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## A BILL FOR AN ACT

RELATING TO EXEMPT EMPLOYEES.

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

1           SECTION 1. The purpose of this Act is to comply with Act  
2 253, Session Laws of Hawaii 2000, which placed restrictions on  
3 the creation of exempt positions and required the review of  
4 exempt positions annually to determine whether they should  
5 remain exempt or be converted to civil service status.

6           SECTION 2. Section 6E-3, Hawaii Revised Statutes, is  
7 amended to read as follows:

8           "**§6E-3 Historic preservation program.** There is  
9 established within the department a division to administer a  
10 comprehensive historic preservation program, which shall include  
11 but not be limited to the following:

12           (1) Development of an on-going program of historical,  
13 architectural, and archaeological research and  
14 development, including surveys, excavations,  
15 scientific recording, interpretation, and publications  
16 on the State's historical and cultural resources;

17           (2) Acquisition of historic or cultural properties, real  
18 or personal, in fee or in any lesser interest, by



1 gift, purchase, condemnation, devise, bequest, land  
2 exchange, or other means; preservation, restoration,  
3 administration, or transference of the property; and  
4 the charging of reasonable admissions to that  
5 property;

6 (3) Development of a statewide survey and inventory to  
7 identify and document historic properties, aviation  
8 artifacts, and burial sites, including all those owned  
9 by the State and the counties;

10 (4) Preparation of information for the Hawaii register of  
11 historic places and listing on the national register  
12 of historic places;

13 (5) Preparation, review, and revisions of a state historic  
14 preservation plan, including budget requirements and  
15 land use recommendations;

16 (6) Application for and receipt of gifts, grants,  
17 technical assistance, and other funding from public  
18 and private sources for the purposes of this chapter;

19 (7) Provision of technical and financial assistance to the  
20 counties and public and private agencies involved in  
21 historic preservation activities;



- 1           (8)    Coordination of activities of the counties in  
2                    accordance with the state plan for historic  
3                    preservation;
- 4           (9)    Stimulation of public interest in historic  
5                    preservation, including the development and  
6                    implementation of interpretive programs for historic  
7                    properties listed on or eligible for the Hawaii  
8                    register of historic places;
- 9           (10)   Coordination of the evaluation and management of  
10                   burial sites as provided in section 6E-43;
- 11          (11)   Acquisition of burial sites in fee or in any lesser  
12                   interest, by gift, purchase, condemnation, devise,  
13                   bequest, land exchange, or other means, to be held in  
14                   trust;
- 15          (12)   Submittal of an annual report to the governor and  
16                   legislature detailing the accomplishments of the year,  
17                   recommendations for changes in the state plan or  
18                   future programs relating to historic preservation, and  
19                   an accounting of all income, expenditures, and the  
20                   fund balance of the Hawaii historic preservation  
21                   special fund;



1 (13) Regulation of archaeological activities throughout the  
2 State;

3 (14) Employment of sufficient professional and technical  
4 staff for the purposes of this chapter [~~without regard~~  
5 ~~to~~] in accordance with chapter 76;

6 (15) The charging of fees to at least partially defray the  
7 costs of administering sections 6E-3(13), 6E-8, and  
8 6E-42 of this chapter;

9 (16) Adoption of rules in accordance with chapter 91,  
10 necessary to carry out the purposes of this chapter;  
11 and

12 (17) Development and adoption, in consultation with the  
13 office of Hawaiian affairs native historic  
14 preservation council, of rules governing permits for  
15 access by native Hawaiians and Hawaiians to cultural,  
16 historic, and pre-contact sites and monuments."

17 SECTION 3. Section 26-9, Hawaii Revised Statutes, is  
18 amended by amending subsection (o) to read as follows:

19 "(o) Every person licensed under any chapter within the  
20 jurisdiction of the department of commerce and consumer affairs  
21 and every person licensed subject to chapter 485 shall pay, upon  
22 issuance of a license, permit, certificate, or registration, a



1 fee and a subsequent annual fee to be determined by the director  
2 and adjusted from time to time to ensure that the proceeds,  
3 together with all other fines, income, and penalties collected  
4 under this section, do not surpass the annual operating costs of  
5 conducting compliance resolution activities required under this  
6 section. The fees may be collected biennially or pursuant to  
7 rules adopted under chapter 91, and shall be deposited into the  
8 special fund established under this subsection. Every filing  
9 pursuant to chapter 514E or section 485-6(15) shall be assessed,  
10 upon initial filing and at each renewal period in which a  
11 renewal is required, a fee that shall be prescribed by rules  
12 adopted under chapter 91, and that shall be deposited into the  
13 special fund established under this subsection. Any unpaid fee  
14 shall be paid by the licensed person, upon application for  
15 renewal, restoration, reactivation, or reinstatement of a  
16 license, and by the person responsible for the renewal,  
17 restoration, reactivation, or reinstatement of a license, upon  
18 the application for renewal, restoration, reactivation, or  
19 reinstatement of the license. If the fees are not paid, the  
20 director may deny renewal, restoration, reactivation, or  
21 reinstatement of the license. The director may establish,  
22 increase, decrease, or repeal the fees when necessary pursuant



1 to rules adopted under chapter 91. The director may also  
2 increase or decrease the fees pursuant to section 92-28.

