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# A BILL FOR AN ACT

RELATING TO PUBLIC EMPLOYMENT.

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

1           SECTION 1. Act 253, Session Laws of Hawaii 2000, and Act  
2 300, Session Laws of Hawaii 2006, sought to reduce the number of  
3 civil service exempt employees in public service within the  
4 State. The legislature finds that since the enactment of these  
5 Acts, there have been few conversions of civil service exempt  
6 positions to civil service positions and conversions are  
7 overdue.

8           The purpose of this Act is to amend sections of the Hawaii  
9 Revised Statutes to conform with Act 253, Session Laws of Hawaii  
10 2000, which placed restrictions on the creation of civil service  
11 exempt positions and required the annual review of exempt  
12 positions to determine whether exempt positions should remain  
13 exempt or be converted to civil service positions.

14           SECTION 2. Section 6E-3, Hawaii Revised Statutes, is  
15 amended to read as follows:

16           "§6E-3 Historic preservation program. There is  
17 established within the department a division to administer a



1 comprehensive historic preservation program, which shall include  
2 but not be limited to the following:

- 3 (1) Development of an ongoing program of historical,  
4 architectural, and archaeological research and  
5 development, including surveys, excavations,  
6 scientific recording, interpretation, signage, and  
7 publications on the State's historical and cultural  
8 resources;
- 9 (2) Acquisition of historic or cultural properties, real  
10 or personal, in fee or in any lesser interest, by  
11 gift, purchase, condemnation, devise, bequest, land  
12 exchange, or other means; preservation, restoration,  
13 administration, or transference of the property; and  
14 the charging of reasonable admissions to that  
15 property;
- 16 (3) Development of a statewide survey and inventory to  
17 identify and document historic properties, aviation  
18 artifacts, and burial sites, including all those owned  
19 by the State and the counties;
- 20 (4) Preparation of information for the Hawaii register of  
21 historic places and listing on the national register  
22 of historic places;



- 1 (5) Preparation, review, and revisions of a state historic  
2 preservation plan, including budget requirements and  
3 land use recommendations;
- 4 (6) Application for and receipt of gifts, grants,  
5 technical assistance, and other funding from public  
6 and private sources for the purposes of this chapter;
- 7 (7) Provision of technical and financial assistance to the  
8 counties and public and private agencies involved in  
9 historic preservation activities;
- 10 (8) Coordination of activities of the counties in  
11 accordance with the state plan for historic  
12 preservation;
- 13 (9) Stimulation of public interest in historic  
14 preservation, including the development and  
15 implementation of interpretive programs for historic  
16 properties listed on or eligible for the Hawaii  
17 register of historic places;
- 18 (10) Coordination of the evaluation and management of  
19 burial sites as provided in section 6E-43;
- 20 (11) Acquisition of burial sites in fee or in any lesser  
21 interest, by gift, purchase, condemnation, devise,



1 bequest, land exchange, or other means, to be held in  
2 trust;

3 (12) Submittal of an annual report to the governor and  
4 legislature detailing the accomplishments of the year,  
5 recommendations for changes in the state plan or  
6 future programs relating to historic preservation, and  
7 an accounting of all income, expenditures, and the  
8 fund balance of the Hawaii historic preservation  
9 special fund;

10 (13) Regulation of archaeological activities throughout the  
11 State;

12 (14) Employment of sufficient professional and technical  
13 staff for the purposes of this chapter which [~~may~~]  
14 shall be in accordance with chapter 76;

15 (15) The charging of fees to be determined by the  
16 department that are proportional to the nature and  
17 complexity of the projects or services provided, and  
18 adjusted from time to time to ensure that the  
19 proceeds, together with all other fines, income, and  
20 penalties collected under this chapter, do not surpass  
21 the annual operating costs of the comprehensive  
22 historic preservation program;



1           (16) Adoption of rules in accordance with chapter 91,  
2           necessary to carry out the purposes of this chapter;  
3           and

4           (17) Development and adoption, in consultation with the  
5           office of Hawaiian affairs native historic  
6           preservation council, of rules governing permits for  
7           access by native Hawaiians and Hawaiians to cultural,  
8           historic, and pre-contact sites and monuments."

