

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

March 30, 2015

**TESTIMONY TO THE  
HOUSE COMMITTEE ON FINANCE**

For Hearing on Wednesday, April 1, 2015  
2:00p.m., Conference Room 308

BY

JAMES K. NISHIMOTO  
DIRECTOR

**Senate Bill No. 139 S.D.1, H.D.1**  
**Relating to Civil Service Exemptions**

**WRITTEN TESTIMONY ONLY**

TO CHAIRPERSON SYLVIA LUKE AND MEMBERS OF THE HOUSE COMMITTEE  
ON FINANCE:

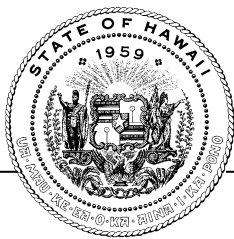
The purpose of S.B. No. 139 S.D.1, H.D.1, is to amend language to require each director of personnel for a jurisdiction to review positions exempted from civil service by other law, under section 76, Hawaii Revised Statutes, after July 1, 2002, and prior to July 1, 2014, to determine whether the positions should continue to be exempt. It further requires the director of human resources development to submit a report of such findings to the 2017 legislature. The bill also removes the civil service exemptions for employees engaged in special, research, or demonstration projects; and the civil service exemption for positions that are exempted by any other law.

The Department of Human Resources Development (DHRD) provides the following comments on the bill:

DHRD takes no position on the amendments to SECTION 1 of the bill to require each director of personnel for a jurisdiction review positions exempted from civil service by other law; and SECTION 2 of the bill to require the director of human resources development to submit a report of such findings to the 2017 legislature.

DHRD has concerns regarding the amendments to SECTION 1 of the bill that proposes to delete the civil service exemptions for employees engaged in special, research, or demonstration projects; and the civil service exemption for positions that are exempted by any other law. As to the former, the exception plays a critical role in supporting departmental operations, because departments must on occasion launch special, research and demonstration projects that are temporary in nature and, therefore, better suited to the hiring of employees on an exempt basis. Moreover, flexibility is needed to facilitate special funding situations where employees' positions funded on a temporary basis, such as in the case of where temporary federal grants are awarded to the State for specific and limited purposes. Likewise, as to the latter exemption where positions are otherwise exempted by other laws, this provision recognizes those special circumstances specific to department operations where a law has been crafted to allow hiring on an exempt basis. The broad-scoping deletion of these provisions would be likely to have an adverse impact on department operations, and the department's ability to meet federal grant or other funding requirements needed to support State programs and provide essential services.

Thank you for the opportunity to testify on this matter.



# OFFICE OF PLANNING STATE OF HAWAII

235 South Beretania Street, 6th Floor, Honolulu, Hawaii 96813  
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

DAVID Y. IGE  
GOVERNOR

LEO R. ASUNCION  
ACTING DIRECTOR  
OFFICE OF PLANNING

Telephone: (808) 587-2846  
Fax: (808) 587-2824  
Web: <http://planning.hawaii.gov/>

Statement of  
**LEO R. ASUNCION**  
Acting Director, Office of Planning  
before the  
**HOUSE COMMITTEE ON FINANCE**

Wednesday, April 1, 2015  
2:00 PM  
State Capitol, Conference Room 308

in consideration of

**SB 139 SD1, HD1**  
**RELATING TO CIVIL SERVICE EXEMPTIONS.**

Chair Luke, Vice Chair Nishimoto, and Members of the House Committee on Finance.

S.B. No. 139 S.D.1, H.D.1, is to amend language to require each director of personnel for a jurisdiction to review positions exempted from civil service by other law, under section 76, Hawaii Revised Statutes, after July 1, 2002, and prior to July 1, 2014, to determine whether the positions should continue to be exempt. It further requires the director of human resources development to submit a report of such findings to the 2017 legislature. The bill also removes the civil service exemptions for employees engaged in special, research, or demonstration projects; and the civil service exemption for positions that are exempted by any other law.

