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# 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           assistant administrator, financial management officer,  
4           information systems analyst, health program benefits  
5           manager, any other equal or higher level managers, and  
6           an administrative secretary, who shall be exempt from  
7           chapter 76 and shall serve under and at the pleasure  
8           of the board;
- 9           (5) Appoint other fund staff who shall be subject to  
10           chapter 76;
- 11          ~~[-(5)]~~ (6) Make payments of periodic charges and pay for  
12           reasonable expenses incurred in carrying out the  
13           purposes of the fund;
- 14          ~~[-(6)]~~ (7) Contract for the performance of financial audits  
15           of the fund and claims audits of its insurance  
16           carriers;
- 17          ~~[-(7)]~~ (8) Retain auditors, actuaries, investment firms and  
18           managers, benefit plan consultants, or other  
19           professional advisors to carry out the purposes of  
20           this chapter;
- 21          ~~[-(8)]~~ (9) Establish health benefits plan and long-term care  
22           benefits plan rates that include administrative and



1 other expenses necessary to effectuate the purposes of  
2 the fund; and

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

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

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

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

17 " ~~[+] §128D-2.6 [ ]~~ **Ecological risk assessor.** The department  
18 may establish a permanent ~~[exempt]~~ civil service position for an  
19 ecological risk assessor for the purpose of assessing ecological  
20 risks and damages. The position shall be appointed by the  
21 director ~~[without regard to]~~ in accordance with chapter 76. The  
22 funds for this position shall come from the environmental



1 response revolving fund established in section 128D-2; provided  
2 that the duties of the ecological risk assessor shall bear a  
3 rational nexus to the intent and purposes of [+]this  
4 chapter[+] ."

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

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



1 of trails and accesses shall be set apart in the fund and shall  
2 be used only as authorized by the legislature for the following  
3 purposes:

4 (1) To reimburse the general fund of the State for  
5 advances made that are required to be reimbursed from  
6 the proceeds derived from sales, leases, licenses, or  
7 permits of public lands;

8 (2) For the planning, development, management, operations,  
9 or maintenance of all lands and improvements under the  
10 control and management of the board, including but not  
11 limited to permanent or temporary staff positions who  
12 [may] shall be appointed [without regard to] in  
13 accordance with chapter 76;

14 (3) To repurchase any land, including improvements, in the  
15 exercise by the board of any right of repurchase  
16 specifically reserved in any patent, deed, lease, or  
17 other documents or as provided by law;

18 (4) For the payment of all appraisal fees; provided that  
19 all fees reimbursed to the board shall be deposited in  
20 the fund;

21 (5) For the payment of publication notices as required  
22 under this chapter; provided that all or a portion of





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

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

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

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

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



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

1 (7) Shall prepare, publish, and issue [~~such~~] printed  
2 pamphlets and bulletins as the commission deems  
3 necessary for the dissemination of information to the  
4 public concerning its activities;

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

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

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

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

1       ~~[(11)]~~ (12) Shall provide coordination, cooperation, or  
2       approval necessary to the effectuation of any plan or  
3       project of the federal government in connection with  
4       or concerning the waters of the State. The commission  
5       shall approve or disapprove any federal plans or  
6       projects on behalf of the State. No other agency or  
7       department of the State shall assume the duties  
8       delegated to the commission under this paragraph;  
9       except that the department of health shall continue to  
10      exercise the powers vested in it with respect to water  
11      quality, and except that the department of business,  
12      economic development, and tourism shall continue to  
13      carry out its duties and responsibilities under  
14      chapter 205A;

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





1 execution of the functions of the administration[-] for a period  
2 not to exceed one year. The administration may call upon the  
3 attorney general for legal services as it may require. The  
4 administration may delegate to one or more of its agents or  
5 employees the powers and duties as it deems proper."

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

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

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

15 "**§206E-4 Powers; generally.** Except as otherwise limited  
16 by this chapter, the authority may:

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



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



1 streets, sidewalks, parks, schools, and other public  
2 improvements;

3 ~~[(10)]~~ (11) By itself, or in partnership with qualified  
4 persons, 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)]~~ (12) Arrange or contract for the planning,  
16 replanning, opening, grading, or closing of streets,  
17 roads, 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)]~~ (13) Grant options to purchase any project or to  
22 renew any lease entered into by it in connection with

1 any of its projects, on [~~such~~] terms and conditions as  
2 it deems advisable;

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

9 [~~(14)~~] (15) 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)~~] (16) Procure insurance against any loss in connection  
17 with its property and other assets and operations in  
18 [~~such~~] any amounts and from [~~such~~] any insurers as it  
19 deems desirable;

20 [~~(16)~~] (17) Contract for and accept gifts or grants in any  
21 form from any public agency or from any other source;





1       ~~[(17)]~~ (18) 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)]~~ (19) 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                  The 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~~] any clerks, stenographers, agents,  
 11          engineers, accountants, and other assistants for the public  
 12          utilities commission as the chairperson finds necessary for the  
 13          performance of the commission's functions and define their  
 14          powers and duties. The chairperson may appoint and at pleasure  
 15          dismiss a chief administrator [~~, research assistants, economists,~~  
 16          ~~legal secretaries, enforcement officers,~~] and [~~such~~] hearings  
 17          officers as may be necessary. Notwithstanding section  
 18          103D-209(b), the chairperson shall appoint one or more attorneys  
 19          independent of the attorney general who shall act as attorneys  
 20          for the commission and define their powers and duties and fix  
 21          their compensation. The chief administrator, [~~research~~  
 22          ~~assistants, economists, legal secretaries, enforcement~~

1 ~~officers,~~] hearings officers, and attorneys shall be exempt from  
2 chapter 76. Other employees shall be appointed [~~as may be~~  
3 ~~needed~~] by the chairperson in accordance with chapter 76."

