

JAN 25 2012

A BILL FOR AN ACT

RELATING TO LEAVES OF ABSENCE.

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

1 SECTION 1. Section 76-30.5, Hawaii Revised Statutes,
2 enacted by Act 70, Session Laws of Hawaii 2010, establishes
3 provisions for leaves of absence for civil service employees to
4 serve in certain exempt appointed positions. As enacted, the
5 provisions result in differential treatment between civil
6 service "included" employees who are covered by collective
7 bargaining agreements, and civil service "excluded" employees who
8 are generally covered by executive orders. Although the
9 collective bargaining agreements provide for up to four years of
10 leave for the designated purpose for included employees, Act 70
11 limited to one year the maximum length of the leave for excluded
12 employees. However, section 89C-3, Hawaii Revised Statutes,
13 requires that employees not covered by collective bargaining
14 agreements be provided compensation and benefits packages,
15 including leave rights, that are at least equal to those
16 provided to their included counterparts. In addition, section
17 89C-6 allows chapter 89C, Hawaii Revised Statutes, to take

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1 precedence over all other statutes, including chapter 76, Hawaii
2 Revised Statutes. Therefore, the apparent inconsistencies
3 between section 76-30.5 and chapter 89C make implementation of
4 section 76-30.5 and administration over affected employees
5 uncertain.

6 Although enacted in 2010, the legislature finds that this
7 gubernatorial administration is the first to deal with the
8 application of the limitations reflected in section 76-30.5.
9 The legislature further finds that this administration's
10 experience in attempting to interpret and implement section 76-
11 30.5 would detrimentally affect state government by transfers
12 and the loss of experienced employees currently serving as
13 department directors, deputy directors, and private secretaries.

14 Given the uncertainty about the effect of section 76-30.5
15 without corresponding revisions to chapter 89C, the mandates of
16 chapter 89C, and the detrimental effects of section 76-30.5, the
17 purpose of this bill is to repeal section 76-30.5 and return to
18 the status quo of equal leave rights for civil service excluded
19 and included employees.

20 SECTION 2. Section 76-30.5, Hawaii Revised Statutes, is
21 repealed.

22 ~~["76-30.5] Leaves of absence to accept appointed positions~~
23 ~~exempt from civil service, prohibited. Notwithstanding section~~

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1 ~~78-23, no leave of absence shall be granted to any employee who~~
2 ~~leaves a position covered under this chapter for a position that~~
3 ~~is exempt from this chapter under section 76-16(b)(7), (8), (9),~~
4 ~~(10), or (16) and whose term of appointment is not less than one~~
5 ~~year; provided that this section shall not apply to any employee~~
6 ~~whose collective bargaining agreement provides for the granting~~
7 ~~of a longer leave of absence."]~~

8 SECTION 3. Statutory material to be repealed is bracketed
9 and stricken.

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

11

12

INTRODUCED BY: _____



13

BY REQUEST

14

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Report Title:

Leaves of Absence; Public Officers and Employees

Description:

Repeals section 76-30.5, Hawaii Revised Statutes, which limits excluded civil service employees to take a leave of absence of less than one year to fill certain appointed positions.

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

JUSTIFICATION SHEET

DEPARTMENT: Human Resources Development

TITLE: A BILL FOR AN ACT RELATING TO LEAVES OF ABSENCE.

PURPOSE: To repeal section 76-30.5, Hawaii Revised Statutes, which limits excluded civil service employees to take a leave of absence of less than one year to fill certain appointed positions.

MEANS: Repeal section 76-30.5, Hawaii Revised Statutes.

JUSTIFICATION: Section 76-30.5, Hawaii Revised Statutes, enacted by Act 70, Session Laws of Hawaii 2010, establishes provisions for leaves of absence for civil service employees to serve in certain exempt appointed positions. As enacted, the provisions result in differential treatment between civil service "included" employees who are covered by collective bargaining agreements, and civil service "excluded" employees who are generally covered by executive orders. Although the collective bargaining agreements provide for up to four years of leave for the designated purpose for included employees, Act 70 limited to one year the maximum length of the leave for excluded employees. However, section 89C-3, Hawaii Revised Statutes, requires that employees not covered by collective bargaining agreements be provided compensation and benefits packages, including leave rights, that are at least equal to those provided to their included counterparts. In addition, section 89C-6 allows chapter 89C to take precedence over all other statutes, including chapter 76, Hawaii Revised Statutes. Therefore, the apparent inconsistencies between section 76-30.5 and chapter 89C make implementation of

section 76-30.5 and administration over affected employees uncertain.

Although enacted in 2010, the legislature finds that this administration is the first to deal with the application of the limitations reflected in section 76-30.5. The legislature further finds that this administration's experience in attempting to interpret and implement section 76-30.5 would detrimentally affect State government by transfers and the loss of experienced employees currently serving as department directors, deputy directors and private secretaries.

Given the uncertainty, about the effect of section 76-30.5 without corresponding revisions to chapter 89C, the mandates of chapter 89C and the detrimental effects of section 76-30.5, the purpose of this bill is to repeal section 76-30.5 and return to the status quo of equal leave rights for civil service excluded and included employees.

Impact on the public: None.

Impact on the department and other agencies:
None.

GENERAL FUND:	None.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	None.
OTHER AFFECTED AGENCIES:	None.
EFFECTIVE DATE:	Upon approval.