
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:



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 174C-5, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§174C-5 General powers and duties.** The general
12 administration of the state water code shall rest with the
13 commission on water resource management. In addition to its
14 other powers and duties, the commission:

15 (1) Shall carry out topographic surveys, research, and
16 investigations into all aspects of water use and water
17 quality;

18 (2) Shall designate water management areas for regulation
19 under this chapter where the commission, after the
20 research and investigations mentioned in paragraph
21 (1), shall consult with the appropriate county council
22 and county water agency, and after public hearing and



1 published notice, finds that the water resources of
2 the areas are being threatened by existing or proposed
3 withdrawals of water;

4 (3) Shall establish an instream use protection program
5 designed to protect, enhance, and reestablish, where
6 practicable, beneficial instream uses of water in the
7 State;

8 (4) May contract and cooperate with the various agencies
9 of the federal government and with state and local
10 administrative and governmental agencies or private
11 persons;

12 (5) May enter, after obtaining the consent of the property
13 owner, at all reasonable times upon any property other
14 than dwelling places for the purposes of conducting
15 investigations and studies or enforcing any of the
16 provisions of this code, being liable, however, for
17 actual damage done. If consent cannot be obtained,
18 reasonable notice shall be given prior to entry;

19 (6) Shall cooperate with federal agencies, other state
20 agencies, county or other local governmental
21 organizations, and all other public and private
22 agencies created for the purpose of utilizing and



1 conserving the waters of the State, and assist these
2 organizations and agencies in coordinating the use of
3 their facilities and participate in the exchange of
4 ideas, knowledge, and data with these organizations
5 and agencies. For this purpose the commission shall
6 maintain an advisory staff of experts;

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

11 (8) May appoint and remove agents [~~and employees~~],
12 including hearings officers[, ~~specialists~~], and
13 consultants, necessary to carry out the purposes of
14 this chapter, who may be engaged by the commission
15 without regard to the requirements of chapter 76 and
16 section 78-1;

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

18 [-9-] (10) May acquire, lease, and dispose of such real and
19 personal property as may be necessary in the
20 performance of its functions, including the
21 acquisition of real property for the purpose of



1 conserving and protecting water and water related
2 resources as provided in section 174C-14;

3 ~~[+10+]~~ (11) Shall identify, by continuing study, those areas
4 of the State where salt water intrusion is a threat to
5 fresh water resources and report its findings to the
6 appropriate county mayor and council and the public;

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

21 ~~[+12+]~~ (13) Shall plan and coordinate programs for the
22 development, conservation, protection, control, and



1 regulation of water resources, based upon the best
 2 available information, and in cooperation with federal
 3 agencies, other state agencies, county or other local
 4 governmental organizations, and other public and
 5 private agencies created for the utilization and
 6 conservation of water;

7 ~~(13)~~ (14) Shall catalog and maintain an inventory of all
 8 water uses and water resources; and

9 ~~(14)~~ (15) Shall determine appurtenant water rights,
 10 including quantification of the amount of water
 11 entitled to by that right, which determination shall
 12 be valid for purposes of this chapter."

13 SECTION 8. Section 202-3, Hawaii Revised Statutes, is
 14 amended by amending subsection (a) to read as follows:

15 "(a) The workforce development council shall appoint and
 16 fix the compensation of an executive director, who shall be
 17 exempt from chapter 76, and ~~may~~ shall employ ~~such~~ any other
 18 personnel as it deems advisable within chapter 76."

19 SECTION 9. Section 206E-4, Hawaii Revised Statutes, is
 20 amended to read as follows:

21 "**§206E-4 Powers; generally.** Except as otherwise limited
 22 by this chapter, the authority may:



- 1 (1) Sue and be sued;
- 2 (2) Have a seal and alter the same at pleasure;
- 3 (3) Make and execute contracts and all other instruments
- 4 necessary or convenient for the exercise of its powers
- 5 and functions under this chapter;
- 6 (4) Make and alter bylaws for its organization and
- 7 internal management;
- 8 (5) Make rules with respect to its projects, operations,
- 9 properties, and facilities, which rules shall be in
- 10 conformance with chapter 91;
- 11 (6) Through its executive director appoint officers~~[7]~~ and
- 12 agents, [~~and employees,~~] prescribe their duties and
- 13 qualifications, and fix their salaries, without regard
- 14 to chapter 76;
- 15 (7) Hire employees in accordance with chapter 76;
- 16 ~~[(7)]~~ (8) Prepare or cause to be prepared a community
- 17 development plan for all designated community
- 18 development districts;
- 19 ~~[(8)]~~ (9) Acquire, reacquire, or contract to acquire or
- 20 reacquire by grant or purchase real, personal, or
- 21 mixed property or any interest therein; to own, hold,
- 22 clear, improve, and rehabilitate, and to sell, assign,