The Office of Planning (OP) is opposed to a portion of Section 1 of SB 1074 SD1, HD1, specifically the deletion of the civil service exemption for employees engaged in special, research, or demonstration projects on page 6, lines 1 and 2, of the measure. This specific exception plays a critical role in supporting OP operations, as often times special, research and demonstration projects that are temporary in nature are initiated by OP divisions and programs,

and, therefore, better suited to the hiring of employees on an exempt basis. Additionally, flexibility is needed to facilitate special funding situations where employees' positions funded on a temporary basis, such as in the case of where temporary federal grants are awarded to OP for specific and limited purposes.

The Office of Planning has no position on the remaining amendments set forth in the bill.

Thank you for the opportunity to testify on this measure.



## *The Judiciary, State of Hawaii*

### **Testimony to the House Committee on Finance**

Representative Sylvia Luke, Chair

Representative Scott Y. Nishimoto, Vice Chair

Wednesday, April 1, 2015  
State Capitol, Conference Room 308

by

Rodney A. Maile

Administrative Director of the Courts

### **WRITTEN TESTIMONY ONLY**

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**Bill No. and Title:** Senate Bill No. 139, S.D.1, H.D.1, Relating to Civil Service Exemptions.

**Purpose:** Requires each director of the central personnel agency for a jurisdiction to review civil service positions exempted under section 76-16, HRS, on or after July 1, 2002, and prior to July 1, 2016 to determine whether the positions should continue to be exempt. The bill also amends the positions that are exempt from civil service.

**Judiciary's Position:** The Judiciary appreciates the purpose and intent of this bill, i.e., to review positions previously exempted under section 76-16, HRS, and to determine whether such positions should continue to be exempt. However, the Judiciary finds the amendment made in H.D.1 to eliminate exempt provisions 76-16(b)(12) and (b)(17), HRS to be problematic.

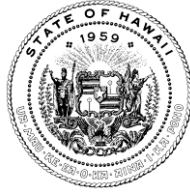
Judiciary positions exempted by HRS 76-16(b)(12) and (b)(17) are critical to the staffing and operations of the Judiciary. For example, HRS 76-16(b)(12) was used to exempt positions involved in the Judiciary Information Management System (JIMS) special project. The project involves substantial re-engineering including integration of the traffic violations module and most recently, the district court criminal in-court processing module. Each successful integration results in more services the Judiciary provides to the public such as efilings.

Also, the Judiciary uses HRS 76-16(b)(17), i.e., positions specifically exempted by any other law, to exempt key positions that are critical to the function and operation of the Judiciary. All judges, including the Chief Justice and Associate Justice; Administrative Director and Deputy Administrative Director of the Courts; Administrative Driver's License Revocation Office (ADLRO) DUI Adjudicators; Special Assistants to the Chief Justice and Administrative Director; Alternative Dispute Resolution Director; Executive Director of the Judiciary History Center and respective staff positions are exempted under this provision.

Senate Bill No. 139, S.D.1, H.D.1, Relating to Civil Service Exemptions  
House Committee on Finance  
Wednesday, April 1, 2015  
Page two

The Judiciary remains prudent in exempting positions under the provisions of HRS 76-16 (b). However, without the ability to exempt positions under 76-16(b) (12) and (b) (17), it will hamper the Judiciary's operational needs and its ability to provide justice expeditiously.

Thank you for the opportunity to express our comments and testify on Senate Bill No. 139, S.D.1, H.D.1.



DAVID Y. IGE  
GOVERNOR

SHAN S. TSUTSUI  
LT. GOVERNOR

**STATE OF HAWAII**  
**OFFICE OF THE DIRECTOR**  
**DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**  
335 MERCHANT STREET, ROOM 310  
P.O. Box 541  
HONOLULU, HAWAII 96809  
Phone Number: 586-2850  
Fax Number: 586-2856  
[www.hawaii.gov/dcca](http://www.hawaii.gov/dcca)

CATHERINE P. AWAKUNI COLÓN  
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI  
DEPUTY DIRECTOR

**PRESENTATION OF THE  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

TO THE HOUSE COMMITTEE ON FINANCE

TWENTY-EIGHTH LEGISLATURE  
Regular Session of 2015  
Wednesday, April 1, 2015  
2:00 p.m.