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

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

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

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



1 ~~recycling coordinator shall be included in any benefit program~~  
2 ~~generally applicable to the officers and employees of the~~  
3 ~~State.] "~~

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

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

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

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

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

1           "§371K-3 General functions, duties, and powers of the  
2 executive director. The executive director shall:

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

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

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

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

19          (5) Serve as a member of advisory boards and panels of  
20          state agencies in such areas as child development  
21          programs, elder programs, social services programs,

- 1 health and medical assistance programs, refugee
- 2 assistance programs, and immigrant services programs;
- 3 (6) Administer funds allocated for the office of community
- 4 services; and apply for, receive, and disburse grants
- 5 and donations from all sources for programs and
- 6 services to assist the disadvantaged, refugees, and
- 7 immigrants;
- 8 (7) Adopt, amend, and repeal rules pursuant to chapter 91
- 9 for purposes of this chapter;
- 10 (8) Retain such staff as may be necessary for the purposes
- 11 of this chapter, [~~who shall be exempt from~~] in
- 12 accordance with chapter 76;
- 13 (9) Contract for [~~such~~] services as may be necessary for
- 14 the purposes of this chapter;
- 15 (10) Orient members of the advisory council to the goals,
- 16 functions, and programs of the office; and
- 17 (11) Seek the input of council members on all matters
- 18 pertaining to the functions of the office."

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

21 "**§373C-33 Personnel.** The department of labor and  
 22 industrial relations [~~may~~] shall establish positions and hire

1 necessary personnel for the purposes of this part [~~without~~  
2 ~~regard to~~] in accordance with chapter 76."

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

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

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

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

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



1           "(b) Sums from the compliance resolution fund expended by  
2 the commissioner shall be used to defray any administrative  
3 costs, including personnel costs, associated with the programs  
4 of the division, and costs incurred by supporting offices and  
5 divisions. Any law to the contrary notwithstanding, the  
6 commissioner may use the moneys in the fund to employ or retain,  
7 by contract or otherwise, without regard to chapter 76, hearings  
8 officers~~[,]~~ and attorneys~~[, investigators,]~~. Investigators  
9 accountants, examiners, and other necessary professional,  
10 technical, and support personnel, required to implement and  
11 carry out the purposes of title 24~~[, provided that any position,~~  
12 ~~except any attorney position, that is subject to chapter 76~~  
13 ~~prior to July 1, 1999, shall remain subject to]~~, shall be hired  
14 in accordance with chapter 76."

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

17           "(d) The director may appoint, without regard to chapter  
18 76, an administrator~~[, engineers, financial analysts, and other~~  
19 ~~technical staff as may be necessary]~~ and ~~[may appoint]~~ one or  
20 more attorneys for purposes of enforcing this chapter. The  
21 director shall define their powers and duties and fix their  
22 compensation. The director ~~[may also]~~ shall appoint





1 professional, clerical, stenographic, and other staff as may be  
2 necessary for the proper administration and enforcement of this  
3 chapter subject to chapter 76."

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

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

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



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

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

20           No officer or employee of the State having tenure shall  
21 suffer any loss of salary, seniority, prior service credit,  
22 vacation, sick leave, or other employee benefit or privilege as



1 a consequence of this Act, and such officer or employee may be  
2 transferred or appointed to a civil service position without the  
3 necessity of examination; provided that the officer or employee  
4 possesses the minimum qualifications for the position to which  
5 transferred or appointed; and provided that subsequent changes  
6 in status may be made pursuant to the applicable civil service  
7 and compensation laws.

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

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

18 "SECTION 5. This Act shall take effect on July 1, 2004,  
19 and shall be repealed on July 1, [~~2006~~] 2007; provided that  
20 section 76-16, Hawaii Revised Statutes, shall be reenacted in  
21 the form in which it read on June 30, 2004."



1           SECTION 29. The department of human resources development  
2 shall submit, no later than twenty days prior to the convening  
3 of each regular session beginning with the regular session of  
4 2007, a report of the number of exempt positions that were  
5 converted to civil service positions during the previous twelve  
6 months. The report shall include, but not be limited to, when  
7 the position was established, the purpose of the position,  
8 rationale for the conversion, and how many exempt positions  
9 remain in each state department after the conversions.

10           SECTION 30. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

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

**Report Title:**

Exempt Employee Positions

**Description:**

Changes the status of statutorily exempt positions to conform with the annual review of these positions under Act 253, SLH 2000. (SD1)

