
A BILL FOR AN ACT

RELATING TO STATE DEPARTMENTS.

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) i

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

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

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

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



- 1 [~~(7)~~] (6) University of Hawaii (Section 26-11);
- 2 [~~(8)~~] (7) Department of education (Section 26-12);
- 3 [~~(9)~~] (8) Department of health (Section 26-13);
- 4 [~~(10)~~] (9) Department of human services (Section 26-14);
- 5 [~~(11)~~] (10) Department of land and natural resources
- 6 (Section 26-15);
- 7 [~~(12)~~] (11) Department of agriculture (Section 26-16);
- 8 [~~(13)~~] (12) Department of Hawaiian home lands (Section 26-
- 9 17);
- 10 [~~(14)~~] (13) Department of business, economic development,
- 11 and tourism (Section 26-18);
- 12 [~~(15)~~] (14) Department of transportation (Section 26-19);
- 13 [~~(16)~~] (15) Department of labor and industrial relations
- 14 (Section 26-20);
- 15 [~~(17)~~] (16) Department of defense (Section 26-21);
- 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 subsections (c) to (e) 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 [ef] 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 457 and 3121 of the
12 Internal Revenue Code of 1986, as amended, for the benefit of
13 employees to defer a portion of their compensation to a future
14 period of time. Participation in the plan shall be mandatory,
15 with a mandatory payroll deduction by the employee equal to
16 seven and five-tenths per cent of the employee's gross monthly
17 wages, which shall be contributed to the plan. A county may
18 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[-] i
- 3 (4) Define volunteer jobs that are meaningful to the
4 volunteer and commensurate with [~~his~~] the volunteer's
5 abilities[-] i
- 6 (5) Be alert to assignments for handicapped or disabled
7 volunteers[-] i
- 8 (6) Make it possible for a volunteer to serve on a trial
9 or probationary basis for a specified period[-] i
- 10 (7) Provide orientation and training to improve the
11 volunteer's skills[-] i
- 12 (8) Provide volunteers with clear instructions and an
13 adequate work space[-] i
- 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[-] i
- 17 (10) Establish and communicate clearly defined lines of
18 supervision so that the volunteer knows to whom [~~he~~]
19 the volunteer is responsible[-] i
- 20 (11) Provide appropriate recognition and appreciation to
21 the volunteer[-] i



- 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 [H]103D-203(a)(8)[H]. 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.



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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: Andy Evans

JAN 22 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.