3 There is created in the state treasury a special fund to be  
4 known as the compliance resolution fund to be expended by the  
5 director's designated representatives as provided by this  
6 subsection. Notwithstanding any law to the contrary, all  
7 revenues, fees, and fines collected by the department shall be  
8 deposited into the compliance resolution fund. Unencumbered  
9 balances existing on June 30, 1999, in the cable television fund  
10 under chapter 440G, the division of consumer advocacy fund under  
11 chapter 269, the financial institution examiners' revolving  
12 fund[~~τ~~] under section 412:2-109, the special handling fund[~~τ~~]  
13 under section 414-13, and unencumbered balances existing on June  
14 30, 2002, in the insurance regulation fund[~~τ~~] under section  
15 431:2-215, shall be deposited into the compliance resolution  
16 fund. This provision shall not apply to the drivers education  
17 fund underwriters fee, section 431:10C-115[~~τ~~]; insurance premium  
18 taxes and revenues[~~τ~~]; revenues of the workers' compensation  
19 special compensation fund, section 386-151[~~τ~~]; the captive  
20 insurance administrative fund, section 431:19-101.8[~~τ~~]; the  
21 insurance commissioner's education and training fund, section  
22 431:2-214[~~τ~~]; the medical malpractice patients' compensation



1 fund as administered under section 5 of Act 232, Session Laws of  
2 Hawaii 1984[~~7~~]; and fees collected for deposit in the office of  
3 consumer protection restitution fund, section 487-14[~~7~~]; the  
4 real estate appraisers fund, section 466K-1[~~7~~]; the real estate  
5 recovery fund, section 467-16[~~7~~]; the real estate education  
6 fund, section 467-19[~~7~~]; the contractors recovery fund, section  
7 444-26[~~7~~]; the contractors education fund, section 444-29[~~7~~];  
8 and the condominium education trust fund, section 514B-71.

9 Any law to the contrary notwithstanding, the director may  
10 use the moneys in the fund to employ[~~7~~, ~~without regard to chapter~~  
11 ~~76~~] hearings officers[~~7~~, ~~investigators~~,] and attorneys[~~7~~  
12 without regard to chapter 76, and investigators, accountants,  
13 and other necessary personnel in accordance with chapter 76, to  
14 implement this subsection. Any law to the contrary  
15 notwithstanding, the moneys in the fund shall be used to fund  
16 the operations of the department. The moneys in the fund may be  
17 used to train personnel as the director deems necessary and for  
18 any other activity related to compliance resolution.

19 As used in this subsection, unless otherwise required by  
20 the context, "compliance resolution" means a determination of  
21 whether:



- 1           (1) Any licensee or applicant under any chapter subject to  
2           the jurisdiction of the department of commerce and  
3           consumer affairs has complied with that chapter;
- 4           (2) Any person subject to chapter 485 has complied with  
5           that chapter;
- 6           (3) Any person submitting any filing required by chapter  
7           514E or section 485-6(15) has complied with chapter  
8           514E or section 485-6(15); or
- 9           (4) Any person has complied with the prohibitions against  
10          unfair and deceptive acts or practices in trade or  
11          commerce;

12 and includes work involved in or supporting the above functions,  
13 licensing, or registration of individuals or companies regulated  
14 by the department, consumer protection, and other activities of  
15 the department.

16          The director shall prepare and submit an annual report to  
17 the governor and the legislature on the use of the compliance  
18 resolution fund. The report shall describe expenditures made  
19 from the fund including non-payroll operating expenses."

20          SECTION 4. Section 28-10.5, Hawaii Revised Statutes, is  
21 amended by amending subsection (b) to read as follows:





1           "(b) The attorney general may employ, without regard to  
2 chapter 76, and at pleasure dismiss an administrator to oversee  
3 and carry out the resource coordination functions of the  
4 department set forth in subsection (a). In addition, the  
5 attorney general may employ, [~~without regard to chapter 76, and~~  
6 ~~at pleasure dismiss~~] in accordance with chapter 76, other  
7 support staff necessary for the performance of the resource  
8 coordination functions."

9           SECTION 5. Section 28-10.6, Hawaii Revised Statutes, is  
10 amended by amending subsection (b) to read as follows:

11           "(b) The attorney general may employ, without regard to  
12 chapter 76, and at the attorney general's pleasure dismiss, an  
13 administrator [~~and~~]. The attorney general may employ, in  
14 accordance with chapter 76, other support staff necessary for  
15 the performance or coordination of the programs, projects, and  
16 activities on the subject of crime."

