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February 3, 2016

TESTIMONY TO THE  
HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT  
For Hearing on Friday, February 5, 2016  
9:30 a.m., Conference Room 309

By

JAMES K. NISHIMOTO  
DIRECTOR, DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT

**House Bill No. 1849  
Relating to Hiring**

CHAIRPERSON NAKASHIMA, VICE CHAIR KEOHOKALOLE AND MEMBERS OF  
THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT:

House Bill No. 1849 proposes a three-year direct hire pilot program to determine if the State is able to more efficiently fill vacant positions through a streamlined recruitment and certification process for specified employees.

The Department of Human Resources Development (DHRD) **does not support** this measure. This measure provides that the direct hire pilot program will be allowed to move ahead no later than July 1, 2016, notwithstanding Chapter 76, Hawaii Revised Statutes, or any other law to the contrary.

**“§76-1 Purposes; merit principle states:** It is the purpose of this chapter to require each jurisdiction to establish and maintain a separately administered **civil service system based on the merit principle** (emphasis added). The merit principle is the selection of persons based on their fitness and ability for public employment and the retention of employees based on their demonstrated appropriate conduct and productive performance. It is also the purpose of this chapter to build a career service in government, free from coercive political influences, to render impartial service to the public at all times, according to the dictates of ethics and morality and in compliance with all laws.”

Chapter 76 implements Article XVI, Section 1 of the State of Hawaii Constitution, which states, “the employment of persons in the civil service, as defined by law, of or under the State, shall be governed by the merit principle.” It appears that by specifying that the civil service shall be governed by the merit principle, both §76-1 and Article XVI,

Section 1 implicitly prohibit non-merit based selection practices, such as patronage, as the basis of selection for civil service employment. The type of direct hire process reflected in House Bill No. 1849 has the potential for creating a selection process that may not be reflective of or compliant with the merit principle or, for that matter, any standardized objective process. Under a non-merit based selection process, employment may depend on such factors as friendships or political affiliations or other non-merit basis criteria, whereas under a merit system, employment is based on competence as established by objective standards and procedures.

Departments continually report that they lack sufficient staff to perform existing operations, and it is very unlikely that they would be able to handle the recruitments that this bill contemplates. The direct hire approach would require additional staffing resources or involve overtime work not necessarily as a consequence of the unilateral hiring of individuals, but having insufficient staff to respond to and process all of the complaints (e.g., internal complaint procedures, EEO, and other appeal procedures available to non-selected applicants), due to the arbitrary selection of employees.

The Department of Human Resources Development makes every effort to expedite the recruitment process by reducing the turn-around time between the submission of a request for a list of eligibles and the provision of the requested list to a matter of days, and also continually seeks to improve its systems. DHRD's recruitment processes are not as fast as a direct hire approach; however, DHRD's processing helps to ensure compliance with the vision and intent of the State Constitution and implementing statutes such as Chapter 76 by administering recruitment processes designed to ensure consistency in the systematic application of recruitment standards and procedures.

Some departments may not appreciate DHRD's oversight and direction as the central agency disseminating recruitment procedures, processes and practices that are intended to promote fairness and consistency in the treatment of those applying for State civil service positions. On the other hand, decentralizing the recruitment process will potentially lead to an increase in complaints and/or litigation due to inconsistency in the interpretation and application of federal and state laws, rules, and regulations.

Having a centralized personnel agency with responsibility to ensure consistent application of recruitment policies, procedures and practices, may from a short term perspective be viewed as cumbersome and burdensome, but from a longer term perspective a centralized personnel agency will better serve the needs and interests of our community.

Thank you for the opportunity to testify.

**LATE**

From: mailinglist@capitol.hawaii.gov  
Sent: Thursday, February 04, 2016 7:59 PM  
To: LABtestimony  
Cc: dylanarm@hawaii.edu  
Subject: Submitted testimony for HB1849 on Feb 5, 2016 09:30AM

**HB1849**

Submitted on: 2/4/2016

Testimony for LAB on Feb 5, 2016 09:30AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Dylan Armstrong	Individual	Support	No

Comments: This bill is urgently needed. DHRD is using an antiquated process that is more strict and also arbitrary than the federal government's without as dynamic or effective a labor force resulting from its policies. Our recruiting is not improving the talent pool for state government but rather limiting it through needless hassle with little benefit to show.

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## HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

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**LATE**

The Twenty-Eighth Legislature, State of Hawaii  
Hawaii State House of Representatives  
Committee on Labor and Public Employment

Testimony by  
Hawaii Government Employees Association  
February 5, 2016

### H.B. 1849 – RELATING TO HIRING

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO supports the intent of H.B. 1849, which creates a pilot program to streamline the recruitment and hiring process for certain types of vacancies within state departments with certain amendments. As drafted, this proposed legislation would allow individual departments to recruit and hire if the Department of Human Resources Development (DHRD) is unable to deliver a list of qualified applicants within five days of the request.

We believe the five-day deadline for DHRD to deliver a list of qualified applicants may be too short and recommend that it be increased to ten days. In addition, we want to ensure that departments seeking to fill a vacancy without the services of DHRD adhere to the principles of Chapter 76, HRS, the state's civil service law. Exempt recruitment and selection procedures, which are delegated to individual state departments, may not necessarily be consistent with these important principles. Our concern is that delegation of civil service recruitment and selection without appropriate safeguards may have unintended consequences.

Thank you for the opportunity to testify on H.B. 1849 with these proposed amendments.

Respectfully submitted,

Randy Perreira  
Executive Director