

TESTIMONY BY WESLEY K. MACHIDA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON
SENATE BILL NO. 1361, S.D. 1

February 27, 2015

RELATING TO BUDGETING

Senate Bill No. 1361, S.D. 1, amends Chapter 37, HRS, to establish position ceilings at the program level and requires the inclusion of position ceiling information in the various budget documents. The bill prohibits, with certain exceptions, the expenditure of funds for the filling of positions if the position ceiling would be exceeded. The bill also amends Section 76-16, HRS, to allow the creation of non-civil service positions only by act or statute.

The Department of Budget and Finance supports the general intent of Senate Bill No. 1361, S.D. 1, but has the following concerns. First, it needs to be recognized that the computerized budget systems currently utilized by the Executive Branch to produce the various budget documents and budget bills are not contemporary, technologically advanced systems. The core budgeting programs are COBOL-based systems that are over 40 years old. As such, these systems will require extensive modifications which would likely be labor intensive and require funding in order to accommodate the requirements of this bill.

For example, to display temporary positions at the program level in the various documents would require major formatting modifications and we are not sure, at this time, of the resource requirements and time needed to complete this task. As

such, during the interim, we will explore alternative means to provide temporary and permanent position count information and will evaluate various options to provide this information in the budget documents.

In addition, we strongly believe that some flexibility is necessary when establishing position ceiling controls. Excessively strict position ceiling controls can be problematic when circumstances not foreseen during budget preparation arise, and can severely hamper the Executive's ability to operationally respond to these situations effectively and efficiently.

The Legislature should consider the opinion of respective departments on how the proposed prohibition on creating temporary and exempt positions in excess of the position ceilings authorized could adversely impact their operations and what, if any, program curtailments could result. We understand that many departments have expressed concerns regarding potential issues regarding federally funded positions. To address these concerns, we suggest adding the following language to add a new section to Chapter 76:

SECTION . Chapter 76, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

§76- Special, research, or demonstration project positions.

Notwithstanding any law to the contrary, with the approval of the governor, the head of a department may establish and remove any subordinate position for employees engaged in special, research, or demonstration projects approved by the governor, subject to the limitations of available appropriations."

We also suggest that the following section, found on page 40, lines 5-10, be deleted:

"This subsection shall not be construed as granting express statutory authorization for the creation of any position referenced above. Such a position may be created only by an act or statute other than this subsection that expressly authorizes the position and for which funding has been provided by the legislature."

Because it is unlikely that we would be able to meet the requirements of the bill within the allotted time frame, we strongly recommend extending the effective date of the bill for several years with a requirement that a compliance plan be submitted, or some other option that would allow us to work through the various issues and problems without adversely impacting immediate staffing needs. Annual progress updates could also be provided to keep the Legislature apprised of our efforts.



DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

DAVID Y. IGE
GOVERNOR

LUIS P. SALAVERIA
DIRECTOR

MARY ALICE EVANS
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Statement of
LUIS P. SALAVERIA
Director
Department of Business, Economic Development and Tourism
before the
SENATE COMMITTEES ON WAYS AND MEANS
Friday, February 27, 2015
9:00 AM
State Capitol, Conference Room 211
in consideration of
SB 1361, SD 1
RELATING TO BUDGETING.

Chair Tokuda, Vice Chair Kouchi, and Members of the Committee.

The Department of Business, Economic Development and Tourism (DBEDT) appreciates the intent of SB 1361, SD1, to establish position ceilings at the program level and require the inclusion of position ceiling information in the various budget documents. The bill also amends Section 76-16, HRS, to restrict the creation of non-civil service positions only by act or statute. DBEDT offers the following comments.

DBEDT has concerns similar to those expressed by a number of departments about the impact of the proposed amendment to Section 76-16 which appears to make it difficult or impossible to accept and implement an award of federal funds that includes personnel costs.

In addition, DHRD has raised a concern that the proposed language could require the termination of existing non-civil service employees not exempted by act or statute. It appears that DBEDT's Hawaii State Energy Office employees would need to be terminated should SD 1 be enacted. This would have a devastating impact on implementation of the Hawaii Clean Energy Initiative.

We understand that the Director of Finance has offered an amendment that would resolve DBEDT's concerns. We urge your support for the amendment to Section 76 offered by B&F.

Thank you for the opportunity to offer these comments.



STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 02/27/2015
Time: 09:00 AM
Location: 211
Committee: Senate Ways and Means

Department: Education

Person Testifying: Kathryn S. Matayoshi, Superintendent of Education

Title of Bill: SB 1361, SD1 RELATING TO BUDGETING.

