
A BILL FOR AN ACT

RELATING TO CAPITAL IMPROVEMENT PROJECTS.

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

1 PART I

2 SECTION 1. The legislature finds that temporary exemptions
3 are necessary to expedite the construction and improvement of
4 public housing units and public infrastructure. The legislature
5 also finds that temporary exemptions achieve the dual benefits
6 of promoting jobs in the local economy and developing valuable
7 public assets. Moreover, the legislature finds that the repair
8 and maintenance of vacant public housing units should reduce the
9 turnaround time between vacating and incoming tenants, thereby
10 resulting in an increase in the affordable housing inventory.

11 The purpose of this part is to address economic
12 revitalization. Specifically, this part temporarily exempts the
13 following from the state and county civil service:

- 14 (1) Persons hired or contracted to repair and maintain
15 vacant public housing units; and
16 (2) Persons hired or contracted to perform planning,
17 design, engineering, or permit processing work for
18 state or county capital improvement projects.



1 SECTION 2. Section 46-33, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§46-33 Exemption of certain county positions.** In any
4 county with a population of [~~500,000~~] five hundred thousand or
5 more, the civil service to which this section refers is
6 comprised of all positions in the public service of [~~such~~] the
7 county, now existing or hereafter established, and embraces all
8 personal services performed for [~~such~~] the county, except the
9 following:

- 10 (1) Positions of officers elected by public vote;
11 positions of heads of departments; position of the
12 clerk; position of the manager of the board of water
13 supply and position of the chief of police[-];
14 (2) Positions in the office of the mayor, but [~~such~~] those
15 positions, except those of the heads of the offices of
16 information and complaint and budget director, shall
17 be included in the position classification plan.
18 Employees of the municipal library and of the offices
19 of information and complaint and budget director,
20 other than the heads of [~~such~~] the offices, however,
21 shall not be exempted from civil service[-];



- 1 (3) Positions of deputies of the corporation counsel,
2 deputies of the prosecuting attorney, and law
3 clerks[-];
- 4 (4) Positions of members of any board, commission, or
5 equivalent body[-];
- 6 (5) Positions filled by inmates, patients, or students in
7 city institutions or in the schools[-];
- 8 (6) Positions of district magistrates, jurors, and
9 witnesses[-];
- 10 (7) Personal services obtained by contract where the
11 director of civil service has certified that the
12 service is special or unique, is essential to the
13 public interest and that, because of circumstances
14 surrounding its fulfillment, personnel to perform
15 [~~such~~] the service cannot be obtained through normal
16 civil service recruitment procedures. Any such
17 contract may be for any period not exceeding one
18 year[-];
- 19 (8) Personal services of a temporary nature needed in the
20 public interest where the need for the same does not
21 exceed ninety days, but before any person may be
22 employed to render [~~such~~] the temporary service, the



1 director of civil service shall certify that the
2 service is of a temporary nature and that recruitment
3 through normal civil service recruitment procedures is
4 not practicable. The employment of any person for
5 service of a temporary nature may be extended for good
6 cause for an additional period not to exceed ninety
7 days upon similar certification by the director
8 subject to approval of the civil service
9 commission[-];

10 (9) Personal services performed on a fee, contract, or
11 piecework basis by persons who may lawfully perform
12 their duties concurrently with their private business
13 or profession or other private employment, if any, and
14 whose duties require only a portion of their time,
15 where it is impracticable to ascertain or anticipate
16 the portion of time devoted to the service of the city
17 and [~~such~~] that fact is certified to by the director
18 of civil service[-];

19 (10) Positions of temporary election clerks in the office
20 of the clerk employed during the election periods, but
21 the positions filled by [~~such~~] those employees shall
22 be included in the position classification plan[-];



1 (11) Positions of one first deputy and private secretaries
 2 to heads of departments and their first deputies, but
 3 private secretarial positions shall be included in the
 4 position classification plan. The first deputy in the
 5 department of civil service, however, shall not be
 6 exempt from civil service[-]; and

7 (12) From July 1, 2012 to June 30, 2015, persons hired or
 8 contracted to perform:

9 (A) Repair or maintenance work on vacant housing
 10 units under the jurisdiction of the county; or

11 (B) Planning, design, engineering, or permit
 12 processing work for capital improvement projects
 13 of a county agency.

