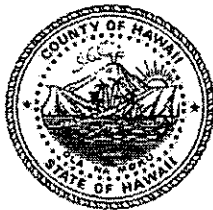


Harry Kim
Mayor



Michael R. Ben, SPHR
Director of Human Resources

Ronald K. Takahashi
Deputy Director of Human Resources

County of Hawai'i Department of Human Resources

Aupuni Center * 101 Pauahi Street, Suite 2 * Hilo, Hawai'i 96720 * (808) 961-8361 * Fax (808) 961-8617
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March 28, 2008

The Honorable Rosalyn H. Baker, Chair
And Members of the Committee on Ways and Means
The Senate
State Capitol
Honolulu, HI 96813

Dear Chair Baker and Members of the Committee on Ways and Means:

Re: HB 2272, HD 2, SD 1 Relating to Qualified Community Rehabilitation Programs

I am Michael R. Ben, Director of Human Resources for the County of Hawai'i testifying against HB 2272, HD 2, SD 1.

This bill, on first glance, seemingly supports a worthy cause and testifying against it is like testifying against motherhood, apple pie, and the U.S.A.

However, when closely examining the civil service laws together with the procurement laws, this proposed bill does not provide any more to what counties are allowed to contract out than what is already allowed under existing laws.

To the contrary, this proposal would restrict contracting with these qualified community rehabilitation programs only for custodial and ground maintenance services. There is currently no such restriction in law. When you consider the various tasks other than custodial and ground maintenance services the "clients" of these programs could possibly perform, the proposal takes on a condescending air about it.

Current HB 2272, HD 2, SD 1, is substantially different than that presented and testified on at earlier hearings

Previous versions of this bill sought to either eliminate or increase the cap of "\$750,000" for contracts with qualified community rehabilitation programs. For all other contracts, the cap would still remain.

Hawai'i County is an Equal Opportunity Provider and Employer.

The draft now before you would have this section of law only apply to qualified community rehabilitation programs and restrict such contracts only to janitorial and ground maintenance services.

As proposed, this bill prevents us from contracting out with numerous individuals who:

- assist us with our roads in limbo project which helps resolve our long standing issue with the State over ownership of roads on our island;
- assist our communities in their participation in the National Flood Insurance Program so that they can receive discounted rates on their premiums;
- assist the County in Bridge safety assessment and programming for repairs and maintenance;
- provide radio and pager maintenance services to ensure our Civil Defense equipment are properly working at all times; and
- provide security services for our Hilo and Kona Detention facilities.

Konno v. County of Hawaii

Also important is the fact that this bill negates the tremendous amount of time, energy, and monies the legislature and its staff, along with the counties' time, energy, monies, and staff in arriving at a workable provision for contracting out services that was in essence negated back in 1997 in the State Supreme Court's decision in Konno v. County of Hawaii.

This bill, as innocuous as it seems, has its roots in Konno v. County of Hawaii.

Act 230, SLH 1998

Act 230 was the legislature's first attempt to restore balance in the civil service system and came after much discussion and debate in the legislature, and a 328 page report from the Legislative Reference Bureau.

In Part IV of Act 230, the legislature was very succinct:

"The purpose of this part is to address the concerns of the State and counties, private providers of public services, representatives of public and private employees which have been generated in response to the Supreme Court's decision in Konno v. County of Hawaii, 85 Haw. 61, 937 P.2d 397 (1997)."

The legislature went on to say:

"The State and counties need clear legislative authorization to maintain their existing contracts and to contract with private entities to provide goods and to perform public service where appropriate."

Thus the legislature provided that:

"This Act allows contracting out of services performed by a covered employee and the services that were customarily and traditionally performed by covered employees, but prohibits contracts that result in the termination of a covered employee."

Act 230, with respect to privatization, sunsetted on June 30, 2001. However, the legislature then enacted Act 90, SLH 2001.

Act 90, SLH 2001

The legislature, in believing that more could be done:

"...to expedite the process of improving the cost-effectiveness of providing services to the public..."

and that

"...privatization should be included as a management tool to assist government in remaining fluid in its ability to effectively provide services for the ever changing needs of its constituency..."

gave us Act 90.