**WRITTEN COMMENTS ONLY**

**TESTIMONY ON SENATE BILL NO. 139, S.D. 1, H.D. 1, RELATING TO CIVIL  
SERVICE EXEMPTIONS.**

TO THE HONORABLE SYLVIA LUKE, CHAIR,  
AND MEMBERS OF THE COMMITTEE:

My name is Catherine Awakuni Colón, Director of the Department of Commerce and Consumer Affairs ("Department"). The Department appreciates the opportunity to testify on Senate Bill No. 139, S.D. 1, H.D. 1, Relating to Civil Service Exemptions.

This measure amends Section 76-16(b), Hawaii Revised Statutes ("HRS"), by, among other things, removing from the list of positions exempt from HRS Chapter 76 all positions specifically exempted from civil service by any other law. The Department has strong concerns with this proposed change to the civil service law.

By precluding the Department from hiring outside of HRS Chapter 76, this bill represents a significant departure from the Legislature's longstanding recognition of the

need of both the Department and the State, generally, to recruit, hire and retain employees with specialized skills and technical expertise in areas ranging from banking to utilities regulation to insurance. Without the flexibility of hiring outside of HRS Chapter 76, the Department would not be able to meaningfully compete with the private sector, or quickly recruit and hire talented specialists.

The delay or failure to fill critical positions with qualified people could have adverse effects not only on the Department, but on the State as a whole. For example, the Insurance Division must comply with the National Association of Insurance Commissioners ("NAIC") accreditations requirements, which include requirements to have adequate and qualified staff to conduct examinations and financial analysis, and the timely completion of examinations. Thus, the filling of vacancies and training of new staff is essential to meet the NAIC accreditation requirements.

The Department understands and appreciates the value of HRS Chapter 76 for those positions that do not require specialized knowledge and expertise. In fact, in accordance with the legislative intent of Act 300, Session Laws of Hawaii 2006 ("Act 300"), and Senate Concurrent Resolution No. 222 (2008 Legislative Session), the Department has converted 69 positions to date. As a matter of policy and practice, the Department has been consistent in its efforts to review existing exempt positions and take action to convert positions as appropriate. Since July 2011, the Department identified 26 exempt positions for conversion to civil service, 18 of which resulted in conversions, with the remaining 8 positions to be converted when the positions become vacant. Given the number of positions that have been converted from exempt to civil



service over the last few years, the Department believes that it has complied with the mandates of Act 253, Session Laws of Hawaii 2000, and Act 300, and has exercised appropriate discretion in identifying the positions that should be converted to civil service and those that should not. We will continue to review the Department's positions and programs and will make additional conversions as necessary and appropriate.

The Department believes that the language in HRS § 76-16(b)(17) is an important component of the State's personnel/hiring system that should be preserved.

Thank you for the opportunity to submit comments on Senate Bill No. 139, S.D. 1, H.D. 1.



DAVID Y. IGE  
GOVERNOR

LUIS P. SALAVERIA  
DIRECTOR

MARY ALICE EVANS  
DEPUTY DIRECTOR

## DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813  
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804  
Web site: [www.hawaii.gov/dbedt](http://www.hawaii.gov/dbedt)

Telephone: (808) 586-2355  
Fax: (808) 586-2377

Statement of  
**LUIS P. SALAVERIA**  
Director  
Department of Business, Economic Development, and Tourism  
before the  
**HOUSE COMMITTEE ON FINANCE**  
Wednesday, April 1, 2015  
2:00 p.m.  
State Capitol, Conference Room 308  
in consideration of  
**SB 139, SD1, HD1**  
**RELATING TO CIVIL SERVE EXEMPTIONS.**

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

The Department of Business, Economic Development, and Tourism (DBEDT) respectfully offers comments on SB 139, SD1, HD1, which requires the review of state civil service positions exempted under section 76-16, Hawaii Revised Statutes, to determine whether the positions should continue to be exempt and amends the positions that are exempt from civil service.

DBEDT strongly supports amending Section 76-16(b)(26), Hawaii Revised Statutes, to specifically exempt from civil service DBEDT employees that support the Hawaii Clean Energy Initiative Program. The clean energy program, which was established within DBEDT to manage the State's transition to a clean energy economy, is responsible for leading the way in reducing the State's dependence on imported oil by setting goals and a roadmap to achieve 70% clean energy by 2030. DBEDT relies on exempt civil service positions to meet the challenge 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 exempt civil service positions is an important resource strategy aligned with the State's 2030 clean energy goals.

