



**DEPARTMENT OF BUSINESS,  
ECONOMIC DEVELOPMENT & TOURISM**

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GOVERNOR

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Written Statement of  
**LUIS P. SALAVERIA**  
**Director**

Department of Business, Economic Development, and Tourism  
before the  
**SENATE COMMITTEE ON JUDICIARY AND LABOR**

March 15, 2016  
9:00 a.m.  
State Capitol, Conference Room 016

in consideration of  
**HB 2353, HD2**

**RELATING TO EXEMPTIONS FROM CIVIL SERVICE.**

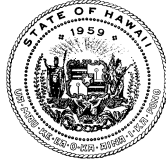
Chair Keith-Agaran, Vice Chair Shimabukuro, and Members of the Committee.

The Department of Business, Economic Development, and Tourism (DBEDT) supports HB 2353, HD2, which extends the exemption for positions in the State Energy Office for one year.

DBEDT supports amending Section 76-16(b), Hawaii Revised Statutes, to permanently exempt from civil service certain DBEDT positions in the State Energy Office. The exempt positions were originally funded by federal grants and established under Section 9 of Act 73, SLH 2010. These positions were statutorily exempt from Chapters 76 and 89 until federal funding was no longer available. Now funded by Energy Security Special Funds, the positions remain essential to support the Hawaii Clean Energy Initiative (HCEI) program and the State's renewable portfolio standards goal of achieving 100% renewable energy by 2045. DBEDT relies on exempt civil service positions to meet the challenges of the rapidly changing energy landscape. As energy-related priorities for the State continue to evolve, DBEDT must be able to adapt its resources to meet the expertise requirements for addressing technical energy-related issues. The ability to hire and retain highly qualified individuals to support HCEI is an important resource strategy aligned with the State's 2045 clean energy goals.

DBEDT supports this bill as critical to continuing our long-term commitment to ensure continued progress and plan development for clean energy infrastructure in Hawaii. Thank you for the opportunity to offer testimony in support of HB 2353, HD2.

DBEDT respectfully defers to the Departments of Health, Human Services, Public Safety, and Labor and Industrial Relations on their respective sections.



**STATE OF HAWAII  
DEPARTMENT OF HEALTH**

P. O. Box 3378  
Honolulu, HI 96801-3378  
doh.testimony@doh.hawaii.gov

**Testimony SUPPORTING HB2353, H. D. 2  
Relating to Exemptions from Civil Service**

SENATOR GILBERT S. C. KEITH-AGARAN, CHAIR  
SENATE COMMITTEE ON JUDICIARY AND LABOR

Hearing Date: March 15, 2016, 9:00 a.m. Room Number: 016

1 **Fiscal Implications:** Undetermined at this time.

2 **Department Testimony:** The Department of Health (DOH) supports HB2353, H.D. 2, which is  
3 part of the administration's proposed legislation. The DOH respectfully suggests amendments to  
4 this measure and has included proposed language for your consideration at the end of this  
5 testimony.

6 Specifically for positions within the Adult Mental Health Division (AMHD) and the  
7 Hawaii State Hospital (HSH), a statutory exemption from civil service requirements for these  
8 critically important positions will allow recruitment and retention to be greatly improved and  
9 will provide an increased degree of flexibility in the compensation rates of these positions, which  
10 are highly specialized, require significant professional experience, and historically have been  
11 very difficult to fill.

12 For the AMHD and the HSH, it is anticipated that this bill will apply to 20 positions  
13 including nine positions within the Community Mental Health Centers, eight positions within the  
14 Courts and Corrections Branch, and three positions at the HSH.