9           SECTION 3. 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;
- 15 (5) Employees in the office of the governor and office of  
16 the lieutenant governor, and household employees at  
17 Washington Place;
- 18 (6) Positions filled by popular vote;
- 19 (7) Department heads, officers, and members of any board,  
20 commission, or other state agency whose appointments  
21 are made by the governor or are required by law to be  
22 confirmed by the senate;



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



- 1 motions judge of the circuit court of the first  
2 circuit, two additional law clerks for the criminal  
3 motions judge of the circuit court of the first  
4 circuit, and two law clerks for the administrative  
5 judge of the district court of the first circuit; and  
6 one private secretary for the administrative director  
7 of the courts, the deputy administrative director of  
8 the courts, each department head, each deputy or first  
9 assistant, and each additional deputy, or assistant  
10 deputy, or assistant defined in paragraph (16);
- 11 (10) First deputy and deputy attorneys general, the  
12 administrative services manager of the department of  
13 the attorney general, one secretary for the  
14 administrative services manager, an administrator and  
15 any support staff for the criminal and juvenile  
16 justice resources coordination functions, and law  
17 clerks;
- 18 (11) (A) Teachers, principals, vice-principals, complex  
19 area superintendents, deputy and assistant  
20 superintendents, other certificated personnel,  
21 not more than twenty noncertificated





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



- 1           (13)   (A)   Positions filled by inmates, patients of state  
2                                   institutions, persons with severe physical or  
3                                   mental disabilities participating in the work  
4                                   experience training programs;
- 5                                   (B)   Positions filled with students in accordance with  
6                                   guidelines for established state employment  
7                                   programs; and
- 8                                   (C)   Positions that provide work experience training  
9                                   or temporary public service employment that are  
10                                  filled by persons entering the workforce or  
11                                  persons transitioning into other careers under  
12                                  programs such as the federal Workforce Investment  
13                                  Act of 1998, as amended, or the Senior Community  
14                                  Service Employment Program of the Employment and  
15                                  Training Administration of the United States  
16                                  Department of Labor, or under other similar state  
17                                  programs;
- 18           (14)   A custodian or guide at Iolani Palace, the Royal  
19                                   Mausoleum, and Hulihee Palace;
- 20           (15)   Positions filled by persons employed on a fee,  
21                                   contract, or piecework basis, who may lawfully perform  
22                                   their duties concurrently with their private business

1 or profession or other private employment and whose  
2 duties require only a portion of their time, if it is  
3 impracticable to ascertain or anticipate the portion  
4 of time to be devoted to the service of the State;

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



- 1 (17) Positions specifically exempted from this part by any  
2 other law; provided that ~~[all]~~:
- 3 (A) Any exemption created after July 1, 2014, shall:
- 4 (i) Expire five years after its enactment unless  
5 affirmatively extended by an act of the  
6 legislature; and
- 7 (ii) Include a current position description that  
8 accurately articulates the duties and  
9 responsibilities of the position; and
- 10 (B) All of the positions defined by paragraph (9)  
11 shall be included in the position classification  
12 plan;
- 13 (18) Positions in the state foster grandparent program and  
14 positions for temporary employment of senior citizens  
15 in occupations in which there is a severe personnel  
16 shortage or in special projects;
- 17 (19) Household employees at the official residence of the  
18 president of the University of Hawaii;
- 19 (20) Employees in the department of education engaged in  
20 the supervision of students during meal periods in the  
21 distribution, collection, and counting of meal



- 1 tickets, and in the cleaning of classrooms after  
2 school hours on a less than half-time basis;
- 3 (21) Employees hired under the tenant hire program of the  
4 Hawaii public housing authority; provided that except  
5 during the time period specified in paragraph (27),  
6 not more than twenty-six per cent of the authority's  
7 workforce in any housing project maintained or  
8 operated by the authority shall be hired under the  
9 tenant hire program;
- 10 (22) Positions of the federally funded expanded food and  
11 nutrition program of the University of Hawaii that  
12 require the hiring of nutrition program assistants who  
13 live in the areas they serve;
- 14 (23) Positions filled by persons with severe disabilities  
15 who are certified by the state vocational  
16 rehabilitation office that they are able to perform  
17 safely the duties of the positions;
- 18 (24) The sheriff;
- 19 (25) A gender and other fairness coordinator hired by the  
20 judiciary;
- 21 (26) Positions in the Hawaii National Guard youth and adult  
22 education programs; and



1           (27) From July 1, 2012, to June 30, 2015, persons hired or  
2           contracted to perform repair, maintenance, or capital  
3           improvement projects work on vacant housing units  
4           under the jurisdiction of the Hawaii public housing  
5           authority.