However, DBEDT has strong concerns regarding the deletion of civil service exemptions for employees engaged in special, research, or demonstration projects as the exception plays a

critical role in supporting not only DBEDT but other State department's operations.

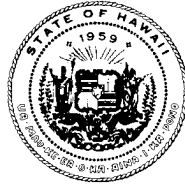
Departments must on occasion launch projects that are temporary in nature and therefore, better suited to the hiring of employees on an exempt basis. Moreover, flexibility is needed to facilitate special funding situations where employees' positions are funded on a temporary basis, for example temporary federal grants that are awarded specifically for a limited time and purpose.

DBEDT is also concerned about the deletion of civil service exemption for positions that are exempted by any other law. This provision recognizes those special circumstances specific to program operations where a law has been crafted to allow hiring on an exempt basis.

As most of our attached agencies fall into one of these categories, the broad-scoping deletion of these provisions would have an adverse impact on their program operations, and their ability to meet federal grant or other funding requirements needed to support State programs and provide essential services.

Thank you for the opportunity to offer these comments.

DAVID Y. IGE  
GOVERNOR



CRAIG K. HIRAI  
EXECUTIVE DIRECTOR

## STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM  
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION  
677 QUEEN STREET, SUITE 300  
Honolulu, Hawaii 96813  
FAX: (808) 587-0600

IN REPLY REFER TO:

Statement of  
**Craig K. Hirai**  
Hawaii Housing Finance and Development Corporation  
Before the

### HOUSE COMMITTEE ON FINANCE

April 1, 2015 at 2:00 p.m.  
State Capitol, Room 308

In consideration of  
**S.B. 139, S.D. 1, H.D. 1**  
**RELATING TO CIVIL SERVICE EXEMPTIONS.**

The HHFDC **respectfully offers comments on** S.B. 139, S.D. 1, H.D. 1 and the adverse impact it would have on the agency and its ability to carry out its mission to increase the supply of affordable housing statewide.

HHFDC has concerns with the H.D. 1, which deletes section 76-16(b)(17), HRS, which relates to positions exempted from Chapter 76 by any other law. We ask that HHFDC's existing civil service exemptions be retained so that ongoing efforts to address the severe affordable housing shortage statewide are not brought to a halt by the need for conversion of exempt positions. We assert that it requires flexibility for hiring and retaining positions at this critical point in time.

Thank you for the opportunity to testify.



Written Statement of

**KARL FOOKS**  
**President**

Hawaii Strategic Development Corporation

Before the  
**COMMITTEE ON FINANCE**

**April 1, 2015**  
**2:00 PM**  
**State Capitol, Conference Room 308**

In consideration of  
**SB 139 SD 1 HD 1 RELATING TO CIVIL SERVICE EXEMPTIONS**

Chair Luke, Vice Chair Nishimoto, and Members of the Committee on Finance:

The Hawaii Strategic Development Corporation (HSDC) respectfully submits testimony in opposition of Section 1 of SB 139 SD 1 HD 1, legislation that removes the civil service exemptions for employees for positions that are exempted by any other law.

HSDC's statute provides that its employees are exempt from civil service. This is exemption allows the agency to recruit people with specialized skills necessary for it to fulfill its mission. HSDC does not receive annual General Fund appropriations for its operating expenses and its employees are hired on an at will basis. HSDC's statutory exemption recognizes those special circumstances specific to HSDC operations and the law has been crafted to allow hiring on an exempt basis. The broad-scoping deletion of these provisions would be likely to have an adverse impact on HSDC's operations, and its ability to meet federal grant or other funding requirements needed to support State programs and provide essential services.

Thank you for the opportunity to provide testimony.

