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## A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT.

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

1           SECTION 1. The purpose of this Act is to convert the  
2 department of human resources development from a principal state  
3 department to a division in the department of labor and  
4 industrial relations. The Act also transfers the commission on  
5 salaries and the board of trustees of the deferred compensation  
6 plan to the department of accounting and general services.

7           SECTION 2. Section 11-1.6, Hawaii Revised Statutes, is  
8 amended by amending subsection (e) to read as follows:

9           "(e) The chief election officer shall be paid a salary not  
10 to exceed eighty-seven per cent of the salary of the director of  
11 [~~human resources development.~~] public safety."

12          SECTION 3. Section 23-8, Hawaii Revised Statutes, is  
13 amended by amending subsection (b) to read as follows:

14          "(b) All employees shall be hired by the auditor subject  
15 to the approval of the president of the senate and the speaker  
16 of the house of representatives and shall serve at the auditor's  
17 pleasure; provided that in the establishment of the salary of  
18 each employee, the auditor shall consult with the [department]



1 division of human resources development of the department of  
2 labor and industrial relations and shall follow as closely as  
3 possible the recommendations of the [~~department,~~] division;  
4 provided further that effective July 1, 2007, the salary of the  
5 first assistant or first deputy shall be not more than ninety-  
6 two per cent of the salary of the auditor."

7 SECTION 4. Section 23-12, Hawaii Revised Statutes, is  
8 amended by amending subsection (b) to read as follows:

9 "(b) Each revolving and trust fund shall be reviewed every  
10 five years as follows:

11 (1) Beginning 1994 and every five years thereafter, the  
12 auditor shall submit a review of the revolving and  
13 trust funds of the department of accounting and  
14 general services; the department of agriculture; the  
15 department of budget and finance; and the department  
16 of land and natural resources;

17 (2) Beginning 1995 and every five years thereafter, the  
18 auditor shall submit a review of the revolving and  
19 trust funds of the department of the attorney general;  
20 the department of business, economic development, and  
21 tourism; and the University of Hawaii system;



1           (3) Beginning 1996 and every five years thereafter, the  
2           auditor shall submit a review of the revolving and  
3           trust funds within the judiciary and of the department  
4           of commerce and consumer affairs; the department of  
5           Hawaiian home lands; the department of health; and the  
6           department of human services;

7           (4) Beginning 1997 and every five years thereafter, the  
8           auditor shall submit a review of the revolving and  
9           trust funds of the office of the governor; the office  
10          of Hawaiian affairs; and the department of education;  
11          and

12          (5) Beginning 1998 and every five years thereafter, the  
13          auditor shall submit a review of the revolving and  
14          trust funds of the department of labor and industrial  
15          relations; the department of taxation; [~~the department~~  
16          of human resources development;] the department of  
17          public safety; and all other moneys expended in  
18          accordance with section 37-40."

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

21                 "(b) In determining the salary of the employees of the  
22          bureau, the director shall consult with the [department]



1 division of human resources development of the department of  
2 labor and industrial relations; provided that, effective July 1,  
3 2007, the salary of the first assistant shall be not more than  
4 ninety-two per cent of the salary of the director."

5 SECTION 6. Section 26-2, Hawaii Revised Statutes, is  
6 amended by amending subsection (a) to read as follows:

7 "(a) When the office of lieutenant governor is vacant by  
8 reason of the lieutenant governor's becoming governor, or the  
9 lieutenant governor's failure to qualify, or the lieutenant  
10 governor's removal from office, death, resignation, or  
11 otherwise, the powers and duties of the office of lieutenant  
12 governor shall devolve upon the president of the senate; or, if  
13 there is none or upon the president's failure to resign promptly  
14 from all legislative offices held by the president, then upon  
15 the speaker of the house of representatives; or if there is none  
16 or upon the speaker's failure to resign promptly from all  
17 legislative offices held by the speaker, then upon the attorney  
18 general, the director of finance, the comptroller, and the  
19 director of taxation [~~and the director of human resources~~  
20 ~~development~~] in the order named; provided that any officer upon  
21 whom the powers and duties of the office of lieutenant governor  
22 devolve may decline the powers and duties without the officer's



1 resignation from the office by virtue of the holding of which  
2 the officer qualifies to act as lieutenant governor, in which  
3 event the powers and duties will devolve upon the next officer  
4 listed in the order of succession."

5 SECTION 7. Section 26-4, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "§26-4 Structure of government. Under the supervision of  
8 the governor, all executive and administrative offices,  
9 departments, and instrumentalities of the state government and  
10 their respective functions, powers, and duties shall be  
11 allocated among and within the following principal departments  
12 that are hereby established:

13 [~~1~~] ~~Department of human resources development (Section 26-~~  
14 ~~5)~~

15 ~~(2)]~~ (1) Department of accounting and general services  
16 (Section 26-6);

17 [~~3~~] (2) Department of the attorney general (Section 26-  
18 7);

19 [~~4~~] (3) Department of budget and finance (Section 26-8);

20 [~~5~~] (4) Department of commerce and consumer affairs  
21 (Section 26-9);

22 [~~6~~] (5) Department of taxation (Section 26-10);



- 1        [~~(7)~~] (6)    University of Hawaii (Section 26-11) *i*
- 2        [~~(8)~~] (7)    Department of education (Section 26-12) *i*
- 3        [~~(9)~~] (8)    Department of health (Section 26-13) *i*
- 4        [~~(10)~~] (9)    Department of human services (Section 26-14) *i*
- 5        [~~(11)~~] (10)    Department of land and natural resources
- 6                            (Section 26-15) *i*
- 7        [~~(12)~~] (11)    Department of agriculture (Section 26-16) *i*
- 8        [~~(13)~~] (12)    Department of Hawaiian home lands (Section 26-
- 9                            17) *i*
- 10       [~~(14)~~] (13)    Department of business, economic development,
- 11                            and tourism (Section 26-18) *i*
- 12       [~~(15)~~] (14)    Department of transportation (Section 26-19) *i*
- 13       [~~(16)~~] (15)    Department of labor and industrial relations
- 14                            (Section 26-20) *i*
- 15       [~~(17)~~] (16)    Department of defense (Section 26-21) *i*
- 16       [~~(18)~~] (17)    Department of public safety (Section 26-14.6)."

17            SECTION 8.    Section 26-6, Hawaii Revised Statutes, is  
18 amended to read as follows:

19            "**§26-6 Department of accounting and general services.**    (a)

20 The department of accounting and general services shall be  
21 headed by a single executive to be known as the comptroller.

22            (b) The department shall:



- 1           (1)    Preaudit and conduct after-the-fact audits of the  
2                    financial accounts of all state departments to  
3                    determine the legality of expenditures and the  
4                    accuracy of accounts;
- 5           (2)    Report to the governor and to each regular session of  
6                    the legislature as to the finances of each department  
7                    of the State;
- 8           (3)    Administer the state risk management program;
- 9           (4)    Establish and manage motor pools;
- 10          (5)    Manage the preservation and disposal of all records of  
11                   the State;
- 12          (6)    Undertake the program of centralized engineering and  
13                   office leasing services, including operation and  
14                   maintenance of public buildings, for departments of  
15                   the State;
- 16          (7)    Undertake the functions of the state surveyor;
- 17          (8)    Establish accounting and internal control systems;
- 18          (9)    Provide centralized computer information management  
19                   and processing services, coordination in the use of  
20                   all information processing equipment, software,  
21                   facilities, and services in the executive branch of  
22                   the State, and consultation and support services in



1 the use of information processing and management  
2 technologies to improve the efficiency, effectiveness,  
3 and productivity of state government programs; and  
4 (10) Establish, coordinate, and manage a program to provide  
5 a means for public access to public information and  
6 develop and operate an information network in  
7 conjunction with its overall plans for establishing a  
8 communication backbone for state government.