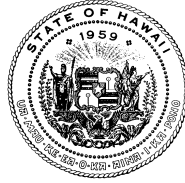
Purpose of Bill: Requires "position ceilings" to be included in the executive budget and related documents. Requires a "position ceiling" to separately identify the maximum number of permanent and temporary positions authorized in the executive budget. Prohibits the expenditure of funds on positions exceeding the applicable ceiling, with certain exceptions. States intent that the provisions also apply to the judiciary budget by operation of existing law. Effective date January 7, 2059. (SD1)

Department's Position:

The Department of Education appreciates the intent of SB1361 SD1 to improve transparency by adding to budget documents position ceilings for temporary positions, and prohibiting agencies from exceeding the position ceilings for both permanent and temporary positions except in certain instances.

The Department offers comments for the committee's consideration. Without the specific exemptions it would not be possible to establish positions to ensure federal funds received can be used in a timely manner for the purposes for which the funds were awarded. It would also be problematic to adjust staffing throughout the entire school system to accommodate enrollment fluctuations, varying student needs including individualized education plans, and school level decisions on the use of funds for employee or non-payroll expenditures. Given the limited time in which either State or federal funds are available for expenditure, the prohibition to exceed position ceilings would compromise the Department's ability to efficiently and effectively use funds appropriated to support and operate our public schools.

Thank you for the opportunity to testify on this measure.



STATE OF HAWAII
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**Testimony COMMENTING on SB1361 SD1
RELATING TO BUDGETING**

SENATOR JILL TOKUDA, CHAIR
SENATE COMMITTEE ON WAYS AND MEANS

Hearing Date: February 27, 2015

Room Number: 211

1 **Fiscal Implications:** Overall negative impact on ability to drawdown federal funds.

2 **Department Testimony:** The Department of Health (DOH) acknowledges the intent of SB1361
3 SD1 and offers amendments to address unintended consequences that will severely restrict the
4 competitiveness of state agencies for federal discretionary funds and jeopardize compliance to
5 consent decrees and resolution agreements.

6 Therefore, DOH requests amendments for statutory authority to establish, through the
7 Office of the Governor, new positions for special projects currently defined in section 76-
8 16(b)(12).

9 Such special projects are a practical necessity for receiving discretionary federal funds.
10 Programs are unable to wait for or rely on legislative appropriation to implement federally
11 funded programs in a timely manner. The department administered approximately \$40,000,000
12 in federal funds in FY15. Federal agencies expect grantees to expedite hiring and expenditure of
13 funds for new grant awards. If grantees are unable to demonstrate meaningful progress, such as
14 the hiring of 100% federally funded program staff, moneys may be rescinded and redistributed to
15 other states.

16 Compliance to consent decrees and legal mandates is also significantly hindered in the
17 current draft. The flexibility of creating exempt positions within a special project pursuant to
18 section 76-16(b)(12), HRS, is essential since courts expect immediate action and sustained
19 progress. DOH special projects have been used to take the action expected by the courts and

1 avoid the threat of recurring and new litigation such as with the Department of Justice settlement
2 agreement related to Hawaii State Hospital, the adult mental health system community plan, and
3 the Felix consent decree related to children's mental health. Recently, DOH requested and
4 received approval from the Governor to extend through June 30, 2015 the Behavioral Health
5 Initiative special project to support program and service delivery continuity, without which the
6 State of Hawaii may find itself at much greater risk of noncompliance and federal intervention.

7 **Offered Amendments:** DOH respectfully requests a Senate Draft 2 with two amendments:

8 Amendment 1:

9 Delete wording on Page 40, Bill Section 8, Lines 5 – 10.

10 ~~[This subsection shall not be construed as granting express~~
11 ~~statutory authorization for the creation of any position~~
12 ~~referenced above. Such a position may be created only by an act~~
13 ~~of statute other than this subsection that expressly authorizes~~
14 ~~the position and for which funding has been provided by the~~
15 ~~legislature.]~~

16 Amendment 2:

17 In alignment with recommendations from the Department of Budget and Finance, add a new
18 section to chapter 76, HRS.

19 "§76- Special, research, or demonstration projects
20 positions. Notwithstanding any law to the contrary, with the
21 approval of the governor, the head of a department may establish
22 and remove any subordinate position for employees engage in
23 special, research, or demonstration project approved by the
24 governor, subject to the limitations of available
25 appropriations."

