



GOV. MSG. NO. 876

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

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,

A handwritten signature in black ink, appearing to read "Linda Lingle".

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 LINGIE
Governor of Hawaii

A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

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

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

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

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

13 (2) Positions filled by persons employed by contract where
14 the director of human resources development has
15 certified that the service is special or unique or is
16 essential to the public interest and that, because of
17 circumstances surrounding its fulfillment, personnel



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- 1 to perform the service cannot be obtained through
 2 normal civil service recruitment procedures. Any such
 3 contract may be for any period not exceeding one year;
- 4 (3) Positions that must be filled without delay to comply
 5 with a court order or decree if the director
 6 determines that recruitment through normal recruitment
 7 civil service procedures would result in delay or
 8 noncompliance, such as the Felix-Cayetano consent
 9 decree;
- 10 (4) Positions filled by the legislature or by either house
 11 or any committee thereof;
- 12 (5) Employees in the office of the governor and office of
 13 the lieutenant governor, and household employees at
 14 Washington Place;
- 15 (6) Positions filled by popular vote;
- 16 (7) Department heads, officers, and members of any board,
 17 commission, or other state agency whose appointments
 18 are made by the governor or are required by law to be
 19 confirmed by the senate;
- 20 (8) Judges, referees, receivers, masters, jurors, notaries
 21 public, land court examiners, court commissioners, and



1 attorneys appointed by a state court for a special
2 temporary service;

3 (9) One bailiff for the chief justice of the supreme court
4 who shall have the powers and duties of a court
5 officer and bailiff under section 606-14; one
6 secretary or clerk for each justice of the supreme
7 court, each judge of the intermediate appellate court,
8 and each judge of the circuit court; one secretary for
9 the judicial council; one deputy administrative
10 director of the courts; three law clerks for the chief
11 justice of the supreme court, two law clerks for each
12 associate justice of the supreme court and each judge
13 of the intermediate appellate court, one law clerk for
14 each judge of the circuit court, two additional law
15 clerks for the civil administrative judge of the
16 circuit court of the first circuit, two additional law
17 clerks for the criminal administrative judge of the
18 circuit court of the first circuit, one additional law
19 clerk for the senior judge of the family court of the
20 first circuit, two additional law clerks for the civil
21 motions judge of the circuit court of the first
22 circuit, two additional law clerks for the criminal



1 motions judge of the circuit court of the first
2 circuit, and two law clerks for the administrative
3 judge of the district court of the first circuit; and
4 one private secretary for the administrative director
5 of the courts, the deputy administrative director of
6 the courts, each department head, each deputy or first
7 assistant, and each additional deputy, or assistant
8 deputy, or assistant defined in paragraph (16);

9 (10) First deputy and deputy attorneys general, the
10 administrative services manager of the department of
11 the attorney general, one secretary for the
12 administrative services manager, an administrator and
13 any support staff for the criminal and juvenile
14 justice resources coordination functions, and law
15 clerks;

16 (11) (A) Teachers, principals, vice-principals, complex
17 area superintendents, deputy and assistant
18 superintendents, other certificated personnel,
19 not more than twenty noncertificated
20 administrative, professional, and technical
21 personnel not engaged in instructional work;



1 (B) Effective July 1, 2003, teaching assistants,
2 educational assistants, bilingual/bicultural
3 school-home assistants, school psychologists,
4 psychological examiners, speech pathologists,
5 athletic health care trainers, alternative school
6 work study assistants, alternative school
7 educational/supportive services specialists,
8 alternative school project coordinators, and
9 communications aides in the department of
10 education;

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

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

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

21 (13) Positions filled by inmates, kokuas, patients of state
22 institutions, persons with severe physical or mental



1 handicaps participating in the work experience
2 training programs, and students and positions filled
3 through federally funded programs that provide
4 temporary public service employment such as the
5 federal Comprehensive Employment and Training Act of
6 1973;

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

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

16 (16) Positions of first deputies or first assistants of
17 each department head appointed under or in the manner
18 provided in section 6, Article V, of the State
19 Constitution; three additional deputies or assistants
20 either in charge of the highways, harbors, and
21 airports divisions or other functions within the
22 department of transportation as may be assigned by the



1 director of transportation, with the approval of the
2 governor; four additional deputies in the department
3 of health, each in charge of one of the following:
4 behavioral health, environmental health, hospitals,
5 and health resources administration, including other
6 functions within the department as may be assigned by
7 the director of health, with the approval of the
8 governor; an administrative assistant to the state
9 librarian; and an administrative assistant to the
10 superintendent of education;

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

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

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

21 (20) Employees in the department of education engaged in
22 the supervision of students during meal periods in the



- 1 distribution, collection, and counting of meal
2 tickets, and in the cleaning of classrooms after
3 school hours on a less than half-time basis;
- 4 (21) Employees hired under the tenant hire program of the
5 Hawaii public housing authority; provided that not
6 more than twenty-six per cent of the authority's work
7 force in any housing project maintained or operated by
8 the authority shall be hired under the tenant hire
9 program;
- 10 (22) Positions of the federally funded expanded food and
11 nutrition program of the University of Hawaii that
12 require the hiring of nutrition program assistants who
13 live in the areas they serve;
- 14 (23) Positions filled by severely handicapped persons who
15 are certified by the state vocational rehabilitation
16 office that they are able to perform safely the duties
17 of the positions;
- 18 (24) One public high school student to be selected by the
19 Hawaii state student council as a nonvoting member on
20 the board of education as authorized by the State
21 Constitution;



1 (25) [~~Sheriff, first deputy sheriff, and second deputy~~
2 ~~sheriff,~~] The position of the sheriff;

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

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

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

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

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

13 "[+]§353C-3[+] Deputy directors; sheriff; appointment[+];
14 qualifications; exemption. (a) The director shall appoint,
15 without regard to chapter 76, three deputy directors to serve at
16 the director's pleasure. Unless otherwise assigned by the
17 director, one deputy director shall oversee the correctional
18 programs and facilities of the department, one deputy director
19 shall oversee the law enforcement programs of the department,
20 and one deputy director shall oversee administration of the
21 department.



1 (b) The deputy director for law enforcement and the
2 sheriff shall be graduates of a law enforcement academy.

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

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

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