17           SECTION 6. Section 28-11, Hawaii Revised Statutes, is  
18 amended by amending subsection (b) to read as follows:

19           "(b) The attorney general may also appoint persons whose  
20 primary function will be to provide security coverage for the  
21 governor and other public officials of this State, to be known  
22 as security investigators, who shall have and may exercise all



1 the powers and authority of the investigators appointed under  
2 subsection (a). When not providing security coverage for the  
3 governor or other public officials, the security investigators  
4 will conduct other investigations as directed by the attorney  
5 general. The positions of security investigators [~~shall~~] may be  
6 exempt from chapter 76."

7 SECTION 7. Section 87A-24, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "**§87A-24 Other powers.** In addition to the power to  
10 administer the fund, the board may:

- 11 (1) Collect, receive, deposit, and withdraw money on  
12 behalf of the fund;
- 13 (2) Invest moneys in the same manner specified in section  
14 88-119(1)(A), (1)(B), (1)(C), (2), (3), (4), (5), (6),  
15 and (7);
- 16 (3) Hold, purchase, sell, assign, transfer, or dispose of  
17 any securities or other investments of the fund, as  
18 well as the proceeds of those investments and any  
19 money belonging to the fund;
- 20 (4) Appoint [~~and~~]:
- 21 (A) And at pleasure dismiss, an administrator without  
22 regard to chapter 76; and [~~other~~]



1           (B) Other fund staff [~~. The administrator and staff~~  
2           ~~shall be exempt from chapter 76 and shall serve~~  
3           ~~under and at the pleasure of the board;~~] in  
4           accordance with chapter 76;

5           (5) Make payments of periodic charges and pay for  
6           reasonable expenses incurred in carrying out the  
7           purposes of the fund;

8           (6) Contract for the performance of financial audits of  
9           the fund and claims audits of its insurance carriers;

10          (7) Retain auditors, actuaries, investment firms and  
11          managers, benefit plan consultants, or other  
12          professional advisors to carry out the purposes of  
13          this chapter;

14          (8) Establish health benefits plan and long-term care  
15          benefits plan rates that include administrative and  
16          other expenses necessary to effectuate the purposes of  
17          the fund; and

18          (9) Require any department, agency, or employee of the  
19          State or counties to furnish information to the board  
20          to carry out the purposes of this chapter."

21          SECTION 8. Section 128D-2.5, Hawaii Revised Statutes, is  
22          amended to read as follows:



1           "~~[+]§128D-2.5[+]~~ **Toxicologists.** The department may  
2 establish permanent [~~exempt~~] civil service positions known as  
3 toxicologists for the purpose of assessing human health risk.  
4 The positions shall be appointed by the director [~~without regard~~  
5 ~~to~~] in accordance with chapter 76. The funds for these  
6 positions shall come from the environmental response revolving  
7 fund established in section 128D-2."

8           SECTION 9. Section 128D-2.6, Hawaii Revised Statutes, is  
9 amended to read as follows:

10           "~~[+]§128D-2.6[+]~~ **Ecological risk assessor.** The department  
11 may establish a permanent [~~exempt~~] position for an ecological  
12 risk assessor for the purpose of assessing ecological risks and  
13 damages. The position shall be appointed by the director  
14 [~~without regard to~~] in accordance with chapter 76. The funds  
15 for this position shall come from the environmental response  
16 revolving fund established in section 128D-2; provided that the  
17 duties of the ecological risk assessor shall bear a rational  
18 nexus to the intent and purposes of ~~[+]this chapter[+]~~."

19           SECTION 10. Section 171-19, Hawaii Revised Statutes, is  
20 amended by amending subsection (a) to read as follows:

21           "(a) There is created in the department a special fund to  
22 be designated as the "special land and development fund".



1 Subject to the Hawaiian Homes Commission Act of 1920, as  
2 amended, and section 5(f) of the Admission Act of 1959, all  
3 proceeds of sale of public lands, including interest on deferred  
4 payments; all moneys collected under section 171-58 for mineral  
5 and water rights; all rents from leases, licenses, and permits  
6 derived from public lands; all moneys collected from lessees of  
7 public lands within industrial parks; all fees, fines, and other  
8 administrative charges collected under this chapter and chapter  
9 183C; a portion of the highway fuel tax collected under chapter  
10 243; all moneys collected by the department for the commercial  
11 use of public trails and trail accesses under the jurisdiction  
12 of the department; transient accommodations tax revenues  
13 collected pursuant to section 237D-6.5(b)(2); and private  
14 contributions for the management, maintenance, and development  
15 of trails and accesses shall be set apart in the fund and shall  
16 be used only as authorized by the legislature for the following  
17 purposes:

18 (1) To reimburse the general fund of the State for  
19 advances made that are required to be reimbursed from  
20 the proceeds derived from sales, leases, licenses, or  
21 permits of public lands;



