

JAN 25 2006

S.B. NO. 3009

A BILL FOR AN ACT

RELATING TO CIVIL SERVICE 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 civil service exempt positions and required the
4 review of exempt positions annually to determine whether they
5 should 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, section 412:2-109, the special handling fund, section
13 414-13, and unencumbered balances existing on June 30, 2002, in
14 the insurance regulation fund, section 431:2-215, shall be
15 deposited into the compliance resolution fund. This provision
16 shall not apply to the drivers education fund underwriters fee,
17 section 431:10C-115, insurance premium taxes and revenues,
18 revenues of the workers' compensation special compensation fund,
19 section 386-151, the captive insurance administrative fund,
20 section 431:19-101.8, the insurance commissioner's education and
21 training fund, section 431:2-214, the medical malpractice
22 patients' compensation fund as administered under section 5 of



1 Act 232, Session Laws of Hawaii 1984, and fees collected for
2 deposit in the office of consumer protection restitution fund,
3 section 487-14, the real estate appraisers fund, section 466K-1,
4 the real estate recovery fund, section 467-16, the real estate
5 education fund, section 467-19, the contractors recovery fund,
6 section 444-26, the contractors education fund, section 444-29,
7 and the condominium education trust fund, section 514B-71. Any
8 law to the contrary notwithstanding, the director may use the
9 moneys in the fund to employ, without regard to chapter 76,
10 hearings officers [~~, investigators,~~] and attorneys [~~, accountants,~~
11 ~~and other necessary personnel to implement this subsection~~].
12 All other employees shall be employed in accordance with chapter
13 76. Any law to the contrary notwithstanding, the moneys in the
14 fund shall be used to fund the operations of the department.
15 The moneys in the fund may be used to train personnel as the
16 director deems necessary and for any other activity related to
17 compliance resolution.

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

22

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~~] shall employ, [~~without regard to~~] in
6 accordance with chapter 76, [~~and at pleasure dismiss~~] 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~~] to oversee and carry out the programs,
14 projects, and activities on the subject of crime, as set forth
15 in subsection (a). The attorney general shall also employ other
16 support staff, in accordance with chapter 76, necessary for the
17 performance or coordination of the programs, projects, and
18 activities on the subject of crime."

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

21 "(b) The attorney general may also appoint persons whose
22 primary function will be to provide security coverage for the



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

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

11 **"§87A-24 Other powers.** In addition to the power to
12 administer the fund, the board may:

- 13 (1) Collect, receive, deposit, and withdraw money on
14 behalf of the fund;
- 15 (2) Invest moneys in the same manner specified in section
16 88-119(1) (A), (1) (B), (1) (C), (2), (3), (4), (5), (6),
17 and (7);
- 18 (3) Hold, purchase, sell, assign, transfer, or dispose of
19 any securities or other investments of the fund, as
20 well as the proceeds of those investments and any
21 money belonging to the fund;



- 1 (4) Appoint, and at pleasure dismiss, an administrator
2 [~~and other fund staff~~]. The administrator [~~and staff~~]
3 shall be exempt from chapter 76 and shall serve under
4 and at the pleasure of the board;
- 5 (5) Appoint other fund staff who shall be subject to
6 chapter 76;
- 7 [~~(5)~~] (6) Make payments of periodic charges and pay for
8 reasonable expenses incurred in carrying out the
9 purposes of the fund;
- 10 [~~(6)~~] (7) Contract for the performance of financial audits
11 of the fund and claims audits of its insurance
12 carriers;
- 13 [~~(7)~~] (8) Retain auditors, actuaries, investment firms and
14 managers, benefit plan consultants, or other
15 professional advisors to carry out the purposes of
16 this chapter;
- 17 [~~(8)~~] (9) Establish health benefits plan and long-term care
18 benefits plan rates that include administrative and
19 other expenses necessary to effectuate the purposes of
20 the fund; and

1 ~~[(9)]~~ (10) Require any department, agency, or employee of
 2 the State or counties to furnish information to the
 3 board to carry out the purposes of this chapter."