In doing so, the legislature pointed out that:

"The purpose of this act is to make government more efficient and economical by:

- (1) Enabling the governor and the executives of other jurisdictions to utilize privatization as a management tool to provide government services more efficiently;

* * *

- (3) Addressing and resolving the uncertainty generated by the Hawaii supreme court's decision in *Konno v. County of Hawaii*, 85 Haw. 61 (1997), regarding government's ability to rely upon the private sector for services government needs or is required to provide."

The Honorable Rosalyn H. Baker, Chair
And Members of the Committee on Ways and Means
March 28, 2008
Page 4 of 4

Like Act 230 before it, Act 90, with respect to privatization, sunsetted on June 30, 2007. However, the legislature then enacted Act 191, SLH 2007.

Act 191, SLH 2007

Less than one year ago, Act 191 became effective, allowing the county governments to continue meeting its needs for providing services to the community in an economical and efficient manner. Act 191 provided for what is now the exemption allowed by §76-77(16), HRS. It was this committee which in fact, laid out the final draft for Act 191.

Act 191 has been in effect for less than one year. No compelling public interest has been shown as to why it needs to be amended at this time so drastically as to prevent counties from contracting out needed services that only benefit our residents. No one has publicly testified as to the need for not allowing the counties the ability to contract for services exempted under this provision.

Summary


Given

- 1) the evolution of how the current §76-77(16), HRS, came into being,
- 2) the fact that it has been in effect for less than one year; and most importantly,
- 3) that there is no compelling public interest in amending it with a result that the counties may no longer contract for numerous services and activities for our residents,

I ask that the HB 2272, HD 2, SD 1 be tabled.

Thank you.

Sincerely,



Michael R. Ben, SPHR
Director of Human Resources



"Enhancing Lives Through Self-Reliance"

March 27, 2008

Senator Roz Baker, Chair of Ways and Means Committee
Hawaii State Capitol, Room 210
Honolulu, Hawaii 96813
Fax: 808-586-6071

Support for House Bill 2272, Public decision making on 3/28/08

Dear Senator Baker,

On behalf of Ka Lima O Maui I would like to offer support for **House Bill #2272** and thank you for all the efforts that went along with this bill. I truly appreciate the collaborative effort from many legislators such as you, Senator Chun Oakland, Senator Tsutsui, Senator Taniguchi, Senator Inouye, Representative Souki, House Speaker Calvin Say and Representative Carroll towards finding an acceptable solution for our problem. The proposed change would amend the cap on the contract amount from \$750,000 to \$1,000,000 only for contracts between public agencies and qualified community rehabilitation programs, a necessary change for Ka Lima since our biggest current contract with the County is close to \$720,000 and most likely will exceed the existing limit next fiscal year. A higher cap allows for annual inflationary increases on our current contracts for approximately ten more years before we would need to re-visit this section of the law for further adjustments.

The bill as it reads now would certainly address Ka Lima's concerns for the near future. As you probably know the bill's language has changed since its first introduction. However, it was never our intent to delete the existing language in HRS 76-77 exemption 16, which did allow for privatized contracts for one year and up to \$750,000. We had proposed leaving that language and amending that section of the law to exempt community rehabilitation programs from the existing cap and to create a new cap of \$1,000,000 restricted only to community rehabilitation programs. We would support an effort to reinstate the language of HRS 76-77 amendment #16 as it currently enacted along with the amendments as proposed in HB 2272.

Ka Lima O Maui has negotiated non-bid contracts with the County of Maui since the inception of this law, nearly 25 years ago. This year alone these work contracts total nearly \$1 million and **provide full time, benefited employment for over 40 disabled and economically disadvantaged workers**. We have custodial and grounds maintenance contracts with the County of Maui Departments of Parks and Recreation, Police, Public Works and Fire. The employment these contracts provide has enabled many of our most severely disabled workers to become independent and self-supporting members of our community.

Please help us by supporting HB 2272 so we can continue to carry our mission of "Enhancing Lives through Self-Reliance" for adults with disabilities. Thank you very much for your consideration and support.

