

July 13, 2004

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 2741

Honorable Members
Twenty-Second 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, House Bill No. 2741, entitled "A Bill for an Act Relating to Executive Departments."

The purpose of this bill is to establish statutory requirements for position justifications and quarterly reporting for deputy director and special assistant positions within the Executive Branch, except those within the Department of Education and the University of Hawaii.

This bill is objectionable for the following reasons:

1. The statutory references to "deputy director" and "special assistant" are defined broadly to include any employee whose position is exempt from chapter 76, Hawaii Revised Statutes, and who has an annual salary that is not less than fifty percent of a department head's or executive officer's salary. Under this definition, any exempt employee who earns more than \$42,651 could be subject to the requirements of this bill. That amount will increase on July 1, 2004, and will differ from department to department. According to the Department of Human Resources Development, approximately 1,000 exempt positions could be affected by this legislation. Given the significant number of positions involved, and the requirement that quarterly reports be submitted to the Legislature for each position, this will impose an unreasonable and unnecessary administrative burden on Executive Branch personnel.

Some departments will be more significantly impacted than others. For example, in the Department of the Attorney General, all deputy attorney general and child support enforcement hearings officer positions and some non-lawyer professional positions are positions exempt from the civil service positions, most of which are held by incumbents who earn more than \$42,651. To require the Attorney General to file position justification requirements for each of these deputies, hearings officers, and non-lawyer professionals and to submit quarterly reports to the Legislature will be unduly burdensome. The bill would also unduly burden certain departments such as the Department of Health where exempt positions have been added as a result of specific legal requirements, such as the Felix Decree and the Makin Settlement.

2. The bill infringes on the Executive Branch's ability to manage its workforce. The requirement for quarterly reports on 1,000 positions appears to constitute unnecessary micromanaging by the Legislature. Further, the bill does not do what it purports in addressing transparency concerns. Approximately 9% of all positions would be addressed in this issue, leaving 91% of the government position untouched by its transparency provisions. Furthermore the Department of Human Resources Development already prepares an annual report on appointed positions within the State Government. Thus the 9% of all positions addressed in this bill already are subject to transparency reporting requirements.

3. The bill does not impose the same reporting and justification requirements for civil service positions and other exempt positions within the Executive Branch and therefore appears to be arbitrary and capricious.

4. Finally Section 2 of the bill may impose an illegal transfer of monies. Section 2 says that "all unexpended funds relating to the funding of the abolished positions shall lapse to the credit of the general fund." Some of these exempt positions are paid for out of special funds including Federal funds. Thus the transfer mandated by this section of the bill could constitute an illegal transfer of federal money from a special fund to the state's general fund. This provision is troublesome and could jeopardize the State of Hawaii eligibility for future Federal funding.

For the foregoing reasons, I am returning House Bill No. 2741 without my approval.

Respectfully,



LINDA LINGLE
Governor of Hawaii