

JAN 26 2009

A BILL FOR AN ACT

RELATING TO CIVIL SERVICE LAW.

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

1 SECTION 1. Section 76-16, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) The civil service to which this chapter applies shall
4 comprise all positions in the State now existing or hereafter
5 established and embrace all personal services performed for the
6 State, except the following:

7 (1) Commissioned and enlisted personnel of the Hawaii
8 national guard as such, and positions in the Hawaii
9 national guard that are required by state or federal
10 laws or regulations or orders of the national guard to
11 be filled from those commissioned or enlisted
12 personnel;

13 (2) Positions filled by persons employed by contract where
14 the director of human resources development has
15 certified that the service is special or unique or is
16 essential to the public interest and that, because of
17 circumstances surrounding its fulfillment, personnel to
18 perform the service cannot be obtained through normal

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- 1 civil service recruitment procedures. Any such
2 contract may be for any period not exceeding one year;
- 3 (3) Positions that must be filled without delay to comply
4 with a court order or decree if the director determines
5 that recruitment through normal recruitment civil
6 service procedures would result in delay or
7 noncompliance, such as the Felix-Cayetano consent
8 decree;
- 9 (4) Positions filled by the legislature or by either house
10 or any committee thereof;
- 11 (5) Employees in the office of the governor and office of
12 the lieutenant governor, and household employees at
13 Washington Place;
- 14 (6) Positions filled by popular vote;
- 15 (7) Department heads, officers, and members of any board,
16 commission, or other state agency whose appointments
17 are made by the governor or are required by law to be
18 confirmed by the senate;
- 19 (8) Judges, referees, receivers, masters, jurors, notaries
20 public, land court examiners, court commissioners, and
21 attorneys appointed by a state court for a special
22 temporary service;

1 (9) One bailiff for the chief justice of the supreme court
2 who shall have the powers and duties of a court officer
3 and bailiff under section 606-14; one secretary or
4 clerk for each justice of the supreme court, each judge
5 of the intermediate appellate court, and each judge of
6 the circuit court; one secretary for the judicial
7 council; one deputy administrative director of the
8 courts; three law clerks for the chief justice of the
9 supreme court, two law clerks for each associate
10 justice of the supreme court and each judge of the
11 intermediate appellate court, one law clerk for each
12 judge of the circuit court, two additional law clerks
13 for the civil administrative judge of the circuit court
14 of the first circuit, two additional law clerks for the
15 criminal administrative judge of the circuit court of
16 the first circuit, one additional law clerk for the
17 senior judge of the family court of the first circuit,
18 two additional law clerks for the civil motions judge
19 of the circuit court of the first circuit, two
20 additional law clerks for the criminal motions judge of
21 the circuit court of the first circuit, and two law
22 clerks for the administrative judge of the district

1 court of the first circuit; and one private secretary
2 for the administrative director of the courts, the
3 deputy administrative director of the courts, each
4 department head, each deputy or first assistant, and
5 each additional deputy, or assistant deputy, or
6 assistant defined in paragraph (16);

7 (10) First deputy and deputy attorneys general, the
8 administrative services manager of the department of
9 the attorney general, one secretary for the
10 administrative services manager, an administrator and
11 any support staff for the criminal and juvenile justice
12 resources coordination functions, and law clerks;

13 (11) (A) Teachers, principals, vice-principals, complex
14 area superintendents, deputy and assistant
15 superintendents, other certificated personnel, not more
16 than twenty noncertificated administrative,
17 professional, and technical personnel not engaged in
18 instructional work;

19 (B) Effective July 1, 2003, teaching assistants,
20 educational assistants, bilingual/bicultural
21 school-home assistants, school psychologists,
22 psychological examiners, speech pathologists,

1 athletic health care trainers, alternative school
2 work study assistants, alternative school
3 educational/supportive services specialists,
4 alternative school project coordinators, and
5 communications aides in the department of
6 education;

7 (C) The special assistant to the state librarian and
8 one secretary for the special assistant to the
9 state librarian; and

10 (D) Members of the faculty of the University of
11 Hawaii, including research workers, extension
12 agents, personnel engaged in instructional work,
13 and administrative, professional, and technical
14 personnel of the university;

15 (12) Employees engaged in special, research, or
16 demonstration projects approved by the governor;

17 (13) Positions filled by inmates, kokuas, patients of state
18 institutions, persons with severe physical or mental
19 handicaps participating in the work experience training
20 programs, and students and positions filled through
21 federally funded programs that provide temporary public

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1 service employment such as the federal Comprehensive
2 Employment and Training Act of 1973;