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

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

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

15 "~~[(1)]~~ §128D-2.6 ~~[(1)]~~ **Ecological risk assessor.** The department
 16 may establish a permanent ~~[exempt]~~ civil service position for an
 17 ecological risk assessor for the purpose of assessing ecological
 18 risks and damages. The position shall be appointed by the
 19 director ~~[without regard to]~~ in accordance with chapter 76. The
 20 funds for this position shall come from the environmental
 21 response revolving fund established in section 128D-2; provided
 22 that the duties of the ecological risk assessor shall bear a



1 rational nexus to the intent and purposes of [+]this
2 chapter[+] ."

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

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

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

1 be used only as authorized by the legislature for the following
2 purposes:

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



1 lessee of public lands or any interest therein under
2 rules adopted by the board;

3 (6) For the management, maintenance, and development of
4 trails and trail accesses under the jurisdiction of
5 the department;

6 (7) For the payment to private land developers who have
7 contracted with the board for development of public
8 lands under section 171-60;

9 (8) For the payment of debt service on revenue bonds
10 issued by the department, and the establishment of
11 debt service and other reserves deemed necessary by
12 the board;

13 (9) To reimburse the general fund for debt service on
14 general obligation bonds issued to finance
15 departmental projects, where the bonds are designated
16 to be reimbursed from the special land and development
17 fund;

18 (10) For the protection, planning, management, and
19 regulation of water resources under chapter 174C; and

20 (11) For other purposes of this chapter."

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

1 **"§174C-5 General powers and duties.** The general
2 administration of the state water code shall rest with the
3 commission on water resource management. In addition to its
4 other powers and duties, the commission:

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

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

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

20 (4) May contract and cooperate with the various agencies
21 of the federal government and with state and local

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



1 necessary for the dissemination of information to the
2 public concerning its activities;

3 (8) May appoint and remove agents [~~and employees~~],
4 including hearings officers [~~, specialists,~~] and
5 consultants necessary, to carry out the purposes of
6 this chapter, who may be engaged by the commission
7 without regard to the requirements of chapter 76 and
8 section 78-1;

9 (9) Shall hire employees in accordance with chapter 76;

10 [~~(9)~~] (10) May acquire, lease, and dispose of such real and
11 personal property as may be necessary in the
12 performance of its functions, including the
13 acquisition of real property for the purpose of
14 conserving and protecting water and water related
15 resources as provided in section 174C-14;

16 [~~(10)~~] (11) Shall identify, by continuing study, those areas
17 of the State where salt water intrusion is a threat to
18 fresh water resources and report its findings to the
19 appropriate county mayor and council and the public;

20 [~~(11)~~] (12) Shall provide coordination, cooperation, or
21 approval necessary to the effectuation of any plan or
22 project of the federal government in connection with



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

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

20 [~~(13)~~] (14) Shall catalog and maintain an inventory of all
21 water uses and water resources; and



1 [~~(14)~~] (15) Shall determine appurtenant water rights,
2 including quantification of the amount of water
3 entitled to by that right, which determination shall
4 be valid for purposes of this chapter."

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

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



1 attorney general for legal services as it may require. The
2 administration may delegate to one or more of its agents or
3 employees the powers and duties as it deems proper."

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

6 **"§202-3 Powers of council.** (a) The workforce development
7 council shall appoint and fix the compensation of an executive
8 director, who shall be exempt from chapter 76, and [~~may~~] shall
9 employ such other personnel as it deems advisable within chapter
10 76."

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

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

- 15 (1) Sue and be sued;
- 16 (2) Have a seal and alter the same at pleasure;
- 17 (3) Make and execute contracts and all other instruments
18 necessary or convenient for the exercise of its powers
19 and functions under this chapter;
- 20 (4) Make and alter bylaws for its organization and
21 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 ~~[7]~~ and
5 agents, ~~[and employees,]~~ prescribe their duties and
6 qualifications, and fix their salaries, without regard
7 to chapter 76;

8 (7) Hire employees in accordance with chapter 76;

9 ~~[(7)]~~ (8) Prepare or cause to be prepared a community
10 development plan for all designated community
11 development districts;

12 ~~[(8)]~~ (9) Acquire, reacquire, or contract to acquire or
13 reacquire by grant or purchase real, personal, or
14 mixed property or any interest therein; to own, hold,
15 clear, improve, and rehabilitate, and to sell, assign,
16 exchange, transfer, convey, lease, or otherwise
17 dispose of or encumber the same;

18 ~~[(9)]~~ (10) Acquire or reacquire by condemnation real,
19 personal, or mixed property or any interest therein
20 for public facilities, including but not limited to
21 streets, sidewalks, parks, schools, and other public
22 improvements;



