
A BILL FOR AN ACT

RELATING TO STATE EMPLOYMENT.

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

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

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

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

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



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



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



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

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

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

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



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

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

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

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

18 (13) (A) Positions filled by inmates, [~~kekua~~₇] patients
 19 of state institutions, persons with severe
 20 physical or mental [~~handicaps~~] disabilities
 21 participating in the work experience training



1 programs [~~and students and positions filled~~
2 ~~through federally funded programs that provide~~];

3 (B) Positions filled by students in accordance with
4 guidelines for established state employment
5 programs; and

6 (C) Positions providing work experience training or
7 temporary public service employment, that are
8 filled by persons entering the workforce or
9 persons transitioning into other careers under
10 programs such as the federal [~~Comprehensive~~
11 ~~Employment and Training Act of 1973,~~] Workforce
12 Investment Act of 1998, as amended, or Senior
13 Community Services Employment Program, or under
14 other similar state programs; provided that
15 graduate student positions shall not be included
16 as positions under this subparagraph;

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

19 (15) Positions filled by persons employed on a fee,
20 contract, or piecework basis, who may lawfully perform
21 their duties concurrently with their private business
22 or profession or other private employment and whose



1 duties require only a portion of their time, if it is
2 impracticable to ascertain or anticipate the portion
3 of time to be devoted to the service of the State;

4 (16) Positions of first deputies or first assistants of
5 each department head appointed under or in the manner
6 provided in section 6, article V, of the Hawaii State
7 Constitution; three additional deputies or assistants
8 either in charge of the highways, harbors, and
9 airports divisions or other functions within the
10 department of transportation as may be assigned by the
11 director of transportation, with the approval of the
12 governor; four additional deputies in the department
13 of health, each in charge of one of the following:
14 behavioral health, environmental health, hospitals,
15 and health resources administration, including other
16 functions within the department as may be assigned by
17 the director of health, with the approval of the
18 governor; an administrative assistant to the state
19 librarian; and an administrative assistant to the
20 superintendent of education;

21 (17) Positions specifically exempted from this part by any
22 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 not
16 more than twenty-six per cent of the authority's work
17 force in any housing project maintained or operated by
18 the authority shall be hired under the tenant hire
19 program;
- 20 (22) Positions of the federally funded expanded food and
21 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
4 with severe disabilities who are certified by the
5 state vocational rehabilitation office that they are
6 able to perform safely the duties 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.

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

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

16 SECTION 2. Section 78-2.6, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**[+§78-2.6+] Prospective employees; suitability for**
19 **public employment.** All prospective employees, regardless of the
20 positions they will assume, shall demonstrate their suitability
21 for public employment by:



- 1 (1) Passing a pre-employment controlled substance drug
- 2 test if required by the employing jurisdiction; and
- 3 (2) Attesting that during the three-year period
- 4 immediately preceding the date of application for
- 5 employment, the person was not convicted of any
- 6 controlled substance-related offense.

7 If an applicant fails to meet the suitability requirements of
8 the employing jurisdiction, the applicant shall be disqualified
9 from further employment consideration or deemed ineligible for
10 appointment under section 76-29 on the basis of unsuitability
11 for public employment.

12 Notwithstanding paragraph (2), for positions described in
13 section 76-16(b)(13)(C), an applicant shall not be automatically
14 disqualified from employment based on a controlled substance-
15 related offense; provided that reasonable safeguards are in
16 place to protect employees and the public."

17 SECTION 3. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 4. This Act shall take effect upon its approval.



Report Title:

Civil Service; Exemptions; State Employment

Description:

Clarifies exemptions from civil service for federally funded work experience programs and temporary public service employment; allows persons with criminal conviction to participate in such programs provided reasonable safeguards are in place. Requires graduate student positions to continue to be filled via civil service requirements. (HB2572 HD1)

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