3 (14) A custodian or guide at Iolani Palace, the Royal
4 Mausoleum, and Hulihee Palace;

5 (15) Positions filled by persons employed on a fee,
6 contract, or piecework basis, who may lawfully perform
7 their duties concurrently with their private business
8 or profession or other private employment and whose
9 duties require only a portion of their time, if it is
10 impracticable to ascertain or anticipate the portion of
11 time to be devoted to the service of the State;

12 (16) Positions of first deputies or first assistants of each
13 department head appointed under or in the manner
14 provided in section 6, Article V, of the State
15 Constitution; three additional deputies or assistants
16 either in charge of the highways, harbors, and airports
17 divisions or other functions within the department of
18 transportation as may be assigned by the director of
19 transportation, with the approval of the governor; four
20 additional deputies in the department of health, each
21 in charge of one of the following: behavioral health,
22 environmental health, hospitals, and health resources

1 administration, including other functions within the
2 department as may be assigned by the director of
3 health, with the approval of the governor; an
4 administrative assistant to the state librarian; and an
5 administrative assistant to the superintendent of
6 education;

7 (17) Positions specifically exempted from this part by any
8 other law; provided that all of the positions defined
9 by paragraph (9) shall be included in the position
10 classification plan;

11 (18) Positions in the state foster grandparent program and
12 positions for temporary employment of senior citizens
13 in occupations in which there is a severe personnel
14 shortage or in special projects;

15 (19) Household employees at the official residence of the
16 president of the University of Hawaii;

17 (20) Employees in the department of education engaged in the
18 supervision of students during meal periods in the
19 distribution, collection, and counting of meal tickets,
20 and in the cleaning of classrooms after school hours on
21 a less than half-time basis;

- 1 (21) Employees hired under the tenant hire program of the
2 Hawaii public housing authority; provided that not more
3 than twenty-six per cent of the authority's work force
4 in any housing project maintained or operated by the
5 authority shall be hired under the tenant hire program;
- 6 (22) Positions of the federally funded expanded food and
7 nutrition program of the University of Hawaii that
8 require the hiring of nutrition program assistants who
9 live in the areas they serve;
- 10 (23) Positions filled by severely handicapped persons who
11 are certified by the state vocational rehabilitation
12 office that they are able to perform safely the duties
13 of the positions;
- 14 (24) One public high school student to be selected by the
15 Hawaii state student council as a nonvoting member on
16 the board of education as authorized by the State
17 Constitution;
- 18 (25) Sheriff, first deputy sheriff, and second deputy
19 sheriff;
- 20 (26) A gender and other fairness coordinator hired by the
21 judiciary; and

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1 (27) Positions in the Hawaii national guard youth [~~challenge~~
2 ~~academy.~~] and adult education programs.

3 The director shall determine the applicability of this
4 section to specific positions.

5 Nothing in this section shall be deemed to affect the civil
6 service status of any incumbent as it existed on July 1, 1955."

7 SECTION 2. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.


9 SECTION 3. This Act shall take effect on July 1, 2009.

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INTRODUCED BY:



BY REQUEST

Report Title:

Hawaii National Guard Youth and Adult Programs

Description:

Increases effectiveness and efficiency by affirming that positions in the Hawaii National Guard sponsored youth and adult educational programs are exempt from civil service requirements.

JUSTIFICATION SHEET

DEPARTMENT: Defense

TITLE: A BILL FOR AN ACT RELATING TO CIVIL SERVICE LAW.

PURPOSE: Affirms that the civil service exemption for the National Guard sponsored youth education program also applies to the National Guard sponsored adult education program.

MEANS: Amend section 76-16(b), Hawaii Revised Statutes.

JUSTIFICATION: The exemption from civil service is necessary to enable the Department of Defense to effectively manage the wage constraints imposed by the federal government and the Master Cooperative Agreements (MCA). Provisions specified in the MCA include manning models with salary limitations based on the federal government GS salary schedule, which are often times higher than the state civil service salary ranges. The exemption will permit the hiring of individuals without regard to civil service salary limitations.

This exemption will also enable the Department of Defense to fill positions necessary to conduct the youth and adult education programs without delays associated with civil service recruitment procedures. This will ensure the continuity of all National Guard sponsored youth and adult education programs.

Impact on the public: None.

Impact on the department and other agencies: Passage of this measure will allow the Department of Defense to employ highly qualified instructors and managers for the National Guard sponsored youth and adult education programs.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM

DESIGNATION: DEF-110.

OTHER AFFECTED

AGENCIES: None.

EFFECTIVE

DATE: July 1, 2009.