1           The HSH continues to experience a high census exceeding licensed capacity which  
2 affects the quality of patient care and the safety of patients and staff at the HSH. Physicians at  
3 the HSH play a very critical role in providing quality health care to the HSH patients. These  
4 HSH physicians are responsible for addressing the physical health needs of a patient population  
5 that has been court ordered to the care and custody of the Director of Health for the assessment  
6 and/or restoration of psychiatric fitness to stand trial or for mental health treatment following a  
7 verdict of “not guilty by reason of insanity.” This forensically encumbered population of  
8 individuals with severe and persistent mental illness, some of whom also present a high risk of  
9 dangerousness, poses unique challenges for physicians which, when coupled with a salary range  
10 that is not commensurate with the private sector in Hawaii or comparable to similar positions in  
11 other state operated psychiatric hospitals, results in difficulty in recruiting and retaining  
12 physicians to work in this direct patient care setting.

13           The complexity of the medical conditions treated by the Internists at the HSH has  
14 significantly changed in the past 10 years. In prior years, the HSH’s population was mainly  
15 civilly committed patients, most of whom were healthy adults except for their psychiatric  
16 condition. Today, the health conditions of patients at the HSH includes providing care to many  
17 older patients including patients who have extensive drug use histories such as hepatitis, kidney  
18 failure, diabetes, endocrine conditions, and obesity. Patients receive treatment for neurological  
19 disorders including seizures and Huntington’s disease, head injuries, dementia, lung disease,  
20 pregnancy complications, bone fractures due to falls, and even tracheotomy (breathing tube)  
21 patients. The HSH Internists must be well trained in urgent care, not just routine care. They are  
22 providing care to patients with complex combinations of conditions not being addressed is other

1 settings. The experience and training required to provide this care requires that their  
2 compensation be commensurate with that of other internists of similar background providing  
3 equivalent care in analogous settings.

4           Regarding the forensic psychologist positions; the DOH plays a critical role in the State's  
5 justice system with regard to examinations of a criminal defendant's fitness to stand trial and  
6 penal responsibility, and monitoring of individuals on conditional release. Ensuring the  
7 timeliness and quality of forensic analyses in the state judicial system and establishing a system  
8 of accountability and efficiency in the administration of forensic examinations are essential  
9 components that support appropriate access to justice for the citizens of Hawaii.

10           Forensic psychologists require highly specialized training and expertise for the proper  
11 administration of court-ordered examinations. The available pool of qualified professionals is  
12 very small. The expert opinions and conclusions provided in a court-ordered report and  
13 testimony are heavily considered by the judiciary, and accordingly, are a significant factor in  
14 legal claims and defenses available to a defendant, subsequent adjudication, and the final ruling  
15 of the court. In fact, these court cases cannot proceed without the completion of these court-  
16 ordered examinations. Therefore, numerous and/or lengthy vacancies among the state-employed  
17 forensic psychologists will delay court proceedings and potentially interfere with a defendant's  
18 right to due process and will affect the high census at the HSH.

19           The DOH is faced with serious challenges and the need to immediately fulfill our legal  
20 mandates for this forensic mental health population which is often a population that no other  
21 community of private entity will serve. The DOH has experienced difficulties in attracting and

1 retaining qualified candidates for its forensic psychologist positions and its forensic psychologist  
2 supervisor position due to low civil service pay scale ranges. We have looked at and have tried  
3 different strategies to adjust compensation so we can recruit and/or retain staff.

4         Within the past year, a complaint was lodged with the Special Litigation Section of the  
5 U.S. Department of Justice alleging a violation of the Civil Right of Institutional Persons Act  
6 (CRIPA) due to lengthy delays in state-employed forensic psychologist court-ordered  
7 examinations related to the position vacancies. This drew the attention of the Hawaii Disability  
8 Rights Center. If not remedied, the Office of Civil Rights could launch a full investigation  
9 leading to legal action and oversight.

10 Thank you for your consideration and the opportunity to testify.

11 **Offered Amendments:** SECTION 2. The department of health may  
12 establish up to eighteen permanent or temporary exempt positions  
13 known as forensic psychologists, to include one court examiner  
14 supervisor, that shall perform court ordered forensic  
15 examinations requiring a state designee, monitor individuals  
16 pursuant to a court order in the community, or coordinate  
17 forensic activities. The permanent or temporary exempt  
18 positions shall be appointed by the director without regard to  
19 chapter 76, provided that exemptions shall expire three years  
20 after enactment unless affirmatively extended by an act of the  
21 legislature.