Sincerely,

Chantal Ratte, Executive Director

J. Walter Cameron Center, 95 Mahalani Street - Wailuku, Hawaii 96793

Tel: (808) 244-5502 / 244-5503 - Fax: (808) 244-2077

info@kalimaomaui.org

CHARMAINE TAVARES
Mayor



LYNN G. KRIEG
Director

LANCE T. HIROMOTO
Deputy Director

COUNTY OF MAUI
DEPARTMENT OF PERSONNEL SERVICES

200 SOUTH HIGH STREET • WAILUKU, MAUI, HAWAII 96793-2155
PHONE (808) 270-7850 • FAX (808) 270-7969

Website: www.mauicounty.gov/departments/Personnel • Email: personnel.services@mauicounty.gov

March 27, 2008

The Honorable Rosalyn H. Baker, Chair
and Members of the Committee on Ways and Means
The Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chair Baker and Members of the Committee:

RE: HB 2272, HD 2, SD 1, Relating to Qualified Community Rehabilitation Programs

I am Lynn G. Krieg, Director of Personnel Services for the County of Maui, offering comments on HB 2272, HD2, SD1.

While Maui County supports the efforts of our qualified rehabilitation programs like Ka Lima O Maui, we cannot support this current amended version of HB 2272 because it is too restrictive.

In its prior versions, the amendments to the bill sought to eliminate or increase the \$750,000 cap for contracts, but did not restrict contracting to qualified community rehabilitation programs only and it did not restrict the types of contracts to janitorial and ground maintenance services only. In its current form, HB2272, HD2, SD1 has evolved to near redundancy when other civil service and procurement laws are considered, while closing the door on the employers' ability to enter into other much needed contracts for services.

This proposal will result in a drastic change to HRS §76-77(16). Before making such a drastic change, we ask that you remember the reasons this provision was enacted in the first place and the lengthy discussions that went into the formulation of the language and concept. This was never strictly about a single entity, i.e., community rehabilitation programs, and it was never about a selective type of services, i.e., janitorial/grounds maintenance. This was about finding a means to allow the counties to continue to provide services in an economical and efficient manner. The existing provision is less than a year old, and we see no compelling reason for such a drastic amendment.

Based on the foregoing, we must ask that HB 2272, HD2, SD1 be tabled.

Thank you.

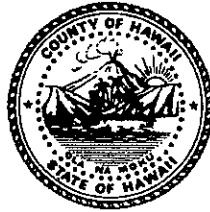
Sincerely,

A handwritten signature in black ink, appearing to read "Lynn G. Krieg".

LYNN G. KRIEG

Director of Personnel Services

Harry Kim
Mayor



Bobby Jean Leithead-Todd
Director

Nelson Ho
Deputy Director

County of Hawai'i
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
25 Aupuni Street • Hilo, Hawai'i 96720
(808) 961-8083 • Fax (808) 961-8086
http://co.hawaii.hi.us/directory/dir_envmng.htm

March 27, 2008

The Honorable Senator Rosalyn H. Baker, Chair
And Members of the Senate Ways and Means Committee
Hawai'i State Capitol
415 South Beretania Street
Honolulu, HI 96813

DATE: Friday, March 28, 2008
TIME: 9:30 a.m.
PLACE: Conference Room 211
State Capitol
415 South Beretania Street

Re: HB 2272, HD 2, SD 1, Relating to Qualified Community Rehabilitation Programs

Dear Chairs and Committee Members,

I am Bobby Jean Leithead Todd, Director of the Department of Environmental Management for the County of Hawai'i and am providing testimony opposing HB 2272 HD 2, SD 1 as written. While we support the objectives of allowing public agencies to contract for personal custodial and ground services with qualified community rehabilitation programs, this bill would effectively take away the civil service exemption that we got from the legislature last year (§76-77(16), HRS).

That would jeopardize our ability to remove residential rubbish from the remote Milolii fishing village in the South Kona District of Hawai'i County. We have an executed contract under that civil service exemption and would not be able to procure equipment and staff until July 1, 2009 at the earliest.

Sincerely,

A handwritten signature in cursive script that reads "Bj. Leithead-Todd".