9 (c) The state communication system shall be established  
10 to:

11 (1) Facilitate implementation of the State's distributed  
12 information processing and information resource  
13 management plans;

14 (2) Improve data, voice, and video communications in state  
15 government;

16 (3) Provide a means for connectivity among the state,  
17 university, and county computer systems; and

18 (4) Provide a long-term means for public access to public  
19 information.

20 (d) The department may adopt rules as may be necessary or  
21 desirable for the operation and maintenance of public buildings,  
22 and for the operation and implementation of a program to provide





1 a means for public access to the State's information network  
2 system and public information. The rules shall be adopted  
3 pursuant to chapter 91.

4 (e) The King Kamehameha celebration commission shall be  
5 placed within the department of accounting and general services  
6 for administrative purposes. The functions, duties, and powers,  
7 subject to the administrative control of the comptroller, and  
8 the composition of the commission shall be as heretofore  
9 provided by law.

10 (f) The commission on salaries and the board of directors  
11 of the deferred compensation plan shall be placed within the  
12 department of accounting and general services for administrative  
13 purposes.

14 [~~f~~] (g) The functions and authority heretofore exercised  
15 by the comptroller, board of commissioners of public archives,  
16 the archivist, the disposal committee, and the insurance  
17 management, surplus property management, and central purchasing  
18 functions of the bureau of the budget and the nonhighway  
19 functions of the department of public works as heretofore  
20 constituted are transferred to the department of accounting and  
21 general services established by this chapter."



1 SECTION 9. Section 26-20, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§26-20 Department of labor and industrial relations. (a)

4 The department of labor and industrial relations shall be headed  
5 by a single executive to be known as the director of labor and  
6 industrial relations.

7 (b) The department shall administer programs designed to  
8 increase the economic security, physical and economic well-  
9 being, and productivity of workers, and to achieve good labor-  
10 management relations, including the administration of workers'  
11 compensation, employment security, apprenticeship training, wage  
12 and hour, and industrial relations laws. The department shall  
13 also have the function of developing, preparing, and  
14 disseminating information on employment, unemployment, and  
15 general labor market conditions.

16 (c) There shall be a division of human resources  
17 development within the department of labor and industrial  
18 relations. The functions and authority heretofore exercised by  
19 the department of human resources development relating to the  
20 state human resources program, including human resources  
21 development and training, and central human resources services  
22 such as recruitment, examination, classification, pay



1 administration, and payment of any claims as required under  
2 chapter 386 are hereby transferred to the department of labor  
3 and industrial relations.

4 There shall be within the department a board to be known as  
5 the merit appeals board which shall sit as an appellate body on  
6 matters set forth in section 76-14. The board shall consist of  
7 three members. All members shall have knowledge of public  
8 employment laws and prior experience with public employment;  
9 provided that at least one member's experience was with an  
10 employee organization as a member or an employee of that  
11 organization and at least one member's experience was with  
12 management. The governor shall consider the names of qualified  
13 individuals submitted by employee organizations or management  
14 before appointing the members of the board. The chairperson of  
15 the board shall be designated as specified in the rules of the  
16 board.

17 The provisions of section 26-34 shall not apply and the  
18 board members shall be appointed by the governor for four-year  
19 terms and may be re-appointed without limitation; provided that  
20 the initial appointments shall be for staggered terms, as  
21 determined by the governor. The governor shall fill any vacancy  
22 by appointing a new member for a four-year term. The governor



1 may remove for cause any member after due notice and public  
2 hearing.

3 (d) Nothing in this section shall be construed as in any  
4 manner affecting the civil service laws applicable to the  
5 several counties, the judiciary, or the Hawaii health systems  
6 corporation or its regional system boards, which shall remain  
7 the same as if this chapter had not been enacted.

8 (e) There is established in the state treasury the human  
9 resources development special fund, to be administered by the  
10 department of labor and industrial relations, which shall  
11 consist of: all revenues received by the division of human  
12 resources development as a result of entrepreneurial efforts in  
13 securing new sources of funds not provided for in the  
14 department's budget for services rendered by the division, all  
15 revenues received by the department from the charging of  
16 participant fees for in-service training that are in addition to  
17 general fund appropriations in the department's budget for  
18 developing and operating in-service training programs,  
19 appropriations made by the legislature to the fund, and moneys  
20 directed to the fund from any other source, including gifts,  
21 grants, and awards.



1 Moneys in the human resources development special fund

2 shall be used for the following purposes:

3 (1) Supporting the division's entrepreneurial initiatives,  
4 training activities, and programs;

5 (2) Administrative costs of the division's entrepreneurial  
6 initiatives, training activities, and programs; and

7 (3) Any other purpose deemed necessary by the director for  
8 the purpose of facilitating the division's  
9 entrepreneurial initiatives, training activities, and  
10 programs.

11 (f) The labor and industrial relations appeals board  
12 provided for in chapters 371 and 386 is placed within the  
13 department of labor and industrial relations for administrative  
14 purposes. The respective functions, duties, and powers, subject  
15 to the administrative control of the director of labor and  
16 industrial relations, and the composition of the board shall be  
17 as heretofore provided by law.

18 (g) There shall be within the department of labor and  
19 industrial relations a board to be known as the Hawaii labor  
20 relations board as provided for in section 89-5, which shall  
21 exercise powers and duties in accordance with chapters 89, 377,  
22 and 396. The director shall have general administrative



1 supervision over the board, but shall not have the power to  
2 supervise or control the board in the exercise of its powers or  
3 duties.

4 The functions of mediation heretofore exercised by the  
5 commission of labor and industrial relations existing  
6 immediately prior to November 25, 1959, as provided in section  
7 371-10, shall be exercised by the governor or the governor's  
8 designated agent.

9 (h) The director may establish within the department of  
10 labor and industrial relations a committee to be known as the  
11 apprenticeship council which shall sit in an advisory capacity  
12 to the director of labor and industrial relations on matters  
13 within the jurisdiction of the department of labor and  
14 industrial relations relating to apprenticeship programs. The  
15 membership and organization of the council shall be determined  
16 by the director."

17 SECTION 10. Section 26-52, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "§26-52 Department heads and executive officers. The  
20 salaries of the following state officers shall be as follows:



- 1           (1) The salary of the superintendent of education shall be  
2           set by the board of education at a rate no greater  
3           than \$150,000 a year;
- 4           (2) The salary of the president of the University of  
5           Hawaii shall be set by the board of regents;
- 6           (3) Effective July 1, 2004, the salaries of all department  
7           heads or executive officers of the departments of  
8           accounting and general services, agriculture, attorney  
9           general, budget and finance, business, economic  
10          development, and tourism, commerce and consumer  
11          affairs, Hawaiian home lands, health, [~~human resources~~  
12          development,] human services, labor and industrial  
13          relations, land and natural resources, public safety,  
14          taxation, and transportation shall be as last  
15          recommended by the executive salary commission.  
16          Effective July 1, 2007, and every six years  
17          thereafter, the salaries shall be as last recommended  
18          by the commission on salaries pursuant to section  
19          26-56, unless rejected by the legislature; and
- 20          (4) The salary of the adjutant general shall be \$85,302 a  
21          year. Effective July 1, 2007, and every six years  
22          thereafter, the salary of the adjutant general shall



1           be as last recommended by the commission on salaries  
2           pursuant to section 26-56, unless rejected by the  
3           legislature, except that if the state salary is in  
4           conflict with the pay and allowance fixed by the  
5           tables of the regular army or air force of the United  
6           States, the latter shall prevail."