- 1           (2) For the planning, development, management, operations,  
2           or maintenance of all lands and improvements under the  
3           control and management of the board, including but not  
4           limited to permanent [~~or temporary~~] staff positions  
5           [~~who may~~] that shall be appointed [without regard to]  
6           in accordance with chapter 76[+] and temporary staff  
7           positions that shall be appointed without regard to  
8           chapter 76;
- 9           (3) To repurchase any land, including improvements, in the  
10          exercise by the board of any right of repurchase  
11          specifically reserved in any patent, deed, lease, or  
12          other documents or as provided by law;
- 13          (4) For the payment of all appraisal fees; provided that  
14          all fees reimbursed to the board shall be deposited in  
15          the fund;
- 16          (5) For the payment of publication notices as required  
17          under this chapter; provided that all or a portion of  
18          the expenditures may be charged to the purchaser or  
19          lessee of public lands or any interest therein under  
20          rules adopted by the board;



- 1           (6) For the management, maintenance, and development of
- 2           trails and trail accesses under the jurisdiction of
- 3           the department;
- 4           (7) For the payment to private land developers who have
- 5           contracted with the board for development of public
- 6           lands under section 171-60;
- 7           (8) For the payment of debt service on revenue bonds
- 8           issued by the department, and the establishment of
- 9           debt service and other reserves deemed necessary by
- 10          the board;
- 11          (9) To reimburse the general fund for debt service on
- 12          general obligation bonds issued to finance
- 13          departmental projects, where the bonds are designated
- 14          to be reimbursed from the special land and development
- 15          fund;
- 16          (10) For the protection, planning, management, and
- 17          regulation of water resources under chapter 174C; and
- 18          (11) For other purposes of this chapter."

19           SECTION 11. Section 174C-5, Hawaii Revised Statutes, is  
20 amended to read as follows:

21           "**§174C-5 General powers and duties.** The general  
22 administration of the state water code shall rest with the



1 commission on water resource management. In addition to its  
2 other powers and duties, the commission:

3 (1) Shall carry out topographic surveys, research, and  
4 investigations into all aspects of water use and water  
5 quality;

6 (2) Shall designate water management areas for regulation  
7 under this chapter where the commission, after the  
8 research and investigations mentioned in paragraph  
9 (1), shall consult with the appropriate county council  
10 and county water agency, and after public hearing and  
11 published notice, finds that the water resources of  
12 the areas are being threatened by existing or proposed  
13 withdrawals of water;

14 (3) Shall establish an instream use protection program  
15 designed to protect, enhance, and reestablish, where  
16 practicable, beneficial instream uses of water in the  
17 State;

18 (4) May contract and cooperate with the various agencies  
19 of the federal government and with state and local  
20 administrative and governmental agencies or private  
21 persons;





- 1           (5) May enter, after obtaining the consent of the property  
2           owner, at all reasonable times upon any property other  
3           than dwelling places for the purposes of conducting  
4           investigations and studies or enforcing any of the  
5           provisions of this code, being liable, however, for  
6           actual damage done. If consent cannot be obtained,  
7           reasonable notice shall be given prior to entry;
- 8           (6) Shall cooperate with federal agencies, other state  
9           agencies, county or other local governmental  
10          organizations, and all other public and private  
11          agencies created for the purpose of utilizing and  
12          conserving the waters of the State, and assist these  
13          organizations and agencies in coordinating the use of  
14          their facilities and participate in the exchange of  
15          ideas, knowledge, and data with these organizations  
16          and agencies. For this purpose the commission shall  
17          maintain an advisory staff of experts;
- 18          (7) Shall prepare, publish, and issue such printed  
19          pamphlets and bulletins as the commission deems  
20          necessary for the dissemination of information to the  
21          public concerning its activities;



- 1           (8) May appoint and remove agents [~~and employees~~  
2           ~~including~~], hearings officers, [~~specialists~~] and  
3           consultants necessary to carry out the purposes of  
4           this chapter, who may be engaged by the commission  
5           without regard to the requirements of chapter 76 and  
6           section 78-1[+], and may appoint other employees,  
7           including but not limited to specialists, in  
8           accordance with chapter 76;
- 9           (9) May acquire, lease, and dispose of such real and  
10          personal property as may be necessary in the  
11          performance of its functions, including the  
12          acquisition of real property for the purpose of  
13          conserving and protecting water and water related  
14          resources as provided in section 174C-14;
- 15          (10) Shall identify, by continuing study, those areas of  
16          the State where salt water intrusion is a threat to  
17          fresh water resources and report its findings to the  
18          appropriate county mayor and council and the public;
- 19          (11) Shall provide coordination, cooperation, or approval  
20          necessary to the effectuation of any plan or project  
21          of the federal government in connection with or  
22          concerning the waters of the State. The commission



1 shall approve or disapprove any federal plans or  
2 projects on behalf of the State. No other agency or  
3 department of the State shall assume the duties  
4 delegated to the commission under this paragraph;  
5 except that the department of health shall continue to  
6 exercise the powers vested in it with respect to water  
7 quality, and except that the department of business,  
8 economic development, and tourism shall continue to  
9 carry out its duties and responsibilities under  
10 chapter 205A;

11 (12) Shall plan and coordinate programs for the  
12 development, conservation, protection, control, and  
13 regulation of water resources, based upon the best  
14 available information, and in cooperation with federal  
15 agencies, other state agencies, county or other local  
16 governmental organizations, and other public and  
17 private agencies created for the utilization and  
18 conservation of water;

19 (13) Shall catalog and maintain an inventory of all water  
20 uses and water resources; and

21 (14) Shall determine appurtenant water rights, including  
22 quantification of the amount of water entitled to by



1           that right, which determination shall be valid for  
2           purposes of this chapter."