1 [~~(10)~~] (11) By itself, or in partnership with qualified
2 persons, acquire, reacquire, construct, reconstruct,
3 rehabilitate, improve, alter, or repair or provide for
4 the construction, reconstruction, improvement,
5 alteration, or repair of any project; own, hold, sell,
6 assign, transfer, convey, exchange, lease, or
7 otherwise dispose of or encumber any project, and in
8 the case of the sale of any project, accept a purchase
9 money mortgage in connection therewith; and repurchase
10 or otherwise acquire any project which the authority
11 has theretofore sold or otherwise conveyed,
12 transferred, or disposed of;

13 [~~(11)~~] (12) Arrange or contract for the planning,
14 replanning, opening, grading, or closing of streets,
15 roads, roadways, alleys, or other places, or for the
16 furnishing of facilities or for the acquisition of
17 property or property rights or for the furnishing of
18 property or services in connection with a project;

19 [~~(12)~~] (13) Grant options to purchase any project or to
20 renew any lease entered into by it in connection with
21 any of its projects, on such terms and conditions as
22 it deems advisable;



1 [~~(13)~~] (14) Prepare or cause to be prepared plans,
2 specifications, designs, and estimates of costs for
3 the construction, reconstruction, rehabilitation,
4 improvement, alteration, or repair of any project, and
5 from time to time to modify such plans,
6 specifications, designs, or estimates;

7 [~~(14)~~] (15) Provide advisory, consultative, training, and
8 educational services, technical assistance, and advice
9 to any person, partnership, or corporation, either
10 public or private, in order to carry out the purposes
11 of this chapter, and engage the services of
12 consultants on a contractual basis for rendering
13 professional and technical assistance and advice;

14 [~~(15)~~] (16) Procure insurance against any loss in connection
15 with its property and other assets and operations in
16 such amounts and from such insurers as it deems
17 desirable;

18 [~~(16)~~] (17) Contract for and accept gifts or grants in any
19 form from any public agency or from any other source;

20 [~~(17)~~] (18) Do any and all things necessary to carry out its
21 purposes and exercise the powers given and granted in
22 this chapter; and

1 [~~(18)~~] (19) Allow satisfaction of any affordable housing
2 requirements imposed by the authority upon any
3 proposed development project through the construction
4 of reserved housing, as defined in section 206E-101,
5 by a person on land located outside the geographic
6 boundaries of the authority's jurisdiction. Such
7 substituted housing shall be located on the same
8 island as the development project and shall be
9 substantially equal in value to the required reserved
10 housing units that were to be developed on site. The
11 authority shall establish the following priority in
12 the development of reserved housing:

- 13 (A) Within the community development district;
- 14 (B) Within areas immediately surrounding the
- 15 community development district;
- 16 (C) Areas within the central urban core;
- 17 (D) In outlying areas within the same island as the
- 18 development project.

19 The Hawaii community development authority shall
20 adopt rules relating to the approval of reserved
21 housing that are developed outside of a community
22 development district. The rules shall include, but



1 are not limited to, the establishment of guidelines to
2 ensure compliance with the above priorities."

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

5 "(a) The chairperson of the public utilities commission
6 may appoint and employ such clerks, stenographers, agents,
7 engineers, accountants, and other assistants for the public
8 utilities commission as the chairperson finds necessary for the
9 performance of the commission's functions and define their
10 powers and duties. The chairperson may appoint and at pleasure
11 dismiss a chief administrator[, ~~research assistants, economists,~~
12 ~~legal secretaries, enforcement officers,~~] and [such] hearings
13 officers as may be necessary. Notwithstanding section
14 103D-209(b), the chairperson shall appoint one or more attorneys
15 independent of the attorney general who shall act as attorneys
16 for the commission and define their powers and duties and fix
17 their compensation. The chief administrator, [~~research~~
18 ~~assistants, economists, legal secretaries, enforcement~~
19 ~~officers,~~] hearings officers, and attorneys shall be exempt from
20 chapter 76. Other employees shall be appointed [~~as may be~~
21 ~~needed~~] by the chairperson in accordance with chapter 76."