1           The department of health may establish up to two permanent  
2 or temporary exempt positions known as Hawaii State Hospital  
3 primary care physicians that shall serve as an attending  
4 physicians for Hawaii State Hospital patients. The permanent or  
5 temporary exempt positions shall be appointed by the director  
6 without regard to chapter 76, provided that exemptions shall  
7 expire three years after enactment unless affirmatively extended  
8 by an act of the legislature.

DAVID Y. IGE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
919 Ala Moana Boulevard, 4th Floor  
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NOLAN P. ESPINDA  
DIRECTOR

Cathy Ross  
Deputy Director  
Administration

Jodie F. Maesaka-Hirata  
Deputy Director  
Corrections

Shawn H. Tsuha  
Deputy Director  
Law Enforcement

No. \_\_\_\_\_

TESTIMONY ON HOUSE BILL 2353, HOUSE DRAFT 2  
RELATING TO EXEMPTIONS FROM CIVIL SERVICE

By

Nolan P. Espinda, Director

Senate Committee on Judiciary and Labor  
Senator Gilbert S.C. Keith-Agaran, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair

Tuesday, March 15, 2016; 9:00 a.m.  
State Capitol, Conference Room 016

Chair Keith-Agaran, Vice Chair Shimabukuro, and Members of the Committee:

The Department of Public Safety (PSD) **supports** House Bill (HB) 2353, House Draft (HD) 2, which is part of the Governor's package of bills.

For Department of Public Safety positions, this measure will provide a statutory exemption from civil service requirements for 20.5 FTE positions, including 15 Clinical Psychologists, 1.5 Dentists, 1 Mental Health Branch Administrator and 3 Mental Health Section Administrators, positions that provide constitutionally-mandated dental and mental health services to our inmate population.

This measure's proposed statutory exemption from civil service will greatly improve PSD's ability to recruit and retain qualified candidates in these treatment positions by providing the Department with greater flexibility in structuring the compensation rates for these positions. Positions in the correctional health care field have been historically difficult to fill due to low compensation rates as compared to community rates and the perceived dangers of the correctional environment.

The recently dismissed Oahu Community Correctional Center (OCCC) Mental Health Settlement Agreement with the Department of Justice (DOJ) provided PSD with the opportunity to develop and implement DOJ-approved mental health treatment standards at OCCC. PSD is working to implement these tested treatment standards, incorporated as the Corrections Mental Health Care Reform Program, in the Department's other seven facilities, for which, the Legislature previously provided the necessary mental health positions. However, our efforts to complete this mandate

have since been delayed due to the significant challenges of recruiting qualified staff. HB 2353, HD 2 will facilitate the Department's efforts for the systemwide implementation of the necessary reforms.

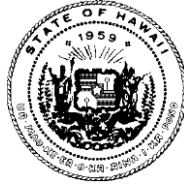
PSD appreciates and supports the one-year exemption for these positions, but feels that a one-year exemption may still inhibit qualified applicants from applying. Instead, the Department respectfully offers the following amendment:

“SECTION 2. The department of public safety may establish up to fifteen permanent or temporary exempt positions known as clinical psychologists, that provide psychologic services to the inmates in the custody of the department at all facilities, one mental health branch administrator to provide clinical and administrative supervision of all departmental mental health staff and monitors the department's mental health programs, and three mental health section administrators to administer, direct, and coordinate all activities of the mental health section at the oahu community correctional center, the halawa correctional center and the women's community correctional center. The permanent or temporary exempt positions shall be appointed by the director without regard to chapter 76, provided that exemptions shall expire three years after enactment unless affirmatively extended by an act of the legislature.