3           SECTION 12. Section 201G-2, Hawaii Revised Statutes, is  
4 amended by amending subsection (b) to read as follows:

5           "(b) The administration shall employ, exempt from chapter  
6 76 and section 26-35(a)(4), an executive director and an  
7 executive assistant. Effective July 1, 1998, the salary of the  
8 executive director shall be set by the governor within the range  
9 from \$72,886 to \$77,966 a year. Effective July 1, 1998, the  
10 salary of the executive assistant shall be set by the governor  
11 within the range from \$65,597 to \$70,169 a year. The  
12 administration [~~may~~] shall employ, subject to chapter 76,  
13 technical experts and officers, agents, and employees, permanent  
14 and temporary, as required. The administration may also employ  
15 officers, agents, and employees; prescribe their duties and  
16 qualifications; and fix their salaries, not subject to chapter  
17 76, when in the determination of the administration, the  
18 services to be performed are unique and essential to the  
19 execution of the functions of the administration[~~-~~] for a period  
20 not to exceed one year. The administration may call upon the  
21 attorney general for legal services as it may require. The



1 administration may delegate to one or more of its agents or  
2 employees the powers and duties as it deems proper."

3 SECTION 13. Section 202-3, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 (a) The workforce development council shall appoint and  
6 fix the compensation of an executive director, who shall be  
7 exempt from chapter 76, and [~~may~~] shall employ [~~such~~] other  
8 personnel as it deems advisable [~~within~~] in accordance with  
9 chapter 76."

10 SECTION 14. Section 206E-4, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 "**§206E-4 Powers; generally.** Except as otherwise limited  
13 by this chapter, the authority may:

- 14 (1) Sue and be sued;
- 15 (2) Have a seal and alter the same at pleasure;
- 16 (3) Make and execute contracts and all other instruments  
17 necessary or convenient for the exercise of its powers  
18 and functions under this chapter;
- 19 (4) Make and alter bylaws for its organization and  
20 internal management;



- 1           (5) Make rules with respect to its projects, operations,  
2           properties, and facilities, which rules shall be in  
3           conformance with chapter 91;
- 4           (6) Through its executive director appoint [~~officers,~~  
5           ~~agents, and~~] employees, prescribe their duties and  
6           qualifications, and fix their salaries, [~~without~~  
7           ~~regard to~~] in accordance with chapter 76; provided  
8           that officers and agents shall be appointed without  
9           regard to chapter 76;
- 10          (7) Prepare or cause to be prepared a community  
11          development plan for all designated community  
12          development districts;
- 13          (8) Acquire, reacquire, or contract to acquire or  
14          reacquire by grant or purchase real, personal, or  
15          mixed property or any interest therein; to own, hold,  
16          clear, improve, and rehabilitate, and to sell, assign,  
17          exchange, transfer, convey, lease, or otherwise  
18          dispose of or encumber the same;
- 19          (9) Acquire or reacquire by condemnation real, personal,  
20          or mixed property or any interest therein for public  
21          facilities, including but not limited to streets,



- 1 sidewalks, parks, schools, and other public  
2 improvements;
- 3 (10) By itself, or in partnership with qualified persons,  
4 acquire, reacquire, construct, reconstruct,  
5 rehabilitate, improve, alter, or repair or provide for  
6 the construction, reconstruction, improvement,  
7 alteration, or repair of any project; own, hold, sell,  
8 assign, transfer, convey, exchange, lease, or  
9 otherwise dispose of or encumber any project, and in  
10 the case of the sale of any project, accept a purchase  
11 money mortgage in connection therewith; and repurchase  
12 or otherwise acquire any project which the authority  
13 has theretofore sold or otherwise conveyed,  
14 transferred, or disposed of;
- 15 (11) Arrange or contract for the planning, replanning,  
16 opening, grading, or closing of streets, roads,  
17 roadways, alleys, or other places, or for the  
18 furnishing of facilities or for the acquisition of  
19 property or property rights or for the furnishing of  
20 property or services in connection with a project;
- 21 (12) Grant options to purchase any project or to renew any  
22 lease entered into by it in connection with any of its



1 projects, on such terms and conditions as it deems  
2 advisable;

