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## DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

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Written Statement of  
**LUIS P. SALAVERIA**  
**Director**  
Department of Business, Economic Development, and Tourism  
before the  
**HOUSE COMMITTEE ON FINANCE**

March 3, 2016  
2:00 p.m.  
State Capitol, Conference Room 308

in consideration of  
**HB 2353, HD1**  
**RELATING TO EXEMPTIONS FROM CIVIL SERVICE.**

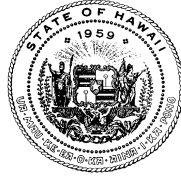
Chair Luke, Vice Chair Nishimoto and, Members of the Committee.

The Department of Business, Economic Development, and Tourism (DBEDT) thanks the Committee for hearing HB 2353, HD1, which extends the exemption for positions in the State Energy Office for one year.

DBEDT strongly 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 are needed for sustained support for 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.

If the Committee is inclined to move this bill forward for further discussion DBEDT views a permanent exemption 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, HD1.

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**

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**Testimony SUPPORTING HB2353, H. D. 1  
Relating to Exemptions from Civil Service**

REPRESENTATIVE SYLVIA LUKE, CHAIR  
HOUSE COMMITTEE ON FINANCE

Hearing Date: March 3, 2016, 2:00 p.m. Room Number: 308

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

2 **Department Testimony:** The Department of Health (DOH) supports HB2353, H.D. 1, which is  
3 part of the Governor's package of bills.

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

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

13 The DOH supports limiting the exemption period to one year for these AMHD and HSH  
14 positions and suggests the following amendment to remove the positions for the dentists and  
15 other doctors from this bill to focus on the AMHD and HSH positions only.

**Hawaii State Hospital (HSH) Physicians:**

The HSH continues to experience a high census exceeding licensed capacity which affects the quality of patient care and the safety of patients and staff at the HSH. Physicians at the HSH play a very critical role in providing quality health care to the HSH patients.

The HSH is in the process of converting two physician positions from exempt by special project to civil service. These HSH physicians are responsible for addressing the physical health needs of a patient population that has been court ordered to the care and custody of the Director of Health for the assessment and/or restoration of psychiatric fitness to stand trial or for mental health treatment following a verdict of “not guilty by reason of insanity.” This forensically encumbered population of individuals with severe and persistent mental illness, some of whom also present a high risk of dangerousness, poses unique challenges for physicians which, when coupled with a salary range that is not commensurate with the private sector in Hawaii or comparable to similar positions in other state operated psychiatric hospitals, results in difficulty in recruiting and retaining physicians to work in this direct patient care setting.

The complexity of the medical conditions treated by the Internists at the HSH has significantly changed in the past 10 years. In prior years, the HSH’s population was mainly civilly committed patients, most of whom were healthy adults except for their psychiatric condition. Medical care for that population consisted mostly of common conditions such as colds, flu, and high blood pressure.

Today, the health conditions of patients at the HSH, many of whom are older and have extensive drug use histories, include hepatitis, kidney failure, diabetes, endocrine conditions, and

1 obesity. Patients receive treatment for neurological disorders including seizures and  
2 Huntington's disease, head injuries, dementia, lung disease, pregnancy complications, bone  
3 fractures due to falls, and even tracheostomy (breathing tube) patients. HSH Internists must be  
4 well trained in urgent care, not just routine care. The experience and training required to recruit  
5 qualified candidates in the future will be significantly higher than that of the past, and the civil  
6 service salary structure is not commensurate with the salaries of internists in today's market.

7 According to Occupational Employment Statistics published by the United States Bureau  
8 of Labor Statistics, in 2014 (the most recent data available) the mean annual wage of General  
9 Internists was \$190,530. The State of Hawaii civil service pay scale range for internists is  
10 between \$75,588 and \$116,876. The current State of Hawaii civil service pay schedule, if  
11 applied to our internists, would compensate one doctor at \$88,404/year and another doctor at  
12 \$116,352/year and even after adding the shortage differential of \$4,800 and \$5,376 respectively  
13 per year, the compensation would be well below the current market. Allowing the HSH Internist  
14 positions to be exempt from civil service pay scales will allow competitive rates to be offered to  
15 attract qualified candidates to the HSH.

16 **AMHD and HSH Forensic Psychologists:**

17 The DOH plays a critical role in the State's justice system with regard to examinations of  
18 a criminal defendant's fitness to stand trial and penal responsibility, and monitoring of  
19 individuals on conditional release. Ensuring the timeliness and quality of forensic analyses in  
20 the state judicial system and establishing a system of accountability and efficiency in the

1 administration of forensic examinations are essential components that support appropriate access  
2 to justice for the citizens of Hawaii.

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

12 The DOH has experienced difficulties in attracting and retaining qualified candidates for  
13 its forensic psychologist positions and its forensic psychologist supervisor position due to low  
14 civil service pay scale ranges.

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

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

1 Thank you for the opportunity to testify.

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

13 The department of health may establish up to two permanent  
14 or temporary exempt positions known as Hawaii State Hospital  
15 primary care physicians that shall serve as an attending  
16 physicians for Hawaii State Hospital patients. The permanent or  
17 temporary exempt positions shall be appointed by the director  
18 without regard to chapter 76, provided that exemptions shall  
19 expire three years after enactment unless affirmatively extended  
20 by an act of the legislature.



STATE OF HAWAII  
DEPARTMENT OF HUMAN SERVICES

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March 3, 2016

TO: The Honorable Representative Sylvia Luke, Chair  
House Committee on Finance

FROM: Rachael Wong, DrPH, Director

SUBJECT: **HB 2353 HD 1 – RELATING TO EXEMPTIONS FROM CIVIL SERVICE**

Hearing: Thursday, March 1, 2016; 2:00 p.m.  
Conference Room 309, 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.

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 agreed 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.