7           SECTION 11. Section 26-56, Hawaii Revised Statutes, is  
8           amended by amending subsections (a), (b), and (c) to read as  
9           follows:

10           "(a) Pursuant to article XVI, section 3.5, of the  
11           Constitution of the State of Hawaii, there is established a  
12           commission on salaries within the department of [~~human resources~~  
13           ~~development,~~] accounting and general services, for  
14           administrative purposes only.

15           The commission shall consist of seven members of whom:

- 16           (1) Two members shall be appointed by the governor;  
17           (2) Two members shall be appointed by the president of the  
18           senate;  
19           (3) Two members shall be appointed by the speaker of the  
20           house of representatives; and  
21           (4) One member shall be appointed by the chief justice of  
22           the supreme court.





1           Vacancies in these positions shall be filled in the same  
2 manner. The members of the commission shall serve without  
3 compensation but shall be reimbursed for expenses, including  
4 travel expenses, necessary for the performance of their duties.

5           (b) The commission shall review and recommend an  
6 appropriate salary for the governor, lieutenant governor,  
7 members of the legislature, justices and judges of all state  
8 courts, administrative director of the State or an equivalent  
9 position, and department heads or executive officers and the  
10 deputies or assistants to the department heads of the  
11 departments of:

- 12           (1) Accounting and general services;
- 13           (2) Agriculture;
- 14           (3) The attorney general;
- 15           (4) Budget and finance;
- 16           (5) Business, economic development, and tourism;
- 17           (6) Commerce and consumer affairs;
- 18           (7) Defense;
- 19           (8) Hawaiian home lands;
- 20           (9) Health;
- 21           ~~[-(10)- Human resources development,~~
- 22           ~~-(11)-]~~ (10) Human services;



- 1       ~~[(12)]~~ (11) Labor and industrial relations;  
2       ~~[(13)]~~ (12) Land and natural resources;  
3       ~~[(14)]~~ (13) Public safety;  
4       ~~[(15)]~~ (14) Taxation; and  
5       ~~[(16)]~~ (15) Transportation.

6           The commission shall not review the salary of any position  
7 in the department of education or the University of Hawaii.

8           The commission may recommend different salaries for  
9 department heads and executive officers and different salary  
10 ranges for deputies or assistants to department heads; provided  
11 that the commission shall recommend the same salary range for  
12 deputies or assistants to department heads within the same  
13 department; provided further that the appointing official shall  
14 specify the salary for a particular position within the  
15 applicable range.

16           The commission shall not recommend salaries lower than  
17 salary amounts recommended by prior commissions replaced by this  
18 section.

19           (c) The commission may seek assistance from the  
20 ~~[department]~~ division of human resources development of the  
21 department of labor and industrial relations and any other  
22 agency in conducting its review, and all agencies shall fully



1 cooperate with the commission and provide any necessary  
2 information to the commission upon request."

3 SECTION 12. Section 76-11, Hawaii Revised Statutes, is  
4 amended by amending the definition of "director" to read as  
5 follows:

6 "Director" means the head of the central personnel agency  
7 for a jurisdiction regardless of title, whether it is the  
8 director or division head of human resources development,  
9 director of personnel, director of personnel services, or  
10 personnel director."

11 SECTION 13. Section 76-16, Hawaii Revised Statutes, is  
12 amended by amending subsection (b) to read as follows:

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

- 17 (1) Commissioned and enlisted personnel of the Hawaii  
18 national guard as such, and positions in the Hawaii  
19 national guard that are required by state or federal  
20 laws or regulations or orders of the national guard to  
21 be filled from those commissioned or enlisted  
22 personnel;



- 1           (2) Positions filled by persons employed by contract where  
2           the director [~~of human resources development~~] has  
3           certified that the service is special or unique or is  
4           essential to the public interest and that, because of  
5           circumstances surrounding its fulfillment, personnel  
6           to perform the service cannot be obtained through  
7           normal civil service recruitment procedures. Any such  
8           contract may be for any period not exceeding one year;
- 9           (3) Positions that must be filled without delay to comply  
10          with a court order or decree if the director  
11          determines that recruitment through normal  
12          [~~recruitment~~] civil service recruitment procedures  
13          would result in delay or noncompliance, such as the  
14          Felix-Cayetano consent decree;
- 15          (4) Positions filled by the legislature or by either house  
16          or any committee thereof;
- 17          (5) Employees in the office of the governor and office of  
18          the lieutenant governor, and household employees at  
19          Washington Place;
- 20          (6) Positions filled by popular vote;
- 21          (7) Department heads, officers, and members of any board,  
22          commission, or other state agency whose appointments



1 are made by the governor or are required by law to be  
2 confirmed by the senate;

3 (8) Judges, referees, receivers, masters, jurors, notaries  
4 public, land court examiners, court commissioners, and  
5 attorneys appointed by a state court for a special  
6 temporary service;

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



1 clerk for the senior judge of the family court of the  
2 first circuit, two additional law clerks for the civil  
3 motions judge of the circuit court of the first  
4 circuit, two additional law clerks for the criminal  
5 motions judge of the circuit court of the first  
6 circuit, and two law clerks for the administrative  
7 judge of the district court of the first circuit; and  
8 one private secretary for the administrative director  
9 of the courts, the deputy administrative director of  
10 the courts, each department head, each deputy or first  
11 assistant, and each additional deputy, or assistant  
12 deputy, or assistant defined in paragraph (16);

13 (10) First deputy and deputy attorneys general, the  
14 administrative services manager of the department of  
15 the attorney general, one secretary for the  
16 administrative services manager, an administrator and  
17 any support staff for the criminal and juvenile  
18 justice resources coordination functions, and law  
19 clerks;

20 (11) (A) Teachers, principals, vice-principals, complex  
21 area superintendents, deputy and assistant  
22 superintendents, other certificated personnel,



1           and not more than twenty noncertificated  
2           administrative, professional, and technical  
3           personnel not engaged in instructional work;

4           (B) Effective July 1, 2003, teaching assistants,  
5           educational assistants, bilingual/bicultural  
6           school-home assistants, school psychologists,  
7           psychological examiners, speech pathologists,  
8           athletic health care trainers, alternative school  
9           work study assistants, alternative school  
10          educational/supportive services specialists,  
11          alternative school project coordinators, and  
12          communications aides in the department of  
13          education;

14          (C) The special assistant to the state librarian and  
15          one secretary for the special assistant to the  
16          state librarian; and

17          (D) Members of the faculty of the University of  
18          Hawaii, including research workers, extension  
19          agents, personnel engaged in instructional work,  
20          and administrative, professional, and technical  
21          personnel of the university;