3 (13) Prepare or cause to be prepared plans, specifications,  
4 designs, and estimates of costs for the construction,  
5 reconstruction, rehabilitation, improvement,  
6 alteration, or repair of any project, and from time to  
7 time to modify such plans, specifications, designs, or  
8 estimates;

9 (14) Provide advisory, consultative, training, and  
10 educational services, technical assistance, and advice  
11 to any person, partnership, or corporation, either  
12 public or private, in order to carry out the purposes  
13 of this chapter, and engage the services of  
14 consultants on a contractual basis for rendering  
15 professional and technical assistance and advice;

16 (15) Procure insurance against any loss in connection with  
17 its property and other assets and operations in such  
18 amounts and from such insurers as it deems desirable;

19 (16) Contract for and accept gifts or grants in any form  
20 from any public agency or from any other source;





1       (17) Do any and all things necessary to carry out its  
2           purposes and exercise the powers given and granted in  
3           this chapter; [~~and~~]

4       (18) Allow satisfaction of any affordable housing  
5           requirements imposed by the authority upon any  
6           proposed development project through the construction  
7           of reserved housing, as defined in section 206E-101,  
8           by a person on land located outside the geographic  
9           boundaries of the authority's jurisdiction. Such  
10          substituted housing shall be located on the same  
11          island as the development project and shall be  
12          substantially equal in value to the required reserved  
13          housing units that were to be developed on site. The  
14          authority shall establish the following priority in  
15          the development of reserved housing:

16           (A) Within the community development district;

17           (B) Within areas immediately surrounding the  
18           community development district;

19           (C) Areas within the central urban core;

20           (D) In outlying areas within the same island as the  
21           development project.



1           The Hawaii community development authority shall  
2           adopt rules relating to the approval of reserved  
3           housing that are developed outside of a community  
4           development district. The rules shall include, but  
5           are not limited to, the establishment of guidelines to  
6           ensure compliance with the above priorities."

7           SECTION 15. Section 269-3, Hawaii Revised Statutes, is  
8           amended by amending subsection (a) to read as follows:

9           "(a) The chairperson of the public utilities commission  
10          may appoint and employ [~~such~~] clerks, stenographers, agents,  
11          engineers, accountants, research assistants, economists, legal  
12          secretaries, and enforcement officers, and other assistants for  
13          the public utilities commission [~~as~~] that the chairperson finds  
14          necessary for the performance of the commission's functions and  
15          define their powers and duties. The chairperson may appoint and  
16          at pleasure dismiss a chief administrator [~~, research assistants,~~  
17          ~~economists, legal secretaries, enforcement officers,~~] and [~~such~~]  
18          hearings officers as [~~may be~~] necessary. Notwithstanding  
19          section 103D-209(b), the chairperson shall appoint one or more  
20          attorneys independent of the attorney general who shall act as  
21          attorneys for the commission and define their powers and duties  
22          and fix their compensation. The chief administrator, [~~research~~



1 ~~assistants, economists, legal secretaries, enforcement~~  
2 ~~officers,~~ hearings officers, and attorneys shall be exempt from  
3 chapter 76[~~.—Other~~] and all other employees shall be appointed  
4 [~~as may be needed~~] by the chairperson in accordance with chapter  
5 76."

6 SECTION 16. Section 342B-17, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "~~{~~**§342B-17**~~}~~ **Air quality modelers.** The department may  
9 establish permanent [~~exempt~~] positions known as air quality  
10 modelers for the purpose of assessing the impact of air  
11 releases. The positions shall be appointed by the director  
12 [~~without regard to~~] in accordance with chapter 76. The funds  
13 for these positions shall come from the clean air special fund  
14 established in section 342B-32."

15 SECTION 17. Section 342G-12.5, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "**§342G-12.5 Recycling coordinator.** There is established a  
18 position of assistant to the coordinator of the office of solid  
19 waste management to be known as the recycling coordinator. The  
20 position shall be appointed by the director [~~without regard to~~]  
21 in accordance with chapter 76. [~~Effective July 1, 2005, the~~  
22 ~~recycling coordinator shall be paid a salary set by the~~



1 ~~appointing authority that shall not exceed fifty per cent of the~~  
 2 ~~salary of the director of human resources development. The~~  
 3 ~~recycling coordinator shall be included in any benefit program~~  
 4 ~~generally applicable to the officers and employees of the~~  
 5 ~~State.] "~~

6 SECTION 18. Section 346D-8, Hawaii Revised Statutes, is  
 7 amended to read as follows:

8 "**§346D-8 Personnel [exempt]**. The department of human  
 9 services may employ civil service [~~and non-civil service]~~  
 10 personnel in accordance with chapter 76 to service the waiver  
 11 programs. [~~The personnel employed for the waiver programs may~~  
 12 ~~be exempt from chapter 76, as deemed appropriate by the~~  
 13 ~~department of human services.] "~~

