

JAN 26 2011

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# A BILL FOR AN ACT

RELATING TO CIVIL SERVICE.

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

1           SECTION 1. Section 22-3, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§22-3 Clerk, tenure.** The clerk of each house of the  
4 legislature shall, during sessions of the legislature, devote  
5 full time to the duties of the clerk's office; the clerk shall  
6 continue to hold office as clerk and shall discharge duties  
7 appropriate to the clerk's office in the interim between  
8 sessions of the legislature, until such time as the clerk's  
9 successor is qualified in accordance with chapter 76 and the  
10 rules of the respective house or unless the clerk's tenure be  
11 terminated by action of the respective house[-] and pursuant to  
12 chapter 76."

13           SECTION 2. Section 22-4, Hawaii Revised Statutes, is  
14 amended to read as follows:

15           "**§22-4 Permanent staffing.** Each house of the legislature  
16 may by appropriate rules provide for permanent professional  
17 staffing for each respective house. Persons appointed shall  
18 perform and observe such duties and responsibilities as may be



1 assigned to them, and they may be called to assist in the  
2 development and formulation of policy. Persons appointed by  
3 each respective house may, if so determined, serve as staff to  
4 committees during the interim and during regular sessions. They  
5 shall be appointed and removed and compensated as provided for  
6 in the rules of the respective houses [~~and the provisions of~~  
7 ~~chapter 76 shall not apply~~]. Persons appointed by each  
8 respective house, except the clerk of each house and the  
9 directors of the partisan drafting agencies of each house, shall  
10 not be subject to chapter 76. The members of the permanent  
11 staff shall be entitled to every state employee benefit and  
12 privilege."

13 SECTION 3. Section 76-11, Hawaii Revised Statutes, is  
14 amended as follows:

15 1. By amending the definition of "chief executive" to  
16 read:

17 "Chief executive" means the governor, the respective  
18 mayors, the chief justice of the supreme court, the senate  
19 president, the speaker of the house of representatives, and the  
20 chief executive officer of the Hawaii health systems  
21 corporation. It may include the superintendent of education and  
22 the president of the University of Hawaii with respect to their



1 employees on any matter that applies to employees in general,  
2 including employees who are not covered by this chapter."

3 2. By amending the definition of "jurisdiction" to read:

4 "Jurisdiction" means the State, the city and county of  
5 Honolulu, the county of Hawaii, the county of Maui, the county  
6 of Kauai, the judiciary, the senate, the house of  
7 representatives, the department of education, the University of  
8 Hawaii, and the Hawaii health systems corporation."

9 SECTION 4. Section 76-16, Hawaii Revised Statutes, is  
10 amended by amending subsection (b) to read as follows:

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

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

21 (2) Positions filled by persons employed by contract where  
22 the director of human resources development has



- 1 certified that the service is special or unique or is  
2 essential to the public interest and that, because of  
3 circumstances surrounding its fulfillment, personnel  
4 to perform the service cannot be obtained through  
5 normal civil service recruitment procedures. Any such  
6 contract may be for any period not exceeding one year;
- 7 (3) Positions that must be filled without delay to comply  
8 with a court order or decree if the director  
9 determines that recruitment through normal recruitment  
10 civil service procedures would result in delay or  
11 noncompliance, such as the Felix-Cayetano consent  
12 decree;
- 13 (4) Positions filled by the legislature or by either house  
14 or any committee thereof; provided that the clerk of  
15 each house and the directors of the partisan drafting  
16 agencies of each house shall be subject to this  
17 chapter;
- 18 (5) Employees in the office of the governor and office of  
19 the lieutenant governor, and household employees at  
20 Washington Place;
- 21 (6) Positions filled by popular vote;



- 1 (7) Department heads, officers, and members of any board,  
2 commission, or other state agency whose appointments  
3 are made by the governor or are required by law to be  
4 confirmed by the senate;
- 5 (8) Judges, referees, receivers, masters, jurors, notaries  
6 public, land court examiners, court commissioners, and  
7 attorneys appointed by a state court for a special  
8 temporary service;
- 9 (9) One bailiff for the chief justice of the supreme court  
10 who shall have the powers and duties of a court  
11 officer and bailiff under section 606-14; one  
12 secretary or clerk for each justice of the supreme  
13 court, each judge of the intermediate appellate court,  
14 and each judge of the circuit court; one secretary for  
15 the judicial council; one deputy administrative  
16 director of the courts; three law clerks for the chief  
17 justice of the supreme court, two law clerks for each  
18 associate justice of the supreme court and each judge  
19 of the intermediate appellate court, one law clerk for  
20 each judge of the circuit court, two additional law  
21 clerks for the civil administrative judge of the  
22 circuit court of the first circuit, two additional law