- 1 (12) Employees engaged in special, research, or  
2 demonstration projects approved by the governor;
- 3 (13) Positions filled by inmates, kokuas, patients of state  
4 institutions, persons with severe physical or mental  
5 handicaps participating in the work experience  
6 training programs, and students and positions filled  
7 through federally funded programs that provide  
8 temporary public service employment such as the  
9 federal Comprehensive Employment and Training Act of  
10 1973;
- 11 (14) A custodian or guide at Iolani Palace, the Royal  
12 Mausoleum, and Hulihee Palace;
- 13 (15) Positions filled by persons employed on a fee,  
14 contract, or piecework basis, who may lawfully perform  
15 their duties concurrently with their private business  
16 or profession or other private employment and whose  
17 duties require only a portion of their time, if it is  
18 impracticable to ascertain or anticipate the portion  
19 of time to be devoted to the service of the State;
- 20 (16) Positions of first deputies or first assistants of  
21 each department head appointed under or in the manner  
22 provided in section 6, Article V, of the State





1 Constitution; three additional deputies or assistants  
2 either in charge of the highways, harbors, and  
3 airports divisions or other functions within the  
4 department of transportation as may be assigned by the  
5 director of transportation, with the approval of the  
6 governor; four additional deputies in the department  
7 of health, each in charge of one of the following:  
8 behavioral health, environmental health, hospitals,  
9 and health resources administration, including other  
10 functions within the department as may be assigned by  
11 the director of health, with the approval of the  
12 governor; an administrative assistant to the state  
13 librarian; and an administrative assistant to the  
14 superintendent of education;

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

19 (18) Positions in the state foster grandparent program and  
20 positions for temporary employment of senior citizens  
21 in occupations in which there is a severe personnel  
22 shortage or in special projects;



- 1       (19) Household employees at the official residence of the  
2               president of the University of Hawaii;
- 3       (20) Employees in the department of education engaged in  
4               the supervision of students during meal periods in the  
5               distribution, collection, and counting of meal  
6               tickets, and in the cleaning of classrooms after  
7               school hours on a less than half-time basis;
- 8       (21) Employees hired under the tenant hire program of the  
9               Hawaii public housing authority; provided that not  
10              more than twenty-six per cent of the authority's work  
11              force in any housing project maintained or operated by  
12              the authority shall be hired under the tenant hire  
13              program;
- 14      (22) Positions of the federally funded expanded food and  
15              nutrition program of the University of Hawaii that  
16              require the hiring of nutrition program assistants who  
17              live in the areas they serve;
- 18      (23) Positions filled by severely handicapped persons who  
19              are certified by the state vocational rehabilitation  
20              office that they are able to perform safely the duties  
21              of the positions;



1           (24) One public high school student to be selected by the  
2                   Hawaii state student council as a nonvoting member on  
3                   the board of education as authorized by the State  
4                   Constitution;

5           (25) Sheriff, first deputy sheriff, and second deputy  
6                   sheriff;

7           (26) A gender and other fairness coordinator hired by the  
8                   judiciary; and

9           (27) Positions in the Hawaii national guard youth and adult  
10                   education programs.

11           The director shall determine the applicability of this  
12           section to specific positions.

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

15           SECTION 14. Section 76-47, Hawaii Revised Statutes, is  
16           amended by amending subsection (b) to read as follows:

17           "(b) Members of the merit appeals board shall be persons  
18           that can objectively apply the merit principle to public  
19           employment. Other qualifications of board members and other  
20           matters pertaining to the establishment of the merit appeals  
21           board, whether composition of the board, manner of appointment,  
22           term of office, limitation on terms, chairperson, removal of



1 members, and name for its merit appeals board, shall be left to  
2 the determination of each jurisdiction based on its own  
3 preferences and needs. A jurisdiction may continue to use its  
4 civil service commission or appeals board, with or without  
5 modification, as its merit appeals board to assume all of the  
6 functions and responsibilities under section 76-14; provided  
7 that the merit appeals board for the State shall be as provided  
8 in section [~~26-5~~] 26-20(c)."

9 SECTION 15. Section 87A-1, Hawaii Revised Statutes, is  
10 amended by amending the definition of "employee" to read as  
11 follows:

12 "Employee" means an employee or officer of the State,  
13 county, or legislature,

14 (1) Including:

15 (A) An elective officer;

16 (B) A per diem employee;

17 (C) An officer or employee under an authorized leave  
18 of absence;

19 (D) An employee of the Hawaii national guard although  
20 paid from federal funds;

21 (E) A retired member of the employees' retirement  
22 system; the county pension system; or the police,



1           firefighters, or bandsmen pension system of the  
2           State or county;

3           (F) A salaried and full-time member of a board,  
4           commission, or agency appointed by the governor  
5           or the mayor of a county; and

6           (G) A person employed by contract for a period not  
7           exceeding one year, where the director [e] or  
8           division head for human resources development,  
9           personnel services, or civil service has  
10          certified that the service is essential or needed  
11          in the public interest and that, because of  
12          circumstances surrounding its fulfillment,  
13          personnel to perform the service cannot be  
14          obtained through normal civil service recruitment  
15          procedures,

16          (2) But excluding:

17                (A) A designated beneficiary of a retired member of  
18                the employees' retirement system; the county  
19                pension system; or the police, firefighters, or  
20                bandsmen pension system of the State or county;



1           (B) Except as allowed under paragraph (1)(G), a  
2           person employed temporarily on a fee or contract  
3           basis; and

4           (C) A part-time, temporary, and seasonal or casual  
5           employee."

6           SECTION 16. Section 87D-5, Hawaii Revised Statutes, is  
7 amended by amending subsection (e) to read as follows:

8           "(e) The trust shall file a copy of all documents  
9 referenced in subsections (a) and (c) with the [~~department~~  
10 division of human resources development of the department of  
11 labor and industrial relations and the respective departments of  
12 the counties as their interests may appear."

13          SECTION 17. Section 88E-3, Hawaii Revised Statutes, is  
14 amended by amending subsection (a) to read as follows:

15          "(a) The authority to establish the plan and implement  
16 this chapter is vested in the board of trustees. The board  
17 shall be placed within the department of [~~human resources~~  
18 ~~development~~] accounting and general services for administrative  
19 purposes."

20          SECTION 18. Section 88E-4, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "§88E-4   Composition of the board of trustees.   The board  
2 of trustees shall consist of seven members as follows:

- 3           (1)   The [~~director of human resources development of the~~  
4                State] comptroller who shall serve as its chairperson;  
5           (2)   The director of finance of the State or a designated  
6                representative, ex officio; and  
7           (3)   Five other persons, three of whom shall be public  
8                employees and represent employee interests."

9           SECTION 19.   Section 88E-5, Hawaii Revised Statutes, is  
10 amended to read as follows:

11           "§88E-5   Appointment and terms.   Except for the [~~directors~~  
12 ~~of human resources development and~~] comptroller and the director  
13 of finance, the members of the board shall be nominated and, by  
14 and with the advice and consent of the senate, appointed by the  
15 governor and shall serve terms of four years each; provided that  
16 of the trustees first appointed upon establishment of the board  
17 one shall be appointed for one year, one shall be appointed for  
18 two years, one shall be appointed for three years, and two shall  
19 be appointed for four years.