The department of public safety may establish up to one and a half permanent or temporary exempt positions known as Dentist VI that provide dental screening and treatment at department facilities. The permanent or temporary exempt positions shall be appointed by the director without regard to chapter 76, provided that exemptions shall expire three years after enactment unless affirmatively extended by an act of the legislature.”

Thank you for the opportunity to provide this testimony.





STATE OF HAWAII  
DEPARTMENT OF HUMAN SERVICES  
P. O. Box 339  
Honolulu, Hawaii 96809-0339

March 15, 2016

TO: The Honorable Senator Gilbert Keith-Agaran, Chair  
Senate Committee on Judiciary & Labor

FROM: Rachael Wong, DrPH, Director

SUBJECT: **HB 2353 HD 2 – RELATING TO EXEMPTIONS FROM CIVIL SERVICE**

Hearing: Tuesday, March 15, 2016; 9:00 a.m.  
Conference Room 016, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) supports this administration request.

**PURPOSE:** Restores the second civil-service exempt deputy director position for the Department of Human Services. For a period of one-year, provides a civil service exemption for various positions in the Department of Human Services, Department of Public Safety, Department of Health, Department of Labor and Industrial Relations, and the Department of Business, Economic Development, and Tourism.

The Department of Human Services has the largest operating budget of any state department, approximately \$3,100,000,000, including 73% of the State's federal operating funds. The Department also has the fifth largest staff of any department, with over 2,000 employees staffing its four divisions and three administratively attached agencies in 88 offices throughout the state. The Department is transforming its practices to a whole-family, multi-generational approach, 'Ohana Nui, that ties together health, education, early childhood development, and supporting self-sufficiency of Hawaii's families. Because DHS serves 1 in 4 Hawaii residents, investing in DHS is investing in a healthier Hawaii and the future of our families.

Currently, the Department has only one deputy director. Act 223, Session Laws of Hawaii 1994, deleted the second deputy director position, which was prompted by the State's poor economy at that time.

The Department is proposing to establish the community/project development director and policy director positions within the office of the Director. These positions will assist with managing the numerous projects assigned to the department, including addressing homelessness; the individual and family functions of the State-based Marketplace using the Federal Platform (SBM-FP, previously under the Hawaii Health Connector); ensuring continued access to health coverage for State residents from the Compact of Free Association nations; and building a collaborative, and integrated multi-generational service model for children and families. The new mandates and initiatives have increased the demands on the Director's office as they require changes to the operations of multiple divisions, and coordination with and participation of other state and federal agencies, community agencies and key stakeholders.

HB 2348 HD2 is a similar measure that restores the permanently exempt second deputy director position for the Department of Human Services. Establishes a secretary, community/project development director, and policy director positions. Exempts the community/project development director and policy director from civil service status. Appropriates funds for the newly established positions. HB 2348 HD 2 passed out of the Committee on Finance without amendments and crossed to the Senate.

The Med-QUEST division Medicaid program is the most effective and cost efficient way to provide health care coverage to low-income adults and children. The program is complex as it requires compliance with complex federal regulations and integration of current health care trends in service delivery, while meeting the unique needs of Hawaii's population.

The Med-QUEST division, seeks to exempt from the Civil Service Law, Chapter 76, Hawaii Revised Statutes, for a period of 1 year, six identified management level positions within the Med-QUEST division to permanent exempt status (division administrator, finance officer, health care services branch administrator, medical director, clinical standards administrator, and research/health analytics manager) because they require unique knowledge and experience typically gained through employment in health care-related organizations (e.g., hospitals, clinics, insurance companies, etc.) or the federal government, or require clinical credentials or licenses. The exemption status for these positions is necessary to allow flexibility

to hire and retain highly qualified staff to manage critical on-going functions over the \$2 billion medical assistance programs.