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

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



- 1           (11) (A) Teachers, principals, vice-principals, complex  
2                           area superintendents, deputy and assistant  
3                           superintendents, other certificated personnel,  
4                           not more than twenty noncertificated  
5                           administrative, professional, and technical  
6                           personnel not engaged in instructional work;
- 7           (B) Effective July 1, 2003, teaching assistants,  
8                           educational assistants, bilingual/bicultural  
9                           school-home assistants, school psychologists,  
10                          psychological examiners, speech pathologists,  
11                          athletic health care trainers, alternative school  
12                          work study assistants, alternative school  
13                          educational/supportive services specialists,  
14                          alternative school project coordinators, and  
15                          communications aides in the department of  
16                          education;
- 17           (C) The special assistant to the state librarian and  
18                          one secretary for the special assistant to the  
19                          state librarian; and
- 20           (D) Members of the faculty of the University of  
21                          Hawaii, including research workers, extension  
22                          agents, personnel engaged in instructional work,



1                   and administrative, professional, and technical  
2                   personnel of the university;

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

5       (13)   Positions filled by inmates, kokuas, patients of state  
6           institutions, persons with severe physical or mental  
7           handicaps participating in the work experience  
8           training programs, and students and positions filled  
9           through federally funded programs that provide  
10          temporary public service employment such as the  
11          federal Comprehensive Employment and Training Act of  
12          1973;

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

15       (15)   Positions filled by persons employed on a fee,  
16          contract, or piecework basis, who may lawfully perform  
17          their duties concurrently with their private business  
18          or profession or other private employment and whose  
19          duties require only a portion of their time, if it is  
20          impracticable to ascertain or anticipate the portion  
21          of time to be devoted to the service of the State;





- 1           (16) Positions of first deputies or first assistants of  
2           each department head appointed under or in the manner  
3           provided in section 6, Article V, of the State  
4           Constitution; three additional deputies or assistants  
5           either in charge of the highways, harbors, and  
6           airports divisions or other functions within the  
7           department of transportation as may be assigned by the  
8           director of transportation, with the approval of the  
9           governor; four additional deputies in the department  
10          of health, each in charge of one of the following:  
11          behavioral health, environmental health, hospitals,  
12          and health resources administration, including other  
13          functions within the department as may be assigned by  
14          the director of health, with the approval of the  
15          governor; an administrative assistant to the state  
16          librarian; and an administrative assistant to the  
17          superintendent of education;
- 18          (17) Positions specifically exempted from this part by any  
19          other law; provided that all of the positions defined  
20          by paragraph (9) shall be included in the position  
21          classification plan;

- 1           (18) Positions in the state foster grandparent program and  
2           positions for temporary employment of senior citizens  
3           in occupations in which there is a severe personnel  
4           shortage or in special projects;
- 5           (19) Household employees at the official residence of the  
6           president of the University of Hawaii;
- 7           (20) Employees in the department of education engaged in  
8           the supervision of students during meal periods in the  
9           distribution, collection, and counting of meal  
10          tickets, and in the cleaning of classrooms after  
11          school hours on a less than half-time basis;
- 12          (21) Employees hired under the tenant hire program of the  
13          Hawaii public housing authority; provided that not  
14          more than twenty-six per cent of the authority's work  
15          force in any housing project maintained or operated by  
16          the authority shall be hired under the tenant hire  
17          program;
- 18          (22) Positions of the federally funded expanded food and  
19          nutrition program of the University of Hawaii that  
20          require the hiring of nutrition program assistants who  
21          live in the areas they serve;



1 (23) Positions filled by severely handicapped persons who  
2 are certified by the state vocational rehabilitation  
3 office that they are able to perform safely the duties  
4 of the positions;

5 (24) One public high school student to be selected by the  
6 Hawaii state student council as a nonvoting member on  
7 the board of education as authorized by the State  
8 Constitution;

9 (25) Sheriff, first deputy sheriff, and second deputy  
10 sheriff;

11 (26) A gender and other fairness coordinator hired by the  
12 judiciary; and

13 (27) Positions in the Hawaii national guard youth and adult  
14 education programs.

15 The director shall determine the applicability of this  
16 section to specific positions.

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

19 SECTION 5. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

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1 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY: Michelle Tidoni

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**Report Title:**

Civil Service; Legislature

**Description:**

Subjects the clerk of each house and the directors of the partisan drafting agencies of each house to the State's civil service laws.

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