14 SECTION 19. Section 348F-5, Hawaii Revised Statutes, is  
 15 amended to read as follows:

16 "**[+]§348F-5[+] Staff**. The board may hire an executive  
 17 director[~~7~~] without regard to chapter 76, who may hire staff to  
 18 assist in the performance of the board's duties. The staff  
 19 shall be hired [~~without regard to~~] in accordance with chapter  
 20 76[~~; provided that the executive director and staff shall be~~  
 21 ~~eligible for participation in state employee benefit plans]. "~~



1 SECTION 20. Section 371K-3, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§371K-3 General functions, duties, and powers of the**  
4 **executive director.** The executive director shall:

5 (1) Serve as the principal official in state government  
6 responsible for the coordination of programs for the  
7 needy, poor, and disadvantaged persons, refugees, and  
8 immigrants;

9 (2) Oversee, supervise, and direct the performance by  
10 subordinates of activities in such areas as planning,  
11 evaluation, and coordination of programs for  
12 disadvantaged persons, refugees, and immigrants and  
13 development of a statewide service delivery network;

14 (3) Assess the policies and practices of public and  
15 private agencies impacting on the disadvantaged and  
16 conduct advocacy efforts on behalf of the  
17 disadvantaged, refugees, and immigrants;

18 (4) Devise and recommend legislative and administrative  
19 actions for the improvement of services for the  
20 disadvantaged, refugees, and immigrants;

21 (5) Serve as a member of advisory boards and panels of  
22 state agencies in such areas as child development



1 programs, elder programs, social services programs,  
2 health and medical assistance programs, refugee  
3 assistance programs, and immigrant services programs;

4 (6) Administer funds allocated for the office of community  
5 services; and apply for, receive, and disburse grants  
6 and donations from all sources for programs and  
7 services to assist the disadvantaged, refugees, and  
8 immigrants;

9 (7) Adopt, amend, and repeal rules pursuant to chapter 91  
10 for purposes of this chapter;

11 (8) Retain [~~such~~] staff as [~~may be~~] necessary for the  
12 purposes of this chapter [~~, who shall be exempt from~~]  
13 in accordance with chapter 76;

14 (9) Contract for [~~such~~] services as [~~may be~~] necessary for  
15 the purposes of this chapter;

16 (10) Orient members of the advisory council to the goals,  
17 functions, and programs of the office; and

18 (11) Seek the input of council members on all matters  
19 pertaining to the functions of the office."

20 SECTION 21. Section 373C-33, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "**§373C-33 Personnel.** The department of labor and  
2 industrial relations may establish positions and hire necessary  
3 personnel for the purposes of this part [~~without regard to~~] in  
4 accordance with chapter 76."

5           SECTION 22. Section 383-128, Hawaii Revised Statutes, is  
6 amended by amending subsection (k) to read as follows:

7           "(k) The director [~~may~~] shall establish positions and hire  
8 necessary personnel to establish and administer the employment  
9 and training fund [~~without regard to~~] in accordance with chapter  
10 76."

11          SECTION 23. Section 412:2-109, Hawaii Revised Statutes, is  
12 amended by amending subsection (b) to read as follows:

13          "(b) The commissioner may appoint financial institution  
14 examiners, [~~not subject to~~] in accordance with chapter 76, who  
15 shall examine the affairs, transactions, accounts, records,  
16 documents, and assets of financial institutions. The  
17 commissioner also may appoint administrative support personnel,  
18 [~~not subject to~~] in accordance with chapter 76, who shall assist  
19 and support the examiners. The commissioner may pay the  
20 salaries of the financial institution examiners and  
21 administrative support personnel from the compliance resolution  
22 fund."



1 SECTION 24. Section 431:2-215, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3 "(b) Sums from the compliance resolution fund expended by  
4 the commissioner shall be used to defray any administrative  
5 costs, including personnel costs, associated with the programs  
6 of the division, and costs incurred by supporting offices and  
7 divisions. Any law to the contrary notwithstanding, the  
8 commissioner may use the moneys in the fund to employ or retain,  
9 by contract or otherwise [~~without regard to chapter 76,~~  
10 hearings]:

11 (1) Hearings officers [~~]~~ and attorneys [~~investigators,~~]  
12 without regard to chapter 76; and

13 (2) Investigators, accountants, examiners, and other  
14 necessary professional, technical, and support  
15 personnel in accordance with chapter 76

16 to implement and carry out the purposes of title 24 [~~provided~~  
17 ~~that any position, except any attorney position, that is subject~~  
18 ~~to chapter 76 prior to July 1, 1999, shall remain subject to~~  
19 ~~chapter 76]."~~

20 SECTION 25. Section 440G-12, Hawaii Revised Statutes, is  
21 amended by amending subsection (d) to read as follows:

22 "(d) The director may appoint [~~without~~]:





1       (1) Without regard to chapter 76, an administrator~~[7~~  
2       ~~engineers,~~] and one or more attorneys; and  
3       (2) Engineers, financial analysts, and other technical  
4       staff in accordance with chapter 76, as ~~[may be]~~  
5       necessary ~~[and may appoint one or more attorneys]~~  
6 for purposes of enforcing this chapter. The director shall  
7 define their powers and duties and fix their compensation. The  
8 director may also appoint clerical, stenographic, and other  
9 staff as may be necessary for the proper administration and  
10 enforcement of this chapter subject to chapter 76."