This limitation on the duration of exempt positions creates several challenges. First, successfully filling these positions requires attracting seasoned, knowledgeable individuals with expertise in specialized areas that may not be reflective of the current civil service classification system. Secondly, the department needs the flexibility of permanent exempt status to easily restructure and redefine the roles and responsibilities of these positions to meet evolving demands, while offering some measure of employment stability. Thirdly, DHS needs to be able to attract qualified candidates by offering competitive salaries which may at times be beyond or contrary to current civil service compensation provisions. Lastly, permanent exempt status for these positions will provide the necessary flexibility to hire and retain qualified staff to meet the department's on-going needs – needs which have existed for decades and will continue indefinitely.

However, DHS understands per discussion with Hawaii Government Employees Association (HGEA) representatives and by testimony submitted in reference to HB 2348, the DHS administrative measure requesting these positions and appropriations, that HGEA opposed the permanent exemption for the 6 Med-Quest positions. Instead, HGEA proposed language removing the permanent exemption and to amend Section 76-16(b), and limiting the exemption to "expire three years after its enactment unless affirmatively extended by an act of the legislature."

It is imperative that these positions are extended as they are scheduled to expire on June 30, 2016.

As is requested in HB2348 HD2, we would like to committee to consider that DHS requires general fund appropriation of \$371,364 for the proposed positions: Deputy Director (\$125,700), the secretary for the Deputy Director (\$60,000).

Thank you for the opportunity to testify on this bill.

DAVID Y. IGE  
GOVERNOR



JAMES K. NISHIMOTO  
DIRECTOR

CINDY S. INOUE  
DEPUTY DIRECTOR

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

March 14, 2016

TESTIMONY TO THE  
SENATE COMMITTEE ON JUDICIARY AND LABOR  
For Hearing on Tuesday, March 15, 2016  
9:00 a.m., Conference Room 016

By

JAMES K. NISHIMOTO  
DIRECTOR  
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT

**House Bill No. 2353, HD2**  
**Relating to Exemptions from Civil Service**

CHAIRPERSON KEITH-AGARAN, VICE CHAIR SHIMABUKURO AND MEMBERS OF  
THE SENATE COMMITTEE ON JUDICIARY AND LABOR:

The Department of Human Resources Development (DHRD) offers the following  
**comments** regarding H.B. 2353 HD2:

DHRD supports the provision in H.B. 2353 HD2 authorizing a permanent  
exemption from civil service for a second deputy director position at the Department of  
Human Services.

DHRD is concerned that a one-year exemption from civil service for specified  
positions at the Department of Human Services, Department of Public Safety,  
Department of Health, Department of Labor and Industrial Relations, and Department of  
Business, Economic Development and Tourism may not be sufficient to allow these  
departments to address their operational issues. While DHRD defers to the  
departments to provide information regarding the impact of temporary exemptions upon  
their operations, we note that pursuant to §76-16(b)(17), exempt positions created by  
laws outside of HRS Chapter 76 are exempted for a period of three years.

Thank you for the opportunity to testify on this measure.

3/11/16

Bradley Shields

[REDACTED]

[REDACTED]

**Testimony in opposition to HB 2353**

Aloha Senate committee on Judiciary and Labor,

I am a proud rank a file member of HGEA working for the State of Hawaii (HIOSH)

This misguided bill will have a devastating effect on our department which plays a crucial role in worker safety in the islands.

Making HIOSH Safety and Health inspectors exempt from Civil Service is a bad idea because it will make us virtually "At Will" employees.

We took this job in large part, because of seemingly solid job security. Many of us took a pay cut of 5% a couple years ago to help the state out during rocky financial times.

U.S Senator Scott Walker of Wisconsin has employed similar tactics in his state in his attempt to bust unions there, with the help of the Koch Brothers.

Hawaii has a reputation as a state friendly to labor and this reputation will be severely tarnished upon adoption of this bill. We will lose senior employees and their vast institutional knowledge they possess.

I find it unbelievable that a majority Democrat legislature would back this regressive bill.