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

3 "[~~§~~342B-17~~]~~ **Air quality modelers.** The department may
4 establish permanent [~~exempt~~] civil service positions known as
5 air quality modelers for the purpose of assessing the impact of
6 air releases. The positions shall be appointed by the director
7 [~~without regard to~~] in accordance with chapter 76. The funds
8 for these positions shall come from the clean air special fund
9 established in section 342B-32."

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

12 "**§342G-12.5 Recycling coordinator.** There is established a
13 position of assistant to the coordinator of the office of solid
14 waste management to be known as the recycling coordinator. The
15 position shall be appointed by the director [~~without regard to~~]
16 in accordance with chapter 76. [~~Effective July 1, 2005, the~~
17 ~~recycling coordinator shall be paid a salary set by the~~
18 ~~appointing authority that shall not exceed fifty per cent of the~~
19 ~~salary of the director of human resources development. The~~
20 ~~recycling coordinator shall be included in any benefit program~~
21 ~~generally applicable to the officers and employees of the~~
22 ~~State.] "~~



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

3 **"§346D-8 Personnel exempt.** The department of human
4 services [~~may~~] shall employ civil service [~~and non-civil~~
5 ~~service~~] personnel in accordance with chapter 76 to service the
6 waiver programs. [~~The personnel employed for the waiver~~
7 ~~programs may be exempt from chapter 76, as deemed appropriate by~~
8 ~~the department of human services.~~]"

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

11 **"[~~§~~348F-5 [~~]~~] Staff.** The board may hire an executive
12 director, who may hire staff to assist in the performance of the
13 board's duties. The staff shall be hired [~~without regard to~~] in
14 accordance with chapter 76; provided that the executive director
15 [~~and staff~~] shall be eligible for participation in state
16 employee benefit plans."

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

19 **"§371K-3 General functions, duties, and powers of the**
20 **executive director.** The executive director shall:

- 21 (1) Serve as the principal official in state government
22 responsible for the coordination of programs for the



- 1 needy, poor, and disadvantaged persons, refugees, and
2 immigrants;
- 3 (2) Oversee, supervise, and direct the performance by
4 subordinates of activities in such areas as planning,
5 evaluation, and coordination of programs for
6 disadvantaged persons, refugees, and immigrants and
7 development of a statewide service delivery network;
- 8 (3) Assess the policies and practices of public and
9 private agencies impacting on the disadvantaged and
10 conduct advocacy efforts on behalf of the
11 disadvantaged, refugees, and immigrants;
- 12 (4) Devise and recommend legislative and administrative
13 actions for the improvement of services for the
14 disadvantaged, refugees, and immigrants;
- 15 (5) Serve as a member of advisory boards and panels of
16 state agencies in such areas as child development
17 programs, elder programs, social services programs,
18 health and medical assistance programs, refugee
19 assistance programs, and immigrant services programs;
- 20 (6) Administer funds allocated for the office of community
21 services; and apply for, receive, and disburse grants
22 and donations from all sources for programs and



- 1 services to assist the disadvantaged, refugees, and
- 2 immigrants;
- 3 (7) Adopt, amend, and repeal rules pursuant to chapter 91
- 4 for purposes of this chapter;
- 5 (8) Retain such staff as may be necessary for the purposes
- 6 of this chapter, [~~who shall be exempt from~~] in
- 7 accordance with chapter 76;
- 8 (9) Contract for such services as may be necessary for the
- 9 purposes of this chapter;
- 10 (10) Orient members of the advisory council to the goals,
- 11 functions, and programs of the office; and
- 12 (11) Seek the input of council members on all matters
- 13 pertaining to the functions of the office."

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

16 **"§373C-33 Personnel.** The department of labor and
17 industrial relations [~~may~~] shall establish positions and hire
18 necessary personnel for the purposes of this part [~~without~~
19 ~~regard to~~] in accordance with chapter 76."

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



1 "(k) The director [~~may~~] shall establish positions and hire
2 necessary personnel to establish and administer the employment
3 and training fund [~~without regard to~~] in accordance with chapter
4 76."

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

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

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

19 "(b) Sums from the compliance resolution fund expended by
20 the commissioner shall be used to defray any administrative
21 costs, including personnel costs, associated with the programs
22 of the division, and costs incurred by supporting offices and



1 divisions. Any law to the contrary notwithstanding, the
2 commissioner may use the moneys in the fund to employ or retain,
3 by contract or otherwise, without regard to chapter 76, hearings
4 officers [~~;~~] and attorneys [~~;~~ investigators,]. Investigators
5 accountants, examiners, and other necessary professional,
6 technical, and support personnel to implement and carry out the
7 purposes of title 24 [~~;~~ ~~provided that any position, except any~~
8 ~~attorney position, that is subject to chapter 76 prior to~~
9 ~~July 1, 1999, shall remain subject to]~~ shall be hired in
10 accordance with chapter 76."