20           A vacancy on the board shall be filled by appointment of  
21 the governor.   The person appointed to fill a vacancy shall  
22 serve for the remainder of the unexpired term.   If by the end of



1 a term a trustee is not reappointed or a successor is not  
2 appointed, the trustee shall serve until the trustee's successor  
3 is appointed.

4 Membership on the board shall not be deemed incompatible  
5 with the holding of any other public employment."

6 SECTION 20. Section 88F-2, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "§88F-2 State deferred compensation retirement plan for  
9 state and county part-time, temporary, and seasonal or casual  
10 employees. The State may establish a deferred compensation  
11 retirement plan in accordance with [~~sections~~] Sections 457 and  
12 3121 of the Internal Revenue Code of 1986, as amended, for the  
13 benefit of employees to defer a portion of their compensation to  
14 a future period of time. Participation in the plan shall be  
15 mandatory, with a mandatory payroll deduction by the employee  
16 equal to seven and five-tenths per cent of the employee's gross  
17 monthly wages, which shall be contributed to the plan. A county  
18 may enter into a formal agreement with the State to extend the  
19 State's plan and its provisions to part-time, temporary, and  
20 seasonal or casual employees of the county; provided that:

- 21 (1) The agreement designates one of the county's agencies  
22 to locally coordinate the plan; and





1           (2) The department of [~~human resources development~~]  
2                 accounting and general services may levy fees on the  
3                 county pursuant to rules adopted in accordance with  
4                 chapter 91."

5           SECTION 21. Section 89-19, Hawaii Revised Statutes, is  
6 amended to read as follows:

7           "§89-19 Chapter takes precedence, when. This chapter  
8 shall take precedence over all conflicting statutes concerning  
9 this subject matter and shall preempt all contrary local  
10 ordinances, executive orders, legislation, or rules adopted by  
11 the State, a county, or any department or agency thereof,  
12 including the departments or divisions of human resources  
13 development or of personnel services or the civil service  
14 commission."

15           SECTION 22. Section 90-3, Hawaii Revised Statutes, is  
16 amended by amending subsection (e) to read as follows:

17           "(e) The agency utilizing the services of volunteers has  
18 the responsibility to:

19           (1) Use volunteers to extend services without displacing  
20                 paid employees[-];

21           (2) Provide each volunteer with a designated  
22                 supervisor[-];



- 1 (3) Provide staff orientation and training in the use and  
2 supervision of volunteers[-];  
3 (4) Define volunteer jobs that are meaningful to the  
4 volunteer and commensurate with [~~his~~] the volunteer's  
5 abilities[-];  
6 (5) Be alert to assignments for handicapped or disabled  
7 volunteers[-];  
8 (6) Make it possible for a volunteer to serve on a trial  
9 or probationary basis for a specified period[-];  
10 (7) Provide orientation and training to improve the  
11 volunteer's skills[-];  
12 (8) Provide volunteers with clear instructions and an  
13 adequate work space[-];  
14 (9) Accept the volunteer as part of the team, including  
15 [~~him~~] the volunteer in training and staff meetings  
16 that pertain to [~~his~~] the volunteer's work[-];  
17 (10) Establish and communicate clearly defined lines of  
18 supervision so that the volunteer knows to whom [~~he~~]  
19 the volunteer is responsible[-];  
20 (11) Provide appropriate recognition and appreciation to  
21 the volunteer[-];



1 (12) Provide written guidelines governing the recruitment,  
2 screening, utilization, and supervision of  
3 volunteers [-];

4 (13) Recognize an applicant's prior volunteer service in  
5 evaluating fulfillment of training and experience  
6 requirements for state employment pursuant to rules  
7 adopted by the [~~department~~] division of human  
8 resources development, the judiciary, and the board of  
9 regents of the University of Hawaii [-];

10 (14) Provide funds for volunteer benefits as specified in  
11 section 90-4 [-]; and

12 (15) Provide recognition of paid staff for support and  
13 supervision of volunteers."

14 SECTION 23. Section 92F-19, Hawaii Revised Statutes, is  
15 amended by amending subsection (a) to read as follows:

16 "(a) No agency may disclose or authorize disclosure of  
17 government records to any other agency unless the disclosure is:

18 (1) Necessary for the performance of the requesting  
19 agency's duties and functions and is also:

20 (A) Compatible with the purpose for which the  
21 information was collected or obtained; or



- 1 (B) Consistent with the conditions or reasonable  
2 expectations of use and disclosure under which  
3 the information was provided;
- 4 (2) To the state archives for the purposes of historical  
5 preservation, administrative maintenance, or  
6 destruction;
- 7 (3) To another agency, another state, or the federal  
8 government, or foreign law enforcement agency or  
9 authority, if the disclosure is:
- 10 (A) For the purpose of a civil or criminal law  
11 enforcement activity authorized by law; and
- 12 (B) Pursuant to:
- 13 (i) A written agreement or written request, or  
14 (ii) A verbal request, made under exigent  
15 circumstances, by an officer or employee of  
16 the requesting agency whose identity has  
17 been verified, provided that such request is  
18 promptly confirmed in writing;
- 19 (4) To a criminal law enforcement agency of this State,  
20 another state, or the federal government, or a foreign  
21 criminal law enforcement agency or authority, if the  
22 information is limited to an individual's name and



1 other identifying particulars, including present and  
2 past places of employment;

3 (5) To a foreign government pursuant to an executive  
4 agreement, compact, treaty, or statute;

5 (6) To the legislature, or a county council, or any  
6 committee or subcommittee thereof;

7 (7) Pursuant to an order of a court of competent  
8 jurisdiction;

9 (8) To authorized officials of another agency, another  
10 state, or the federal government for the purpose of  
11 auditing or monitoring an agency program that receives  
12 federal, state, or county funding;

13 (9) To the offices of the legislative auditor, the  
14 legislative reference bureau, or the ombudsman of this  
15 State for the performance of their respective  
16 functions;

17 (10) To the [~~department~~] division of human resources  
18 development, county personnel agencies, or line agency  
19 personnel offices for the performance of their  
20 respective duties and functions, including employee  
21 recruitment and examination, classification and  
22 compensation reviews, the administration and auditing



1 of personnel transactions, the administration of  
2 training and safety, workers' compensation, and  
3 employee benefits and assistance programs, and for  
4 labor relations purposes; or

5 (11) Otherwise subject to disclosure under this chapter."

6 SECTION 24. Section 96-3, Hawaii Revised Statutes, is  
7 amended by amending subsection (b) to read as follows:

8 "(b) In determining the salary of each employee, the  
9 ombudsman shall consult with the [~~department~~] division of human  
10 resources development of the department of labor and industrial  
11 relations and shall follow as closely as possible the  
12 recommendations of the [~~department.~~] division. Effective July  
13 1, 2007, the first assistant's salary shall be not more than  
14 ninety-two per cent of the salary of the ombudsman."

15 SECTION 25. Section 103D-110, Hawaii Revised Statutes, is  
16 amended by amending subsections (a) and (b) to read as follows:

17 "(a) The [~~department~~] division of human resources  
18 development, either alone or in cooperation with any  
19 governmental body, including the department of labor and  
20 industrial relations, or in cooperation with other states, the  
21 federal government, or other persons may:



1 (1) Conduct or participate in procurement education and  
2 training for persons not employed by the State; and

3 (2) Sponsor a purchasing certification program conducted  
4 by a voluntary organization of procurement  
5 professionals.