11       SECTION 26. Section 802-12, Hawaii Revised Statutes, is  
12 amended to read as follows:

13       "**§802-12 Organization of office; assistance.** Subject to  
14 the approval of the defender council, the state public defender  
15 may employ assistant state public defenders without regard to  
16 chapter 76 and ~~[such]~~ other employees, including investigators,  
17 ~~[as may be]~~ in accordance with chapter 76, necessary to  
18 discharge the function of the office. The assistant public  
19 defenders shall be qualified to practice before the supreme  
20 court of this State~~[. They shall be appointed without regard to~~  
21 ~~chapter 76,~~] and shall serve at the pleasure of the state public  
22 defender. An assistant state public defender may be employed on



1 a part-time basis and when so employed, the assistant public  
2 defender may engage in the general practice of law, other than  
3 in the practice of criminal law."

4 SECTION 27. Act 88, Session Laws of Hawaii 2001, is  
5 amended by amending section 4 to read as follows:

6 "SECTION 4. Effective July 1, 2003, all positions and  
7 employees of the Hawaii public employees health fund who are  
8 subject to chapters 76, Hawaii Revised Statutes, shall be  
9 transferred to the Hawaii employer-union health benefits trust  
10 fund. All officers and employees whose functions are  
11 transferred by this Act shall be transferred with their  
12 functions and shall continue to perform their regular duties  
13 upon their transfer, subject to the state personnel laws and  
14 this Act.

15 All civil service positions and incumbents of the Hawaii  
16 public employees health fund transferred by this Act shall  
17 remain in the civil service and subject to chapters 76 and 77,  
18 Hawaii Revised Statutes; provided that in the event the civil  
19 service administrator position becomes vacant prior to July 1,  
20 2003, its successor shall be appointed pursuant to section 87-28  
21 as amended in section 2 of this Act. [~~When such positions are~~  
22 ~~vacated on or after July 1, 2003, the positions shall be exempt~~



1 ~~from civil service and prospective appointments shall be made~~  
2 ~~pursuant to section 1 of this Act.]~~

3 No officer or employee of the State having tenure shall  
4 suffer any loss of salary, seniority, prior service credit,  
5 vacation, sick leave, or other employee benefit or privilege as  
6 a consequence of this Act, and such officer or employee may be  
7 transferred or appointed to a civil service position without the  
8 necessity of examination; provided that the officer or employee  
9 possesses the minimum qualifications for the position to which  
10 the officer or employee is transferred or appointed; and  
11 provided that subsequent changes in status may be made pursuant  
12 to the applicable civil service and compensation laws.

13 In the event that an office or position held by an officer  
14 or employee having tenure is abolished, the officer or employee  
15 shall not thereby be separated from public employment, but shall  
16 remain in the employment of the State with the same pay and  
17 classification and shall be transferred to some other office or  
18 position for which the officer or employee is eligible under the  
19 personnel laws of the State as determined by the head of the  
20 department or the governor."

21 SECTION 28. Act 128, Session Laws of Hawaii 2004, is  
22 amended by amending section 5 to read as follows:



1           "SECTION 5. This Act shall take effect on July 1, 2004[~~7~~  
2 ~~and shall be repealed on July 1, 2006; provided that section 76-~~  
3 ~~16, Hawaii Revised Statutes, shall be reenacted in the form in~~  
4 ~~which it read on June 30, 2004]."~~

5           SECTION 29. The department of human resources development  
6 shall submit, no later than twenty days prior to the convening  
7 of each regular session beginning with the regular session of  
8 2007, a report of the number of exempt positions that were  
9 converted to civil service during the previous twelve months.  
10 The report shall include, but not be limited to, when the  
11 position was established, the purpose of the position, rationale  
12 for the conversion, and how many exempt positions remain in each  
13 state department after the conversions.

14           SECTION 30. No officer or employee of the State having  
15 tenure shall suffer any loss of salary, seniority, prior service  
16 credit, vacation, sick leave, or other employee benefit or  
17 privilege as a consequence of this Act, and such officer or  
18 employee may be transferred or appointed to a civil service  
19 position without necessity of examination.

20           SECTION 31. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.



# H.B. NO. 2700

1 SECTION 32. This Act shall take effect on July 1, 2006.

2

INTRODUCED BY: Kirk Caldwell

K. Q. Q.  
Butcher  
John A. Caldwell

William F. Jordan  
Bohner

[Signature]

DW

[Signature]

JAN 24 2006

**Report Title:**

Exempt Employees; Civil Service

**Description:**

Converts certain exempt positions to civil service in accordance with Act 253, SLH 2000.