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

13 "(d) The director may appoint, without regard to chapter
14 76, an administrator [~~;~~ ~~engineers, financial analysts, and other~~
15 ~~technical staff as may be necessary]~~ and may appoint one or more
16 attorneys for purposes of enforcing this chapter. The director
17 shall define their powers and duties and fix their compensation.
18 The director [~~may also~~] shall appoint professional, clerical,
19 stenographic, and other staff as may be necessary for the proper
20 administration and enforcement of this chapter subject to
21 chapter 76."



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

3 **"§802-12 Organization of office; assistance.** Subject to
4 the approval of the defender council, the state public defender
5 may employ assistant state public defenders and such other
6 employees, including investigators, as may be necessary to
7 discharge the function of the office. The assistant public
8 defenders shall be qualified to practice before the supreme
9 court of this State. [~~They~~] Assistant state public defenders
10 shall be appointed without regard to chapter 76, and shall serve
11 at the pleasure of the state public defender. All other
12 employees shall be appointed in accordance with chapter 76. An
13 assistant state public defender may be employed on a part-time
14 basis and when so employed, the assistant public defender may
15 engage in the general practice of law, other than in the
16 practice of criminal law."

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

19 "SECTION 4. Effective July 1, 2003, all positions and
20 employees of the Hawaii public employees health fund who are
21 subject to chapters 76, Hawaii Revised Statutes, shall be
22 transferred to the Hawaii employer-union health benefits trust



1 fund. All officers and employees whose functions are
 2 transferred by this Act shall be transferred with their
 3 functions and shall continue to perform their regular duties
 4 upon their transfer, subject to the state personnel laws and
 5 this Act.

6 All civil service positions and incumbents of the Hawaii
 7 public employees health fund transferred by this Act shall
 8 remain in the civil service and subject to chapters 76 and 77,
 9 Hawaii Revised Statutes; provided that in the event the civil
 10 service administrator position becomes vacant prior to July 1,
 11 2003, its successor shall be appointed pursuant to section 87-28
 12 as amended in section 2 of this Act. [~~When such positions are~~
 13 ~~vacated on or after July 1, 2003, the positions shall be exempt~~
 14 ~~from civil service and prospective appointments shall be made~~
 15 ~~pursuant to section 1 of this Act.]~~

16 No officer or employee of the State having tenure shall
 17 suffer any loss of salary, seniority, prior service credit,
 18 vacation, sick leave, or other employee benefit or privilege as
 19 a consequence of this Act, and such officer or employee may be
 20 transferred or appointed to a civil service position without the
 21 necessity of examination; provided that the officer or employee
 22 possesses the minimum qualifications for the position to which



1 transferred or appointed; and provided that subsequent changes
2 in status may be made pursuant to the applicable civil service
3 and compensation laws.

4 In the event that an office or position held by an officer
5 or employee having tenure is abolished, the officer or employee
6 shall not thereby be separated from public employment, but shall
7 remain in the employment of the State with the same pay and
8 classification and shall be transferred to some other office or
9 position for which the officer or employee is eligible under the
10 personnel laws of the State as determined by the head of the
11 department or the governor."

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

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

18 SECTION 29. The department of human resources development
19 shall submit, no later than twenty days prior to the convening
20 of each regular session beginning with the regular session of
21 2007, a report of the number of exempt positions that were
22 converted to civil service during the previous twelve months.



1 The report shall include, but not be limited to, when the
 2 position was established, the purpose of the position, rationale
 3 for the conversion, and how many exempt positions remain in each
 4 state department after the conversions.

5 SECTION 30. Statutory material to be repealed is bracketed
 6 and stricken. New statutory material is underscored.

7 SECTION 31. This Act shall take effect on July 1, 2006.
 8

INTRODUCED BY:

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Report Title:
Exempt Employee Positions

SB. NO. 3009

Description:

Changes the status of statutorily exempt positions to conform with the annual review of these positions under Act 253, SLH 2000.