6 (b) The state procurement office, in cooperation with the  
7 [~~department~~] division of human resources development, shall  
8 develop and maintain a procurement practices training and  
9 development program for procurement officers of the State and  
10 the several counties, to ensure that an agency's procurement  
11 practices are in compliance with the procurement code and that  
12 proper procurement decisions are made consistent with this  
13 chapter. The program shall include a mandatory fundamental  
14 training and development session and follow-up training and  
15 development sessions."

16 SECTION 26. Section 103D-204, Hawaii Revised Statutes, is  
17 amended by amending subsection (a) to read as follows:

18 "(a) There shall be a state procurement office, placed for  
19 administrative purposes only, within the department of  
20 accounting and general services, which shall be headed by the  
21 administrator of the state procurement office. The  
22 administrator shall be the chief procurement officer for those



1 governmental bodies of the executive branch as provided in  
2 section [†]103D-203(a)(8) [†]. The administrator shall be a  
3 full-time public official. The administrator shall serve a term  
4 of four years, and shall be paid a salary not to exceed eighty-  
5 seven per cent of the salary of the director of [~~human resources~~  
6 ~~development,~~] public safety, without diminution during the  
7 administrator's term of office unless by general law applying to  
8 all deputies or assistants to department heads."

9 SECTION 27. Section 109-2, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "§109-2 Stadium authority; powers and duties. The powers  
12 and duties of the stadium authority shall be as follows:

- 13 (1) To maintain, operate, and manage the stadium and  
14 related facilities, and to provide for the  
15 maintenance, operation, management, and promotion of  
16 the Kapolei recreational sports complex;
- 17 (2) To prescribe and collect rents, fees, and charges for  
18 the use or enjoyment of the stadium or any of its  
19 facilities;
- 20 (3) To make and execute contracts and other instruments  
21 necessary or convenient to exercise its powers under  
22 this chapter and subject to any limitations in this





1 chapter, to exercise all powers necessary, incidental,  
2 or convenient to carry out and effectuate the purposes  
3 and provisions of this chapter, including entering  
4 into contracts under chapter 102 or 103D for the  
5 management of the Kapolei recreational sports complex,  
6 to include but not be limited to the operation,  
7 maintenance, and promotion of the complex in a manner  
8 that is beneficial to both the State and the  
9 contractor. These contracts may contain revenue  
10 sharing incentives based on increased usage of the  
11 complex;

12 (4) To adopt, amend, and repeal in accordance with chapter  
13 91 rules it may deem necessary to effectuate this  
14 chapter and in connection with its projects,  
15 operations, and facilities;

16 (5) To appoint a manager and a deputy manager who shall  
17 have such qualifications as the authority deems  
18 necessary and who shall hold their respective offices  
19 at the pleasure of the authority. The manager and  
20 deputy manager shall be exempt from the requirements  
21 of chapters 76 and 89. Effective July 1, 2005, the  
22 manager shall be paid a salary not to exceed eighty-



1           seven per cent of the salary of the director of [~~human~~  
2           ~~resources-development.~~] public safety. Effective July  
3           1, 2005, the deputy manager shall be paid a salary not  
4           to exceed eighty-five per cent of the manager's  
5           salary. The manager shall have full power to  
6           administer the affairs of the stadium and related  
7           facilities, and to provide for a management contract  
8           for the Kapolei recreational sports complex, subject  
9           to the direction and approval of the authority. The  
10          manager shall, subject to the approval of the  
11          authority, have power to appoint, suspend, and  
12          discharge a secretary who shall be exempt from the  
13          requirements of chapters 76 and 89, and such other  
14          employees, subordinates, and assistants as may be  
15          necessary for the proper conduct of the business of  
16          the authority. Except for persons hired on contract  
17          or otherwise as provided in section 109-3 and except  
18          for the manager, deputy manager, and secretary, all  
19          appointments, suspensions, or discharges shall be made  
20          in conformity with the applicable provisions of  
21          chapter 76; and



1           (6) To plan, promote, and market the stadium, its related  
2           facilities, and the Kapolei recreational sports  
3           complex."

4           SECTION 28. Section 128-3, Hawaii Revised Statutes, is  
5 amended by amending subsection (c) to read as follows:

6           "(c) There shall be a vice-director of civil defense who  
7 shall be appointed and may be removed by the director. The  
8 vice-director shall be the first assistant to the director and  
9 shall, in the absence of the director, have all the duties and  
10 responsibilities of the director. The vice-director shall be  
11 paid a salary not to exceed eighty-seven per cent of the salary  
12 of the director of [~~human resources development.~~] public safety.  
13 Chapter 76 shall not apply to the vice-director."

14           SECTION 29. Section 201H-2, Hawaii Revised Statutes, is  
15 amended by amending subsection (b) to read as follows:

16           "(b) The corporation shall employ, exempt from chapter 76  
17 and section 26-35(a)(4), an executive director and an executive  
18 assistant. The executive director shall be paid a salary not to  
19 exceed eighty-five per cent of the salary of the director of  
20 [~~human resources development.~~] public safety. The executive  
21 assistant shall be paid a salary not to exceed ninety per cent  
22 of the executive director's salary. The corporation may employ,



1 subject to chapter 76, technical experts and officers, agents,  
2 and employees, permanent and temporary, as required. The  
3 corporation may also employ officers, agents, and employees,  
4 prescribe their duties and qualifications, and fix their  
5 salaries, not subject to chapter 76, when in the determination  
6 of the corporation, the services to be performed are unique and  
7 essential to the execution of the functions of the corporation.  
8 The corporation may call upon the attorney general for legal  
9 services as it may require. The corporation may delegate to one  
10 or more of its agents or employees its powers and duties as it  
11 deems proper."

12 SECTION 30. Section 269-2, Hawaii Revised Statutes, is  
13 amended by amending subsection (b) to read as follows:

14 "(b) Effective July 1, 2005, the chairperson of the  
15 commission shall be paid a salary set at eighty-seven per cent  
16 of the salary of the director of [~~human resources development,~~  
17 public safety, and each of the other commissioners shall be paid  
18 a salary equal to ninety-five per cent of the chairperson's  
19 salary. The commissioners shall be exempt from chapters 76 and  
20 89 but shall be members of the state employees retirement system  
21 and shall be eligible to receive the benefits of any state or  
22 federal employee benefit program generally applicable to



1 officers and employees of the State, including those under  
2 chapter 87A.

3 The commission is placed within the department of budget  
4 and finance for administrative purposes."

5 SECTION 31. Section 302A-633.5, Hawaii Revised Statutes,  
6 is amended by amending subsection (a) to read as follows:

7 "(a) The board of education shall appoint teaching  
8 assistants, educational assistants, bilingual/bicultural school-  
9 home assistants, school psychologists, psychological examiners,  
10 speech pathologists, athletic health care trainers, alternative  
11 school work/study assistants, alternative school  
12 educational/supportive services specialists, and alternative  
13 school project coordinators as may be required to carry out the  
14 purposes of this chapter. The board, in consultation with the  
15 [~~department~~] division of human resources development [~~7~~] of the  
16 department of labor and industrial relations, shall prescribe  
17 the duties and qualifications for positions, adopt  
18 classification systems, classify and fix the compensation of  
19 positions accordingly, provide a classification appeals  
20 procedure, and establish probationary and other requirements for  
21 tenure that protects employees from being disciplined without  
22 proper cause."