DAVID Y. IGE
GOVERNOR



JAMES K. NISHIMOTO
DIRECTOR

RANDY BALDEMOR
DEPUTY DIRECTOR

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

February 25, 2015

TESTIMONY TO THE
SENATE COMMITTEE ON WAYS AND MEANS
For Hearing on Friday, February 27, 2015
9:00 a.m., Conference Room 211

By

JAMES K. NISHIMOTO
DIRECTOR, DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT

Senate Bill No. 1361, S.D. 1
Relating to Budgeting

CHAIRPERSON TOKUDA, VICE CHAIR KOUCHI AND MEMBERS OF THE SENATE COMMITTEE ON WAYS AND MEANS:

S.B. No. 1361, S.D. 1 would, among other things, amend Chapter 37, HRS to require "position ceilings" to be included in the executive budget and related documents. The bill would also prohibit the expenditure of funds on positions exceeding the applicable ceiling, with certain exceptions. The effective date of these amendments would be July 1, 2016.

The Department of Human Resources Development (DHRD) **supports the intent** of this bill. It is our understanding that the Department of Budget and Finance will be proposing the possibility of amending Chapter 76, HRS, in order to provide the head of a department the authority to establish exempt positions for purposes of

special, research or demonstration projects approved by the governor, subject to available funding.

DHRD supports such an amendment to Chapter 76, as it would enable departments to proceed with projects, subject to the availability of funding and approval by the governor. This would facilitate the ability of agencies to pursue project opportunities and reduce the risk of losing potential funding due to delays in establishing positions to implement the project.

Thank you for the opportunity to testify regarding this measure.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
Senate Committee on Ways and Means
February 27, 2015 at 9:00 am Room 211

by
Kalbert Young
Vice President – Budget & Finance & Chief Financial Officer
University of Hawai'i

SB 1361 SD1 – RELATING TO BUDGETING

Chair Tokuda, Vice Chair Kouchi, and members of the Ways and Means committee:

Thank you for this opportunity to testify. The University of Hawai'i (UH) offers the following comments and concerns on SB 1361 SD1, Relating to Budgeting, which proposes to include “position ceilings” in the executive and judiciary budget documents. These position ceilings would separately identify the maximum number of permanent and temporary positions authorized in the executive budget. The measure would also prohibit the expenditure of funds on positions exceeding the ceiling, with certain exceptions.

Limiting the table of authorized positions and requiring the pre-approved funding of positions in an organization is a general best-practice. However, while UH supports the sterile intent of SB 1361 SD1, this bill also raises a number of serious concerns as to the practical implications of business operations at a number of departments, including UH.

This bill as written only slightly amends existing statute which allows some limited exception for UH to transfer appropriated funds and positions (below a ceiling) across programs. In this regard, UH believes the proposed changes in this bill are not overly impactful on UH operations. However, even with the preservation of the existing exception, UH would have concerns over operating difficulties in complying with the changes proposed in other areas of this bill and believes that other departments or agencies that do not have the statutory exceptions available to UH (and DOE and HHSC) would have major difficulties as well.

In particular, this bill will make it nearly impossible for departments to operationally provide positions in non-general fund programs unless pre-approved AND explicitly funded by the Legislature. For UH, this would be a deviation of how federally-funded (federal grants) and special-funded positions are provided for during the fiscal year. For example, consider how the UH provides for instructional support of classes. Suppose that enrollment for a specific class exceeds projections and it becomes necessary to hire temporary lecturer positions. Under SB1361 SD1, only positions authorized and explicitly funded by the Legislature could be filled. Students would have paid money

into the Tuition and Fees Special Fund, but UH would lack the authority to fill the appropriate instructional position.

Similar examples might be found with research positions funded by non-general funds (Research and Training Revolving Fund and/or Federal Funds). Again, UH has a current exception in statute that is still generally preserved by SB1361 SD1; however, complying with the requirement of 37-74(e) would be difficult without such exemption. This testimony provides the Committee with some insight to the practical operating difficulties, but would probably be more significant to other departments or agencies that do not have existing exceptions.

It is our understanding that the Department of Budget & Finance (B&F) has a proposed amendment very similar to the following language. The University supports the inclusion of this language into SB 1361 SD1, which would make the bill much more functional:

“76- Special, research, or demonstration project positions.
Notwithstanding any law to the contrary, with the approval of the governor, the head of a department may establish and remove any subordinate position for employees engaged in special, research, or demonstration projects approved by the governor, subject to the limitations of available appropriations.”

Additionally, we respectfully request that the Committee remove Section 8 of this bill (beginning on page 31 and ends on page 40). Specifically, we find that the language on page 40, lines 5 through 10 of this measure to be unnecessary in light of the aforementioned proposed amendment.

The University of Hawai'i appreciates the opportunity to express its concerns.