Written Statement of  
**ROBBIE MELTON**  
**Executive Director & CEO**  
High Technology Development Corporation  
before the  
**HOUSE COMMITTEE ON FINANCE**  
Wednesday, April 1, 2015  
2:00 p.m.  
State Capitol, Conference Room 308  
In consideration of

**SB139 SD1 HD1 RELATING TO CIVIL SERVICE EXEMPTIONS**

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

The High Technology Development Corporation (HTDC) respectfully submits testimony in **opposition** of the deletion of exception (17) in HRS 76-16 (b), in Section 1 of SB139 SD1 HD1, which removes the civil service exemptions for positions that are exempted by law.

HTDC's statute provides that its employees are exempt from civil service. The statutory exemption recognizes the agility required by HTDC to remain relevant in the technology sector and allows the agency to recruit people with specialized skills necessary to fulfill its mission. HTDC positions need to be flexible and multi-functional to adapt to changing programmatic needs. Replacing exempt positions with dedicated responsibility civil service positions would result in requiring additional hires to handle the same workload. With more operational funding dedicated to staffing, HTDC would require more program funding or forced to reduce our programs.

Thank you for the opportunity to offer these comments.



## HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Twenty-Eighth Legislature, State of Hawaii  
House of Representatives  
Committee on Finance

**LATE**

Testimony by  
Hawaii Government Employees Association  
April 1, 2015

### S.B. 139, S.D. 1, H.D. 1 – RELATING TO CIVIL SERVICE EXEMPTIONS

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO supports the purpose and intent of S.B. 139, S.D. 1, H.D. 1. We agree with the changes to Section 76-16 (g), HRS and the requirement in Section 2 of the bill that the State's central personnel agency must review those positions exempted from civil service on or after July 1, 2002 through July 1, 2014 and to submit a report to the Legislature based upon the findings of their review prior to the 2017 Regular Session. There are far too many exempt positions in the State's Executive Branch. According to the latest report submitted by the Department of Human Resources Development to the Hawaii State Legislature, there are 2,946 exempt employees in the Executive Branch. Only 55 exempt employees were converted to civil service during the period November 1, 2013 – October 31, 2014.

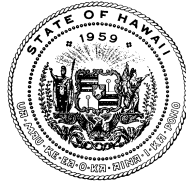
The State's civil service system needs significant reform so that it can preserve the merit principle while at the same time being flexible and responsive enough to meet the demands of line departments. In other words, the civil service system must be adaptable to change, including changes in the State's demographics, the organization of work, and the conceptions of work and career by employees. The lack of flexibility within the State's civil service system should not be used to justify exempting positions from civil service. State departments need the mechanisms and incentives of a modern human resources system to enable them to maintain a high-quality and motivated workforce for the future that are subject to Chapter 76, HRS.

HGEA did not recommend, as attributed to us by the Committee on Labor and Public Employment chair, the deletion of the two largest statutory exemptions – Sections 76-16(b)(12) and 76-16(b)(17), HRS. Last year, a three-year limit was placed on the creation of exempt positions under Section 76-16(b)(17), HRS. However, we believe a similar three-year time limit should be placed on exemptions permitted under Section 76-16(b)(12), HRS. This exemption pertains to employees engaged in special, research or demonstration projects approved by the Governor. These types of projects should be able to prove their worth within a three-year period. If they are found to be successful and become a permanent program, then those positions must be converted to civil service.

We appreciate the opportunity to testify on S.B. 139, S.D. 1, H.D. 1 with the suggested amendments.

Respectfully submitted,

*for* Randy Perreira  
Executive Director



STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P. O. Box 3378  
Honolulu, HI 96801-3378  
doh.testimony@doh.hawaii.gov

**LATE**

**Testimony COMMENTING on SB139 SD1 HD1  
RELATING TO CIVIL SERVICE EXEMPTIONS**

REPRESENTATIVE SYLVIA LUKE, CHAIR  
HOUSE COMMITTEE ON FINANCE

Hearing Date: April 1, 2015

Room Number: 308

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

2 **Department Testimony:** The Department of Health (DOH) acknowledges the intent of SB139  
3 SD1 HD1 and offers amendments to address unintended consequences that will severely restrict  
4 the competitiveness of state agencies for federal discretionary funds and jeopardize compliance  
5 to 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 reinstatement of subsection (b)(12) as:

8 "(12) Employees engaged in special, research, or demonstration  
9 projects approved by the governor;