14 The director of civil service shall determine the applicability
 15 of this section to specific positions."

16 SECTION 3. Section 76-16, Hawaii Revised Statutes, is
 17 amended by amending subsection (b) to read as follows:

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



- 1 (1) Commissioned and enlisted personnel of the Hawaii
2 national guard as such, and positions in the Hawaii
3 national guard that are required by state or federal
4 laws or regulations or orders of the national guard to
5 be filled from those commissioned or enlisted
6 personnel;
- 7 (2) Positions filled by persons employed by contract where
8 the director of human resources development has
9 certified that the service is special or unique or is
10 essential to the public interest and that, because of
11 circumstances surrounding its fulfillment, personnel
12 to perform the service cannot be obtained through
13 normal civil service recruitment procedures. Any such
14 contract may be for any period not exceeding one year;
- 15 (3) Positions that must be filled without delay to comply
16 with a court order or decree if the director
17 determines that recruitment through normal recruitment
18 civil service procedures would result in delay or
19 noncompliance, such as the Felix-Cayetano consent
20 decree;
- 21 (4) Positions filled by the legislature or by either house
22 or any committee thereof;



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



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

19 (10) First deputy and deputy attorneys general, the
20 administrative services manager of the department of
21 the attorney general, one secretary for the
22 administrative services manager, an administrator and



1 any support staff for the criminal and juvenile
2 justice resources coordination functions, and law
3 clerks;

4 (11) (A) Teachers, principals, vice-principals, complex
5 area superintendents, deputy and assistant
6 superintendents, other certificated personnel,
7 not more than twenty noncertificated
8 administrative, professional, and technical
9 personnel not engaged in instructional work;

10 (B) Effective July 1, 2003, teaching assistants,
11 educational assistants, bilingual/bicultural
12 school-home assistants, school psychologists,
13 psychological examiners, speech pathologists,
14 athletic health care trainers, alternative school
15 work study assistants, alternative school
16 educational/supportive services specialists,
17 alternative school project coordinators, and
18 communications aides in the department of
19 education;

20 (C) The special assistant to the state librarian and
21 one secretary for the special assistant to the
22 state librarian; and



- 1 (D) Members of the faculty of the University of
2 Hawaii, including research workers, extension
3 agents, personnel engaged in instructional work,
4 and administrative, professional, and technical
5 personnel of the university;
- 6 (12) Employees engaged in special, research, or
7 demonstration projects approved by the governor;
- 8 (13) Positions filled by inmates, kokuas, patients of state
9 institutions, persons with severe physical or mental
10 handicaps participating in the work experience
11 training programs, and students and positions filled
12 through federally funded programs that provide
13 temporary public service employment such as the
14 federal Comprehensive Employment and Training Act of
15 1973;
- 16 (14) A custodian or guide at Iolani Palace, the Royal
17 Mausoleum, and Hulihee Palace;
- 18 (15) Positions filled by persons employed on a fee,
19 contract, or piecework basis, who may lawfully perform
20 their duties concurrently with their private business
21 or profession or other private employment and whose
22 duties require only a portion of their time, if it is



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



- 1 by paragraph (9) shall be included in the position
2 classification plan;
- 3 (18) Positions in the state foster grandparent program and
4 positions for temporary employment of senior citizens
5 in occupations in which there is a severe personnel
6 shortage or in special projects;
- 7 (19) Household employees at the official residence of the
8 president of the University of Hawaii;
- 9 (20) Employees in the department of education engaged in
10 the supervision of students during meal periods in the
11 distribution, collection, and counting of meal
12 tickets, and in the cleaning of classrooms after
13 school hours on a less than half-time basis;
- 14 (21) Employees hired under the tenant hire program of the
15 Hawaii public housing authority; provided that except
16 during the time period specified in paragraph (27),
17 not more than twenty-six per cent of the authority's
18 work force in any housing project maintained or
19 operated by the authority shall be hired under the
20 tenant hire program;
- 21 (22) Positions of the federally funded expanded food and
22 nutrition program of the University of Hawaii that



1 require the hiring of nutrition program assistants who
2 live in the areas they serve;

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

7 (24) The sheriff;

8 (25) A gender and other fairness coordinator hired by the
9 judiciary; [~~and~~]

10 (26) Positions in the Hawaii national guard youth and adult
11 education programs[-]; and

12 (27) From July 1, 2012 to June 30, 2015, persons hired or
13 contracted to perform:

14 (A) Repair or maintenance work on vacant housing
15 units under the jurisdiction of the Hawaii public
16 housing authority or Hawaii housing and finance
17 development corporation; or

18 (B) Planning, design, engineering, or permit
19 processing work for capital improvement projects
20 of a state agency.