1 exchange, transfer, convey, lease, or otherwise
2 dispose of or encumber the same;

3 [~~+9~~] (10) Acquire or reacquire by condemnation real,
4 personal, or mixed property or any interest therein
5 for public facilities, including but not limited to
6 streets, sidewalks, parks, schools, and other public
7 improvements;

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

20 [~~+11~~] (12) Arrange or contract for the planning,
21 replanning, opening, grading, or closing of streets,
22 roads, roadways, alleys, or other places, or for the

1 furnishing of facilities or for the acquisition of
2 property or property rights or for the furnishing of
3 property or services in connection with a project;

4 ~~(12)~~ (13) Grant options to purchase any project or to
5 renew any lease entered into by it in connection with
6 any of its projects, on ~~such~~ terms and conditions as
7 it deems advisable;

8 ~~(13)~~ (14) Prepare or cause to be prepared plans,
9 specifications, designs, and estimates of costs for
10 the construction, reconstruction, rehabilitation,
11 improvement, alteration, or repair of any project, and
12 from time to time to modify such plans,
13 specifications, designs, or estimates;

14 ~~(14)~~ (15) Provide advisory, consultative, training, and
15 educational services, technical assistance, and advice
16 to any person, partnership, or corporation, either
17 public or private, in order to carry out the purposes
18 of this chapter, and engage the services of
19 consultants on a contractual basis for rendering
20 professional and technical assistance and advice;

21 ~~(15)~~ (16) Procure insurance against any loss in connection
22 with its property and other assets and operations in

1 ~~[such]~~ any amounts and from ~~[such]~~ any insurers as it
2 deems desirable;

3 ~~[+16+]~~ (17) Contract for and accept gifts or grants in any
4 form from any public agency or from any other source;

5 ~~[+17+]~~ (18) Do any and all things necessary to carry out its
6 purposes and exercise the powers given and granted in
7 this chapter; and

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

- 20 (A) Within the community development district;
- 21 (B) Within areas immediately surrounding the
- 22 community development district;

1 (C) Areas within the central urban core;

2 (D) In outlying areas within the same island as the
3 development project.

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

10 SECTION 10. Section 269-3, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

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



1 for the commission and define their powers and duties and fix
2 their compensation. The chief administrator, [~~research~~
3 ~~assistants, economists, legal secretaries, enforcement~~
4 ~~officers,~~] hearings officers, and attorneys shall be exempt from
5 chapter 76. Other employees shall be appointed [~~as may be~~
6 ~~needed~~] by the chairperson in accordance with chapter 76."

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

9 "**§342G-12.5 Recycling coordinator.** There is established a
10 position of assistant to the coordinator of the office of solid
11 waste management to be known as the recycling coordinator. The
12 position shall be appointed by the director [~~without regard to~~
13 in accordance with chapter 76. [~~Effective July 1, 2005, the~~
14 ~~recycling coordinator shall be paid a salary set by the~~
15 ~~appointing authority that shall not exceed fifty per cent of the~~
16 ~~salary of the director of human resources development. The~~
17 ~~recycling coordinator shall be included in any benefit program~~
18 ~~generally applicable to the officers and employees of the~~
19 ~~State.]"~~

20 SECTION 12. Section 346D-8, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "**§346D-8 Personnel exempt.** The department of human
2 services [may] shall employ civil service [~~and non-civil~~
3 ~~service]~~ personnel in accordance with chapter 76 to service the
4 waiver programs. [~~The personnel employed for the waiver~~
5 ~~programs may be exempt from chapter 76, as deemed appropriate by~~
6 ~~the department of human services.]"~~

7 SECTION 13. Section 371K-3, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§371K-3 General functions, duties, and powers of the**
10 **executive director.** The executive director shall:

- 11 (1) Serve as the principal official in state government
12 responsible for the coordination of programs for the
13 needy, poor, and disadvantaged persons, refugees, and
14 immigrants;
- 15 (2) Oversee, supervise, and direct the performance by
16 subordinates of activities in such areas as planning,
17 evaluation, and coordination of programs for
18 disadvantaged persons, refugees, and immigrants and
19 development of a statewide service delivery network;
- 20 (3) Assess the policies and practices of public and
21 private agencies impacting on the disadvantaged and



- 1 conduct advocacy efforts on behalf of the
2 disadvantaged, refugees, and immigrants;
- 3 (4) Devise and recommend legislative and administrative
4 actions for the improvement of services for the
5 disadvantaged, refugees, and immigrants;
- 6 (5) Serve as a member of advisory boards and panels of
7 state agencies in such areas as child development
8 programs, elder programs, social services programs,
9 health and medical assistance programs, refugee
10 assistance programs, and immigrant services programs;
- 11 (6) Administer funds allocated for the office of community
12 services; and apply for, receive, and disburse grants
13 and donations from all sources for programs and
14 services to assist the disadvantaged, refugees, and
15 immigrants;
- 16 (7) Adopt, amend, and repeal rules pursuant to chapter 91
17 for purposes of this chapter;
- 18 (8) Retain such staff as may be necessary for the purposes
19 of this chapter, [~~who shall be exempt from~~] in
20 accordance with chapter 76;
- 21 (9) Contract for [~~such~~] services as may be necessary for
22 the purposes of this chapter;