1 SECTION 32. Section 302B-11, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§302B-11 Administration of workers' compensation. The  
4 [~~department~~] division of human resources development of the  
5 department of labor and industrial relations shall administer  
6 workers' compensation claims for employees of charter schools,  
7 who shall be covered by the same self-insured workers'  
8 compensation system as other public employees. The [~~department~~]  
9 division of human resources development shall process,  
10 investigate, and make payments on claims; provided that:

11 (1) Charter schools shall compile the preliminary claim  
12 form and forward it to the [~~department~~] division of  
13 human resources development; and

14 (2) The [~~department~~] division of human resources  
15 development shall receive no more than 0.07 per cent  
16 of the EDN 600 appropriation to process these workers'  
17 compensation claims."

18 SECTION 33. Section 349-2, Hawaii Revised Statutes, is  
19 amended by amending subsection (b) to read as follows:

20 "(b) The head of [~~this~~] the office shall be known as the  
21 director of the executive office on aging, hereinafter referred  
22 to as director. The director shall have professional training



1 in the field of social work, education, public health, [and] or  
2 other related fields; extensive direct experience in programs or  
3 services related to elders; and recent experience in a  
4 supervisory, consultative, or administrative position. The  
5 director shall be nominated and appointed by the governor  
6 without regard to chapters 76 and 89. Effective July 1, 2005,  
7 the director shall be paid a salary set by the appointing  
8 authority that shall not exceed sixty-nine per cent of the  
9 salary of the director of [~~human resources development~~] public  
10 safety. The director shall be included in any benefit program  
11 generally applicable to the officers and employees of the  
12 State."

13 SECTION 34. Section 356D-2, Hawaii Revised Statutes, is  
14 amended by amending subsection (b) to read as follows:

15 "(b) The authority shall employ, exempt from chapter 76  
16 and section 26-35(a)(4), an executive director and an executive  
17 assistant. The executive director shall be paid a salary not to  
18 exceed eighty-five per cent of the salary of the director of  
19 [~~human resources development~~] public safety. The executive  
20 assistant shall be paid a salary not to exceed ninety per cent  
21 of the executive director's salary. The authority may employ,  
22 subject to chapter 76, technical experts and officers, agents,



1 and employees, permanent or temporary, as required. The  
2 authority may also employ officers, agents, and employees;  
3 prescribe their duties and qualifications; and fix their  
4 salaries, not subject to chapter 76, when in the determination  
5 of the authority, the services to be performed are unique and  
6 essential to the execution of the functions of the authority;  
7 provided that if the authority hires an officer, agent, or  
8 employee in a capacity not subject to chapter 76, the authority  
9 shall include in an annual report to the legislature, to be  
10 submitted not later than twenty days prior to the convening of  
11 each regular session, the position descriptions and reasons for  
12 hiring the personnel in a civil service exempt capacity. The  
13 authority may call upon the attorney general for legal services  
14 as it may require. The authority may delegate to one or more of  
15 its agents or employees the powers and duties it deems proper."

16 SECTION 35. Section 363-2, Hawaii Revised Statutes, is  
17 amended by amending subsection (b) to read as follows:

18 "(b) The head of the office shall be known as the director  
19 of the office of veterans' services. The director shall be  
20 nominated and appointed by the governor without regard to  
21 chapters 76 and 89. Effective July 1, 2005, the director shall  
22 be paid a salary set by the appointing authority that shall not





1 exceed sixty-nine per cent of the salary of the director of  
2 [~~human resources development~~] public safety. The director  
3 shall be included in any benefit program generally applicable to  
4 the officers and employees of the State."

5 SECTION 36. Section 367-2, Hawaii Revised Statutes, is  
6 amended by amending subsection (b) to read as follows:

7 "(b) The commission shall consist of thirteen members,  
8 which shall include:

9 (1) Ex officio nonvoting members the superintendent of  
10 education, the president of the University of Hawaii,  
11 the director of labor and industrial relations, the  
12 [~~director of~~] head of the division of human resources  
13 development [~~7~~] of the department of labor and  
14 industrial relations, the director of human services,  
15 and the director of health, or their respective  
16 designated representative; and

17 (2) The remaining seven members shall be appointed by the  
18 governor in accordance with section 26-34, and shall  
19 serve as voting members."

20 SECTION 37. Section 487N-5, Hawaii Revised Statutes, is  
21 amended by amending subsection (a) to read as follows:



1           "(a) There is established an information privacy and  
2 security council within the department of accounting and general  
3 services for administrative purposes only. Members of the  
4 council shall be appointed no later than September 1, 2008, by  
5 the governor without regard to section 26-34 and shall be  
6 composed of the following representatives:

- 7           (1) Executive agencies that maintain extensive personal  
8 information in the conduct of their duties, including  
9 the department of education, the department of health,  
10 the [department] division of human resources  
11 development [7] of the department of labor and  
12 industrial relations, the department of human  
13 services, and the University of Hawaii, to be selected  
14 by the governor;
- 15           (2) The legislature, to be selected by the president of  
16 the senate and the speaker of the house of  
17 representatives;
- 18           (3) The judiciary, to be selected by the administrator of  
19 the courts; and
- 20           (4) The four counties, to be selected by the mayor of each  
21 county; provided that the mayor of each county shall



1           determine the extent to which the county may or may  
2           not participate.

3           The comptroller shall serve as chair of the council."

4           SECTION 38. Act 300, Session Laws of Hawaii 2006, is  
5 amended as follows:

6           1. By amending section 18 to read as follows:

7           "SECTION 18. (a) Due to the complexities of converting  
8 filled positions in multiple departments from exempt to civil  
9 service positions, the [~~department~~] division of human resources  
10 development of the department of labor and industrial relations  
11 and the Hawaii government employees association shall work  
12 collaboratively to establish a logical, workable, and fair  
13 process for converting positions in various departments, which  
14 are currently exempt from chapter 76, Hawaii Revised Statutes,  
15 to civil service positions.

16           (b) To establish a logical, workable, and fair process for  
17 converting positions in various departments from exempt to civil  
18 service positions, the [~~department~~] division of human resources  
19 development and the Hawaii government employees association  
20 shall consider but not be limited to the following factors:

21           (1) Whether the criteria and statutory authority used to  
22           exempt positions under section 76-16(b)(17), Hawaii



1 Revised Statutes, from civil service are no longer  
2 needed;

3 (2) Whether the position has a confidential relationship  
4 between an elected official, department head, or  
5 policy making level staff;

6 (3) Whether the position directs programs defined by  
7 statute or by departmental, board, or commission  
8 policy or possesses significant authority to bind the  
9 agency to a course of action; and

10 (4). Whether the position involves substantial  
11 responsibility for formulating basic departmental or  
12 executive policy or involves directing and controlling  
13 program operations of a department or division of a  
14 department."

15 2. By amending section 21 to read as follows:

16 "SECTION 21. The [~~department~~] division of human resources  
17 development of the department of labor and industrial relations  
18 shall submit, no later than twenty days prior to the convening  
19 of each regular session beginning with the regular session of  
20 2007, a report of the number of exempt positions that were  
21 converted to civil service positions during the previous twelve  
22 months. The report shall include but not be limited to:



- 1 (1) When the position was established;
- 2 (2) The purpose of the position;
- 3 (3) Rationale for the conversion; and
- 4 (4) How many exempt positions remain in each state
- 5 department after the conversions."