Bobby Jean Leithead Todd
DIRECTOR

cc: Harry Kim, Mayor
Michael Dworsky, SWD Chief



Randy Perreira *Executive Director*
Tel: 808 543-0011 Fax: 808 528-0922

HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME LOCAL 152, AFL-CIO
888 MILILANI STREET, SUITE 601 • HONOLULU, HAWAII 96813-2991



Nora A. Nomura *Deputy Executive Director*
Tel: 808 543-0003 Fax: 808 528-0922

Derek M. Mizuno *Deputy Executive Director*
Tel: 808 543-0055 Fax: 808 523-6879

The Twenty-Fourth Legislature, State of Hawaii
Hawaii State Senate
Committee on Ways and Means

Testimony by
HGEA/AFSCME, Local 152, AFL-CIO
March 28, 2008

H.B. 2272 RELATING TO QUALIFIED
H.D. 2 COMMUNITY REHABILITATION
S.D. 1 PROGRAMS

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO opposes this measure. During the 2007 Regular Session, we worked collaboratively with the counties and other interested parties to pass H.B. 1171, C.D. 1, which became Act 191, SLH 2007. The latest version of this legislation eliminates the exemption for personal services with private persons or entities. This language was specifically included in last year's bill to assist Hawaii County and possibly other neighbor island counties.

Given that it has been less than one year since Act 191 took effect, we believe it is premature to make the change as proposed in H.B. 2272, H.D. 2, S.D. 2. Therefore, the proposed amendment to Section 76-77, HRS, is unnecessary at this time.

Thank you for the opportunity to testify in opposition of this measure.

Respectfully submitted,

Nora A. Nomura
Deputy Executive Director

Harry Kim
Mayor



Christopher J. Yuen
Director

Brad Kurokawa, ASLA
LEED® AP
Deputy Director

County of Hawaii
PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-4224
(808) 961-8288 • FAX (808) 961-8742

March 27, 2008

Honorable Rosalyn H. Baker, Chair
and Members of the Ways and Means Committee
WAYS AND MEANS COMMITTEE
State Capitol
415 South Beretania Street
Honolulu, HI 96813

Dear Chair Baker and Members of the Ways and Means Committee

SUBJECT: House Bill No. 2272, H.D. 2, S. D. 1
Relating to Qualified Community Rehabilitation Programs

At last year's Legislative Session, Act 191, Session Laws of Hawaii 2007 (House Bill No. 1171) amended §76-77, Hawaii Revised Statutes (HRS), to establish a new subsection (16) that allow the counties to enter into contracts for personal services with private persons or entities for services lasting no more than one year and at a cost of no more than \$750,000. House Bill No. 2272, H.D. 2, S.D. 1 amends said subsection to allow contracts for personal services with qualified community rehabilitation programs, as defined in section 103D-1001, for custodial and ground maintenance services lasting no more than one year and at a cost of no more than \$1,000,000. At the same time, however, it removes the allowance for contracts for personal services that was added last year.

The County of Hawaii Planning Department OPPOSES House Bill No. 2272, H.D. 2, S.D. 1 as written and respectfully requests that §76-77 be amended with a new subsection (17) to allow for personal services with qualified community rehabilitation programs.

In passing House Bill No. 1171 last year, the Planning Department found the flexibility of §76-77 subsection (16) useful to contract for services for some of our community development planning process and other planning related projects.


Honorable Rosalyn H. Baker, Chair
and Members of the Ways and Means Committee
WAYS AND MEANS COMMITTEE

Page 2

March 27, 2008

We urge you to amend this bill to add a new subsection (17) for the purposes for the qualified community rehabilitation programs. Thank you for the opportunity to testify on this important measure.

Sincerely,

A handwritten signature in black ink, appearing to read "Ch Yuen", written over the printed name.

CHRISTOPHER J. YUEN
Planning Director

AK:pak

Wpwin60/Chris 08 - HB 2272 HD2 SD1 - Testimony - Qualified Community Rehabilitation Programs

cc: Mayor Harry Kim
Mr. Michael Ben
Mr. Andy Levin
Corporation Counsel
Mr. Ralph Boyea