21 The director shall determine the applicability of this
22 section to specific positions.



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

3 SECTION 4. Section 76-77, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§76-77 Civil service and exemptions.** The civil service
6 to which this part applies comprises all positions in the public
7 service of each county, now existing or hereafter established,
8 and embraces all personal services performed for each county,
9 except the following:

- 10 (1) Positions in the office of the mayor; provided that
11 the positions shall be included in the classification
12 systems;
- 13 (2) Positions of officers elected by public vote,
14 positions of heads of departments, and positions of
15 one first deputy or first assistant of heads of
16 departments;
- 17 (3) Positions of deputy county attorneys, deputy
18 corporation counsel, deputy prosecuting attorneys, and
19 law clerks;
- 20 (4) Positions of members of any board, commission, or
21 agency;



1 (5) Positions filled by students; positions filled through
2 federally funded programs which provide temporary
3 public service employment such as the federal
4 Comprehensive Employment and Training Act of 1973; and
5 employees engaged in special research or demonstration
6 projects approved by the mayor, for which projects
7 federal funds are available;

8 (6) Positions of district judges, jurors, and witnesses;

9 (7) Positions filled by persons employed by contract where
10 the personnel director has certified that the service
11 is special or unique, is essential to the public
12 interest, and that because of the circumstances
13 surrounding its fulfillment, personnel to perform the
14 service cannot be recruited through normal civil
15 service procedures; provided that no contract pursuant
16 to this paragraph shall be for any period exceeding
17 one year;

18 (8) Positions of a temporary nature needed in the public
19 interest where the need does not exceed ninety days;
20 provided that before any person may be employed to
21 render temporary service pursuant to this paragraph,
22 the director shall certify that the service is of a



1 temporary nature and that recruitment through normal
 2 civil service recruitment procedures is not
 3 practicable; and provided further that the employment
 4 of any person pursuant to this paragraph may be
 5 extended for good cause for an additional period not
 6 to exceed ninety days upon similar certification by
 7 the director;

8 (9) Positions of temporary election clerks in the office
 9 of the county clerk employed during election periods;

10 (10) Positions specifically exempted from this part by any
 11 other state statutes;

12 (11) Positions of one private secretary for each department
 13 head; provided that the positions shall be included in
 14 the classification systems;

15 (12) 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, if any, and
 19 whose duties require only a portion of their time,
 20 where it is impracticable to ascertain or anticipate
 21 the portion of time devoted to the service of the
 22 county and that fact is certified by the director;



1 (13) Positions filled by persons with a severe disability
2 who are certified by the state vocational
3 rehabilitation office as able to safely perform the
4 duties of the positions;

5 (14) Positions of the housing and community development
6 office or department of each county; provided that
7 this exemption shall not preclude each county from
8 establishing these positions as civil service
9 positions;

10 (15) The following positions in the office of the
11 prosecuting attorney: private secretary to the
12 prosecuting attorney, secretary to the first deputy
13 prosecuting attorney, and administrative or executive
14 assistants to the prosecuting attorney; provided that
15 the positions shall be included in the classification
16 systems; [~~and~~]

17 (16) Positions or contracts for personal services with
18 private persons or entities for services lasting no
19 more than one year and at a cost of no more than
20 \$750,000; provided that the exemption under this
21 paragraph shall apply to contracts for building,
22 custodial, and grounds maintenance services with



1 qualified community rehabilitation programs, as
2 defined in section 103D-1001, lasting for no more than
3 a year and at a cost of no more than \$850,000[-]; and
4 (17) From July 1, 2012 to June 30, 2015, persons hired or
5 contracted to perform:
6 (A) Repair or maintenance work on vacant housing
7 units under the jurisdiction of the county; or
8 (B) Planning, design, engineering, or permit
9 processing work for capital improvement projects
10 of a county agency.