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

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

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

7 "**§373C-33 Personnel.** The department of labor and
8 industrial relations [~~may~~] shall establish positions and hire
9 necessary personnel for the purposes of this part [~~without~~
10 ~~regard to~~] in accordance with chapter 76."

11 SECTION 15. Section 383-128, Hawaii Revised Statutes, is
12 amended by amending subsection (k) to read as follows:

13 "(k) The director [~~may~~] shall establish positions and hire
14 necessary personnel to establish and administer the employment
15 and training fund [~~without regard to~~] in accordance with chapter
16 76."

17 SECTION 16. Section 412:2-109, Hawaii Revised Statutes, is
18 amended by amending subsection (b) to read as follows:

19 "(b) The commissioner [~~may~~] shall appoint financial
20 institution examiners, [~~not subject to~~] in accordance with
21 chapter 76, who shall examine the affairs, transactions,
22 accounts, records, documents, and assets of financial



1 institutions. The commissioner [~~also may~~] shall appoint
2 administrative support personnel, [~~not subject to~~] in accordance
3 with chapter 76, who shall assist and support the examiners.

4 The commissioner may pay the salaries of the financial
5 institution examiners and administrative support personnel from
6 the compliance resolution fund."

7 SECTION 17. Section 440G-12, Hawaii Revised Statutes, is
8 amended by amending subsection (d) to read as follows:

9 "(d) The director may appoint, without regard to chapter
10 76, an administrator[~~, engineers, financial analysts, and other~~
11 ~~technical staff as may be necessary~~] and [~~may appoint~~] one or
12 more attorneys for purposes of enforcing this chapter. The
13 director shall define their powers and duties and fix their
14 compensation. The director [~~may also~~] shall appoint
15 professional, clerical, stenographic, and other staff as may be
16 necessary for the proper administration and enforcement of this
17 chapter subject to chapter 76."

18 SECTION 18. Section 802-12, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§802-12 Organization of office; assistance.** Subject to
21 the approval of the defender council, the state public defender
22 may employ assistant state public defenders and such other



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

12 SECTION 19. Act 88, Session Laws of Hawaii 2001, is
 13 amended by amending section 4 to read as follows:

14 "SECTION 4. Effective July 1, 2003, all positions and
 15 employees of the Hawaii public employees health fund who are
 16 subject to chapters 76, Hawaii Revised Statutes, shall be
 17 transferred to the Hawaii employer-union health benefits trust
 18 fund. All officers and employees whose functions are
 19 transferred by this Act shall be transferred with their
 20 functions and shall continue to perform their regular duties
 21 upon their transfer, subject to the state personnel laws and
 22 this Act.



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

11 No officer or employee of the State having tenure shall
12 suffer any loss of salary, seniority, prior service credit,
13 vacation, sick leave, or other employee benefit or privilege as
14 a consequence of this Act, and such officer or employee may be
15 transferred or appointed to a civil service position without the
16 necessity of examination; provided that the officer or employee
17 possesses the minimum qualifications for the position to which
18 transferred or appointed; and provided that subsequent changes
19 in status may be made pursuant to the applicable civil service
20 and compensation laws.

21 In the event that an office or position held by an officer
22 or employee having tenure is abolished, the officer or employee



1 shall not thereby be separated from public employment, but shall
 2 remain in the employment of the State with the same pay and
 3 classification and shall be transferred to some other office or
 4 position for which the officer or employee is eligible under the
 5 personnel laws of the State as determined by the head of the
 6 department or the governor."

7 SECTION 20. Act 128, Session Laws of Hawaii 2004, is
 8 amended by amending section 5 to read as follows:

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

13 SECTION 21. Notwithstanding the provisions of this Act,
 14 the department of human resources development shall submit, no
 15 later than twenty days prior to the convening of each regular
 16 session beginning with the regular session of 2007, a report of
 17 the number of exempt positions that were converted to civil
 18 service positions during the previous twelve months. The report
 19 shall include, but not be limited to, when the position was
 20 established, the purpose of the position, rationale for the
 21 conversion, and how many exempt positions remain in each state
 22 department after the conversions.



1 SECTION 22. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 23. This Act shall take effect on July 1, 2007;
4 provided that section 20 shall take effect on June 30, 2006.

SB3009, SD2

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. (SD2)

