
A BILL FOR AN ACT

RELATING TO PUBLIC EMPLOYMENT.

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

1 SECTION 1. Chapter 37, Hawaii Revised Statutes, is amended
2 by adding a new section to part III to be appropriately
3 designated and to read as follows:

4 "§37- Positions funded through the expenditure of
5 special fund moneys; legislative authorization required.

6 Notwithstanding any law to the contrary, no program or agency
7 shall transfer personnel or positions exempt from chapter 76, or
8 expend moneys from any special fund appropriated therefor, for
9 any purpose other than:

10 (1) The purpose for which the personnel were originally
11 hired;

12 (2) The purpose for which the position was established by
13 the legislature; or

14 (3) The purpose for which the special fund moneys were
15 appropriated;

16 without explicit legislative authorization; provided that this
17 section shall not apply to the University of Hawaii or the
18 department of education."



1 SECTION 2. Section 37-74, Hawaii Revised Statutes, is
2 amended by amending subsection (d) to read as follows:

3 "(d) No appropriation transfers or changes between
4 programs or agencies shall be made without legislative
5 authorization; provided that:

6 (1) Authorized transfers or changes, when made, shall be
7 reported to the legislature;

8 (2) Except with respect to appropriations to fund
9 financing agreements under chapter 37D, the University
10 of Hawaii shall have the flexibility to transfer
11 appropriated funds and positions for the operating
12 cost category among programs, among cost elements in a
13 program, and between quarters, as applicable; except
14 with respect to appropriations to fund financing
15 agreements under chapter 37D, the department of
16 education shall have the flexibility to transfer
17 appropriated funds and positions for the operating
18 cost category among programs and among cost elements
19 in a program, and between quarters, as applicable; and
20 the Hawaii health systems corporation shall have the
21 flexibility to transfer special fund appropriations
22 among community hospitals facilities as applicable;



1 provided that the Hawaii health systems corporation
2 shall maintain the integrity and services of each
3 individual facility and shall not transfer
4 appropriations out of any facility that would result
5 in a reduction of services offered by the facility,
6 with due regard for statutory requirements, changing
7 conditions, the needs of the programs, and the
8 effective utilization of resources; and

9 (3) The university and the department of education shall
10 account for each transfer implemented under this
11 subsection in quarterly reports to the governor and
12 annual reports at the end of each fiscal year to the
13 legislature and the governor, which shall be prepared
14 in the form and manner prescribed by the governor and
15 shall include information on the sources and uses of
16 the transfer.

17 Notwithstanding any law to the contrary, no program or
18 agency shall transfer personnel or positions exempt from chapter
19 76, or expend moneys appropriated therefor, for any purpose
20 other than the purpose for which the personnel were originally
21 hired, the position was established, or the moneys were
22 appropriated, without explicit legislative authorization;

1 provided that this paragraph shall not apply to the University
2 of Hawaii or the department of education."

3 SECTION 3. Act 178, Session Laws of Hawaii 2005, is
4 amended by amending sections 134 and 135 to read as follows:

5 "SECTION 134. Unless otherwise provided in this Act, the
6 governor is authorized to transfer operating funds between
7 appropriations within the same fund, within an expending agency,
8 for operating purposes; provided that the governor shall not
9 have the authority to transfer or expend operating funds or any
10 other funds under the governor's control to pay for the costs of
11 transferred personnel whose positions are not subject to chapter
12 76, Hawaii Revised Statutes, or for the hiring of any personnel
13 who are not subject to chapter 76, Hawaii Revised Statutes, and
14 whose positions are not explicitly authorized by the
15 legislature; provided further that the governor shall submit a
16 report to the legislature within five days of each use of this
17 proviso; provided further that the report shall include the date
18 of the transfer, the amount of the transfer, the program ID from
19 which funds were transferred, the program ID to which funds were
20 transferred, a detailed explanation of the public purposes
21 served by the transfer of resources, and the impact to the
22 department from which the funds were originally assigned; and



1 provided further that the governor shall submit to the
2 legislature a summary report containing the aforementioned
3 information for each use of this proviso for the previous twelve
4 month period from December 1 to November 30 no later than twenty
5 days prior to the convening of the 2006 and 2007 regular
6 sessions.

7 SECTION 135. Except as otherwise provided in this Act,
8 each department or agency is authorized to transfer civil
9 service positions within its respective authorized position
10 ceiling for the purpose of maximizing the utilization of
11 personnel resources and staff productivity[+], subject to
12 applicable civil service and collective bargaining laws;
13 provided that all actions shall be with the prior approval of
14 the governor and shall be consistent with appropriations and
15 restrictions provided in this Act and with provisions of part II
16 of chapter 37 of the Hawaii Revised Statutes; and provided
17 further that the governor shall submit a report to the
18 legislature within five days of each use of this proviso;
19 provided further that the report shall include the date of the
20 transfer, the civil service position transferred, the program
21 from which the civil service position was transferred, the
22 program to which the civil service position was transferred,



1 responsibilities of the civil service position prior to
2 transfer, the responsibilities of the civil service position
3 after the transfer, and the manner in which the transfer
4 maximizes the utilization of personnel resources and staff
5 productivity; and provided further that the governor shall
6 submit to the legislature a summary report of all uses of this
7 proviso for the previous twelve month period from December 1 to
8 November 30 no later than twenty days prior to the convening of
9 the 2006 and 2007 regular sessions."

10 SECTION 4. All positions that are:

11 (1) Funded solely through general or special funds of the
12 State, or a combination thereof or funded through the
13 discretionary use of federal funds by the governor or
14 any agency of the executive branch of government;

15 (2) Exempt from chapter 76, Hawaii Revised Statutes; and

16 (3) Affected by this Act;

17 shall be abolished on the effective date of this Act, unless
18 explicitly authorized by an act of the legislature prior to this
19 Act's effective date; provided that this section shall not apply
20 to federally funded positions that, if not established, would
21 impair the State's ability to receive federal funds in excess of
22 what is required to fund the position.



1 SECTION 5. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect on July 1, 2006.

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INTRODUCED BY:

Calvin K. Y. Day
BY REQUEST

JAN 20 2006



Report Title:

Exempt Public Employees; Position Funding Authorization

Description:

Prohibits the expenditure of moneys in the executive budget to fund exempt positions not authorized by the legislature.

