TO PUBLIC EMPLOYEES

The Hawaii Government Employees Association supports the purpose and intent of H.B. 1966, H.D. 1. This legislation requires the State Auditor to review the current civil service exemption process and make recommendations to ensure that civil service exemption process is used appropriately and only in extraordinary circumstances.

According to information from DHRD as of December 2013, there are 1,525 exempt employees in HGEA bargaining units under the two largest exemptions contained in Section 76-16, HRS (Sections 76-16 (b) 12 and (b) 17), which refers to other statutes. There are approximately 100 individual statutory exemptions from civil service under Section 76-16 (b) (17), HRS. Some of these exemptions are mandatory while others are permissive.

Under all 27 exemptions listed in Section 76-16, HRS, there are 2,894 exempt employees within the state Executive Branch, according to the Report to the 2014 Legislature on Positions Exempted from Civil Service. We estimate that 8-9% of all state employees are exempt from civil service. In contrast, the State of California, limits exempt employees in Executive Branch departments to just one-half of one percent. Despite having more than 195,000 full time state employees, there are only about 1,000 exempt employees in California's executive branch. All twenty-seven (27) exemptions should be carefully examined to see if these exemptions are still warranted. These exemptions have major public policy implications and should not be left in place unexamined.

In essence, we have a two-tiered system of state employment, one for civil service employees and another for exempt employees despite the State Constitutional mandate for civil service in Article XVI, Section 2 and the statement of purpose in Section 76-1, HRS. This statement of purpose is reiterated in Section 76-16, HRS.

The number of voluntary conversions from exempt to civil service by DHRD and the various line departments has been small. Here are the numbers of conversions over the past several years: 24 – 2013, 50 – 2012, 20 – 2011 and 4 – 2010. The voluntary conversion process is not effective. Many exempt employees have been employed by the State of Hawaii for years and provide valuable service to their respective departments, yet they are not treated fairly by the employer.

We suggest amending the bill to allow the State Auditor to work with the Hawaii Government Employees Association on this important project. Another suggested amendment to this measure is in Section 2, subsection (b) (2). Before position descriptions

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can be updated, there needs to be a review of the class specifications that are the benchmark upon which job descriptions are based. Many of these class specifications are outdated and need to be revised by the Department of Human Resources Development.

Finally, the state's civil service system must be modernized and become more adaptable to change by taking into account the state's demographics, the organization of work, and the conceptions of work and career on the part of employees. The lack of flexibility within the state's civil service system should not be used to justify exempting positions from civil service. State departments need the mechanisms and incentives of a high quality and motivated workforce for the future that is subject to Chapter 76, HRS.

We appreciate the opportunity to testify in support of H.B. 1966, H.D. 1 with the suggested amendments.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Wilbert Holck, Jr.', with a long horizontal flourish extending to the right.

Wilbert Holck, Jr.
Deputy Executive Director