Your efforts would be better served by finding a way to help our inspectors avoid large out of pocket expenditures put on our credit cards when we travel for business, often reimbursed months later.

The Dept. of Labor Chief apparently does not believe in "managing by walking around," as we have not once seen her in our cubicle farm, despite the fact that her office is one floor below us. The Governor has never popped by either. I have lost confidence in both.

Respectfully submitted,

Bradley Shields

[REDACTED]

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [JDLTestimony](#)  
**Cc:** [REDACTED]  
**Subject:** \*Submitted testimony for HB2353 on Mar 15, 2016 09:00AM\*  
**Date:** Monday, March 14, 2016 12:35:19 PM

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**HB2353**

Submitted on: 3/14/2016

Testimony for JDL on Mar 15, 2016 09:00AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dylan Armstrong	Individual	Support	No

Comments:

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**Cc:** [REDACTED]  
**Subject:** \*Submitted testimony for HB2353 on Mar 15, 2016 09:00AM\*  
**Date:** Monday, March 14, 2016 7:39:46 AM

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**HB2353**

Submitted on: 3/14/2016

Testimony for JDL on Mar 15, 2016 09:00AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kristin	Individual	Oppose	No

Comments:

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**Cc:** [REDACTED]  
**Subject:** \*Submitted testimony for HB2353 on Mar 15, 2016 09:00AM\*  
**Date:** Monday, March 14, 2016 7:39:50 AM

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**HB2353**

Submitted on: 3/14/2016

Testimony for JDL on Mar 15, 2016 09:00AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Tak Ming Randal Tiu	Individual	Oppose	No

Comments:

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# STRONG OPPOSITION, H.B. 2353

## Testimony in opposition of HB2353, Relating to Exemptions from Civil Service

Submitted to: The Senate Committee on Labor & Public Employment

Hearing: March 15, 2016 at 9:00 a.m.

Dear Chair and Members of the Committee,

I am in **opposition** of HB2353. This bill is stating that converting and creating positions in an exempt status instead of civil service status in order to pay a higher salary would increase employee retention rates within the stated departments.

1. When they first created the Environmental Health Specialist series (EHS), they did not create it correctly, they just tagged it on as EHSs but actually we are doing the job of an Industrial Hygienist. Since DOH already has several thousand EHSs, it is easy just to add a few positions to it. **There is a need to reprice the job series to match the work we do and not just change us to exempt status.** This is WRONG way to solve this problem.
2. **Please remove DLIR – HIOSH employees from the bill. Since a lot of us are not in support of passing this bill.**
3. We are doing more than what the same counter parts are doing therefore, **repricing is necessary.** The federal government has separated different job series. Safety inspector only do safety inspection, Health inspector only do health inspection but can do safety inspection as well. A separate Discrimination office only does discrimination investigation they do not do inspections at all. We do all three as EHSs. **We should be compensated accordingly.**
4. We get certain Federal Funding every year, and our job is 50/50% Federal/State matching funds. There is NO GARANTEE the Federal government will give more funding and there is no guarantee the State will match with more funding.
5. Many attempt has tried to fix the root problem price it right but were unsuccessful. May be now is a good time to do so.
6. Why all the Engineers can get an automatic \$1000 per month for shortage and the department can work something out as to our job series.
7. Many employees are opposing this bill, given that we continue to stay because of the retirement benefits and vacation/sick leave benefits. Passing this bill is telling us to quit and look for a new job that will continue such benefits. All of the valuable experience will be lost.
8. The affected employees should have been consulted before introducing this bill.
9. If the Employer is worried about retention, civil services status is all about long term retention and should not be taken away.
10. I like what I do in serving the public that is why I am doing this job for 26 + years, now that I almost hit the 30 years mark. It is unfair to lose my retirement benefits.

Respectfully submitted by: Tin Shing Chao, EHS , 830 Punchbowl Street, Rm 423 Hon. HI 96813.