

JAN 25 2006

A BILL FOR AN ACT

RELATING TO PUBLIC EMPLOYMENT.

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

1 SECTION 1. Section 78-1, Hawaii Revised Statutes, is
2 amended by amending subsections (c) and (d) to read as follows:

3 "(c) All persons seeking employment with the government of
4 the State or in the service of any county shall be citizens,
5 nationals, or permanent resident aliens of the United States, or
6 eligible under federal law for unrestricted employment in the
7 United States, and residents of the State at the [time]
8 beginning of their [~~application for~~] employment and as a
9 condition of eligibility for continued employment.

10 ~~["Resident" means a person who is physically present in the~~
11 ~~State at the time the person claims to have established the~~
12 ~~person's domicile in the State and shows the person's intent is~~
13 ~~to make Hawaii the person's permanent residence. In determining~~
14 ~~this intent, the following factors shall be considered:~~

- 15 ~~(1) Maintenance of a domicile or permanent place of~~
16 ~~residence in the State;~~
- 17 ~~(2) Absence of residency in another state; and~~
- 18 ~~(3) Former residency in the State.~~

S.B. NO. 2335


1 ~~This subsection's requirement for state residency shall not~~
2 ~~apply to applicants for police officer positions; provided that~~
3 ~~upon employment, the police officer shall establish residency as~~
4 ~~a condition of continued employment as a police officer.]~~

5 "Resident" means a person who establishes the person's own
6 home in Hawaii with every intention of making Hawaii the
7 person's permanent residence for an unlimited or indefinite
8 period of time.

9 (d) The ~~[appointing authority]~~ director, as defined in
10 section 76-11, may approve the appointment of persons within the
11 applicable jurisdiction without consideration of the
12 ~~[requirements]~~ residency requirement under subsection (c) when
13 ~~[services]~~ the appointment is essential to the public interest
14 ~~[require]~~, such as when the person possesses highly specialized
15 technical and scientific skills or knowledge or when the
16 appointment is for critical-to-fill and labor shortage
17 positions."

18 SECTION 2. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 3. This Act shall take effect upon its approval.

21
22 INTRODUCED BY: 

23 BY REQUEST

JUSTIFICATION SHEET

SB. NO 2335

DEPARTMENT: Human Resources Development

TITLE: A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYMENT.

PURPOSES: To remove the requirement that applicants must be a resident of Hawaii at the time of their application; to allow the director of a jurisdiction to waive the "residency during employment" requirement for positions within that jurisdiction; and to simplify the definition of "resident."

MEANS: Amend section 78-1(c) and (d), Hawaii Revised Statutes.

JUSTIFICATION: Currently, the law requires applicants to be a resident of Hawaii when they apply for state or county employment. The Legislature imposed this requirement in 1978. Due to the baby boomer retirements expected within the next five years and a highly competitive local labor market, Hawaii's public employers anticipate a greater number of vacancies that will be more and more difficult to fill. Although increasing the applicant pool will increase the application review costs, a larger pool of qualified applicants will be essential if the provision of critical services to the public is to continue.

Furthermore, this bill will authorize the heads of the State's various personnel systems, including the Board of Education, the Board of Regents, the Hawaii Health Systems Corporation, the Judiciary, and DHRD, to waive the residency-during-employment requirement for positions within their respective jurisdictions. Because these agencies conduct most of the recruitments and have the statistics and information relevant to the labor market and their particular jurisdiction's staffing capabilities and needs, they are more qualified to determine

whether the residency requirement ought to be waived.

Finally, the bill adopts the common law domiciliary-based definition of "resident" to simplify the application review process. It also needs to be noted that the constitutionality of the resident-at-time-of-application requirement in section 78-1(c) is presently being challenged in the federal court. See, Walsh v. City and County of Honolulu, et al., Civil No. 05-00378 DAE/LEK. Amending that section in the manner proposed by this bill ought to moot the plaintiffs' claims. However, this bill is not being presented to the Legislature for that purpose.

Impact on the public: This bill would create greater competition for State and county jobs because resident applicants would have to compete against non-resident applicants.

Impact on the department and other agencies: The departments would have a larger pool of qualified applicants to choose from.

Due to the baby boomer retirements expected within the next five years and a highly competitive local labor market, Hawaii's public employers will be faced with increased vacancies. A larger pool of qualified applicants will be essential if critical services to the public are to continue.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: None.

OTHER AGENCIES AFFECTED: All state and county departments and agencies, including the Judiciary and the Hawaii Health Systems Corporation.

EFFECTIVE DATE: Upon approval.