11 The director shall determine the applicability of this
12 section to specific positions and shall determine whether or not
13 positions exempted by paragraphs (7) and (8) shall be included
14 in the classification systems.

15 Nothing in this section shall be deemed to affect the civil
16 service status of any incumbent private secretary of a
17 department head who held that position on May 7, 1977."

18 SECTION 5. (a) Upon the repeal of this Act, an employee
19 hired by the State or a county pursuant to this Act may be:

20 (1) Terminated; or

21 (2) Retained by the respective public employer; provided
22 that the employee shall be subject to all civil



1 service employment requirements for the position for
2 which the employee seeks to be retained or transferred
3 and shall not receive any civil service experience
4 credit for work performed while employed pursuant to
5 this Act.

6 (b) The director of the public agency employing an
7 employee subject to subsection (a) shall determine whether to
8 terminate or retain an employee subject to this Act; provided
9 that if the employee is to be retained, all costs associated
10 with retaining the employee shall be covered by the public
11 agency's existing budget.

12 PART II

13 SECTION 6. The legislature finds that many public housing
14 projects in the State are in poor condition. During the 2010
15 federal inspections for housing projects last year, eleven out
16 of the sixty-five federal housing projects failed to pass
17 inspection, receiving a score of fifty-nine or below out of a
18 possible one hundred. Approximately one-third of the housing
19 projects received a score of sixty-nine or below. To address
20 the host of problems plaguing public housing, the Hawaii public
21 housing authority recently embarked on a major turnaround plan
22 that involves revamping vacant units, streamlining how



1 applications are processed, and encouraging a fast turnaround
2 for filling vacancies. In recent reports, as many as four
3 hundred to six hundred units are not being rented due to
4 uninhabitable conditions. According to a 2003 assessment at
5 Kuhio park terrace, the largest and one of the oldest public
6 housing projects in Hawaii, the estimated capital improvement
7 cost would be approximately \$63,000,000.

8 The legislature also finds that in addition to increasing
9 problems in public housing, high unemployment in the
10 construction and trade industry exacerbates economic problems
11 for individuals that are within the low- to moderate-income
12 population, which is commonly referred to as the "gap group",
13 and includes individuals with gross incomes that fall between
14 one hundred twenty-five per cent and two hundred fifty per cent
15 of federal poverty guidelines. This population is especially
16 vulnerable to becoming homeless if adequate, habitable, and
17 affordable housing is unavailable.

18 The purpose of this part is to provide funding to improve
19 the public housing inventory in the State.

20 SECTION 7. The director of finance is authorized to issue
21 general obligation bonds in the sum of \$5,000,000 or so much
22 thereof as may be necessary and the same sum or so much thereof



1 as may be necessary is appropriated for fiscal year 2012-2013 to
2 renovate public housing units that are uninhabitable.

3 SECTION 8. The sum appropriated under section 7 shall be
4 expended by the Hawaii public housing authority for the purposes
5 of this part.

6 SECTION 9. The appropriation made for capital improvement
7 projects authorized by this part shall not lapse at the end of
8 the fiscal biennium for which the appropriation is made;
9 provided that all moneys from the appropriation unencumbered as
10 of June 30, 2014, shall lapse as of that date.

11 SECTION 10. Notwithstanding any law to the contrary,
12 capital improvement projects executed under this part shall be
13 exempt from the contest provisions of chapter 103D, Hawaii
14 Revised Statutes.

15 PART III

16 SECTION 11. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 12. This Act shall take effect on July 1, 2012;
19 provided that part I of this Act shall be repealed on July 1,
20 2015, and sections 46-33, 76-16(b), and 76-77, Hawaii Revised



- 1 Statutes, shall be reenacted in the form in which they read on
- 2 the day before the effective date of this Act.



Report Title:

Temporary Civil Service Exemption; Hawaii Public Housing Authority; Appropriation

Description:

Exempts temporarily from the state and county civil service: (1) persons hired or contracted to repair and maintain vacant state or county housing units; and (2) persons hired or contracted to perform planning, design, engineering, or permit processing work for state or county capital improvement projects. Makes an appropriation out of general obligation bonds to the Hawaii public housing authority for renovating uninhabitable public housing units. Effective July 1, 2012. (HB2302 HD1)

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