6 SECTION 39. Act 213, Session Laws of Hawaii 2008, is  
 7 amended by amending section 2 to read as follows:

8 "SECTION 2. The [department] division of human resources  
 9 development of the department of labor and industrial relations  
 10 shall report annually to the legislature, no later than twenty  
 11 days prior to the convening of each regular session beginning  
 12 with the regular session of 2009, on expenditures of qualified  
 13 community rehabilitation programs and related activities."

14 SECTION 40. Section 26-5, Hawaii Revised Statutes, is  
 15 repealed.

16 [~~"§26-5 Department of human resources development. (a)~~  
 17 ~~The department of human resources development shall be headed by~~  
 18 ~~a single executive to be known as the director of human~~  
 19 ~~resources development.~~

20 ~~(b) The department shall administer the state human~~  
 21 ~~resources program, including human resources development and~~  
 22 ~~training, and central human resources services such as~~



1 ~~recruitment, examination, classification, pay administration,~~  
2 ~~and payment of any claims as required under chapter 386.~~

3 ~~(c) There shall be within the department of human~~  
4 ~~resources development a board to be known as the merit appeals~~  
5 ~~board which shall sit as an appellate body on matters set forth~~  
6 ~~in section 76-14. The board shall consist of three members.~~  
7 ~~All members shall have knowledge of public employment laws and~~  
8 ~~prior experience with public employment; provided that at least~~  
9 ~~one member's experience was with an employee organization as a~~  
10 ~~member or an employee of that organization and at least one~~  
11 ~~member's experience was with management. The governor shall~~  
12 ~~consider the names of qualified individuals submitted by~~  
13 ~~employee organizations or management before appointing the~~  
14 ~~members of the board. The chairperson of the board shall be~~  
15 ~~designated as specified in the rules of the board.~~

16 ~~(d) The provisions of section 26-34 shall not apply and~~  
17 ~~the board members shall be appointed by the governor for four~~  
18 ~~year terms and may be re-appointed without limitation; provided~~  
19 ~~that the initial appointments shall be for staggered terms, as~~  
20 ~~determined by the governor. The governor shall fill any vacancy~~  
21 ~~by appointing a new member for a four year term. The governor~~



1 ~~may remove for cause any member after due notice and public~~  
2 ~~hearing.~~

3 ~~(e) Nothing in this section shall be construed as in any~~  
4 ~~manner affecting the civil service laws applicable to the~~  
5 ~~several counties, the judiciary, or the Hawaii health systems~~  
6 ~~corporation or its regional system boards, which shall remain~~  
7 ~~the same as if this chapter had not been enacted.~~

8 ~~(f) There is established in the state treasury the human~~  
9 ~~resources development special fund, to be administered by the~~  
10 ~~department of human resources development, which shall consist~~  
11 ~~of: all revenues received by the department as a result of~~  
12 ~~entrepreneurial efforts in securing new sources of funds not~~  
13 ~~provided for in the department's budget for services rendered by~~  
14 ~~the department, all revenues received by the department from the~~  
15 ~~charging of participant fees for in service training that are in~~  
16 ~~addition to general fund appropriations in the department's~~  
17 ~~budget for developing and operating in service training~~  
18 ~~programs, appropriations made by the legislature to the fund,~~  
19 ~~and moneys directed to the department from any other source,~~  
20 ~~including gifts, grants, and awards.~~

21 ~~Moneys in the human resources development special fund~~  
22 ~~shall be used for the following purposes:~~



- 1       ~~(1) Supporting the department's entrepreneurial~~
- 2           ~~initiatives, training activities, and programs;~~
- 3       ~~(2) Administrative costs of the department's~~
- 4           ~~entrepreneurial initiatives, training activities, and~~
- 5           ~~programs; and~~
- 6       ~~(3) Any other purpose deemed necessary by the director for~~
- 7           ~~the purpose of facilitating the department's~~
- 8           ~~entrepreneurial initiatives, training activities, and~~
- 9           ~~programs.~~
  
- 10       ~~(g) The department of human resources development shall~~
- 11       ~~submit, no later than twenty days prior to the convening of each~~
- 12       ~~regular session [of the legislature] beginning with the regular~~
- 13       ~~session of 2007, a report of the number of exempt positions that~~
- 14       ~~were converted to civil service positions during the previous~~
- 15       ~~twelve months. The report shall include but not be limited to:~~
- 16           ~~(1) When the position was established;~~
- 17           ~~(2) The purpose of the position;~~
- 18           ~~(3) Rationale for the conversion; and~~
- 19           ~~(4) How many exempt positions remain in each state~~
- 20           ~~department after the conversions." ]~~





1 SECTION 41. All rights, powers, functions, and duties of  
2 the department of human resources development are transferred to  
3 the department of labor and industrial relations.

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

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

18 An officer or employee of the State who does not have  
19 tenure and who may be transferred or appointed to a civil  
20 service position as a consequence of this Act shall become a  
21 civil service employee without the loss of salary, seniority,  
22 prior service credit, vacation, sick leave, or other employee



1 benefits or privileges and without the necessity of examination;  
2 provided that such officer or employee possesses the minimum  
3 qualifications for the position to which transferred or  
4 appointed.

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

13 SECTION 42. All appropriations, records, equipment,  
14 machines, files, supplies, contracts, books, papers, documents,  
15 maps, and other personal property heretofore made, used,  
16 acquired, or held by the department of human resources  
17 development relating to the functions transferred to the  
18 department of labor and industrial relations shall be  
19 transferred with the functions to which they relate.

20 SECTION 43. The director of finance shall transfer the  
21 unexpended balance, encumbrances, and accrued liabilities, of  
22 the human resources development special fund established under



1 section 26-5, Hawaii Revised Statutes, existing as of the  
2 effective date of this Act, to the credit of the human resources  
3 development special fund as provided in section 26-20, Hawaii  
4 Revised Statutes.

5 SECTION 44. All rules, policies, procedures, guidelines,  
6 and other material adopted or developed by the department of  
7 human resources development to implement provisions of the  
8 Hawaii Revised Statutes which are reenacted or made applicable  
9 to the division of human resources development and the  
10 department of labor and industrial relations by this Act, shall  
11 remain in full force and effect until amended or repealed by the  
12 division of human resources development or the department of  
13 labor and industrial relations pursuant to chapter 91, Hawaii  
14 Revised Statutes. In the interim, every reference to the  
15 department of human resources development or director of human  
16 resources development in those rules, policies, procedures,  
17 guidelines, and other material is amended to refer to the  
18 division of human resources development or the department of  
19 labor and industrial relations, or director of labor and  
20 industrial relations, as appropriate.



# H.B. NO. 1971

1 SECTION 45. This Act does not affect rights and duties  
2 that matured, penalties that were incurred, and proceedings that  
3 were begun before its effective date.

4 SECTION 46. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 47. This Act shall take effect on July 1, 2010.

7

INTRODUCED BY:

Kal Rhoads

JAN 13 2010



**Report Title:**

Department of Human Resources Development

**Description:**

Converts the department of human resources development to a division in the department of labor and industrial relations. Transfers the commission on salaries and the deferred compensation plan board of trustees to the department of accounting and general services.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