6           The director shall determine the applicability of this  
7           section to specific positions.

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

10          SECTION 4. Section 206E-4, Hawaii Revised Statutes, is  
11          amended to read as follows:

12          "**§206E-4 Powers; generally.** Except as otherwise limited  
13          by this chapter, the authority may:

- 14           (1) Sue and be sued;
- 15           (2) Have a seal and alter the same at pleasure;
- 16           (3) Make and execute contracts and all other instruments  
17           necessary or convenient for the exercise of its powers  
18           and functions under this chapter;
- 19           (4) Make and alter bylaws for its organization and  
20           internal management;



- 1 (5) Make rules with respect to its projects, operations,  
2 properties, and facilities, which rules shall be in  
3 conformance with chapter 91;
- 4 (6) Through its executive director appoint officers~~[7]~~ and  
5 agents, ~~[and employees7]~~ prescribe their duties and  
6 qualifications, and fix their salaries, without regard  
7 to chapter 76~~[7]~~, and appoint employees in accordance  
8 with chapter 76;
- 9 (7) Prepare or cause to be prepared a community  
10 development plan for all designated community  
11 development districts;
- 12 (8) Acquire, reacquire, or contract to acquire or  
13 reacquire by grant or purchase real, personal, or  
14 mixed property or any interest therein; to own, hold,  
15 clear, improve, and rehabilitate, and to sell, assign,  
16 exchange, transfer, convey, lease, or otherwise  
17 dispose of or encumber the same;
- 18 (9) Acquire or reacquire by condemnation real, personal,  
19 or mixed property or any interest therein for public  
20 facilities, including but not limited to streets,  
21 sidewalks, parks, schools, and other public  
22 improvements;



- 1           (10) By itself, or in partnership with qualified persons,  
2           acquire, reacquire, construct, reconstruct,  
3           rehabilitate, improve, alter, or repair or provide for  
4           the construction, reconstruction, improvement,  
5           alteration, or repair of any project; own, hold, sell,  
6           assign, transfer, convey, exchange, lease, or  
7           otherwise dispose of or encumber any project, and in  
8           the case of the sale of any project, accept a purchase  
9           money mortgage in connection therewith; and repurchase  
10          or otherwise acquire any project that the authority  
11          has theretofore sold or otherwise conveyed,  
12          transferred, or disposed of;
- 13          (11) Arrange or contract for the planning, replanning,  
14          opening, grading, or closing of streets, roads,  
15          roadways, alleys, or other places, or for the  
16          furnishing of facilities or for the acquisition of  
17          property or property rights or for the furnishing of  
18          property or services in connection with a project;
- 19          (12) Grant options to purchase any project or to renew any  
20          lease entered into by it in connection with any of its  
21          projects, on terms and conditions as it deems  
22          advisable;





- 1 (13) Prepare or cause to be prepared plans, specifications,  
2 designs, and estimates of costs for the construction,  
3 reconstruction, rehabilitation, improvement,  
4 alteration, or repair of any project, and from time to  
5 time to modify the plans, specifications, designs, or  
6 estimates;
- 7 (14) Provide advisory, consultative, training, and  
8 educational services, technical assistance, and advice  
9 to any person, partnership, or corporation, either  
10 public or private, to carry out the purposes of this  
11 chapter, and engage the services of consultants on a  
12 contractual basis for rendering professional and  
13 technical assistance and advice;
- 14 (15) Procure insurance against any loss in connection with  
15 its property and other assets and operations in  
16 amounts and from insurers as it deems desirable;
- 17 (16) Contract for and accept gifts or grants in any form  
18 from any public agency or from any other source;
- 19 (17) Do any and all things necessary to carry out its  
20 purposes and exercise the powers given and granted in  
21 this chapter; and



- 1       (18) Allow satisfaction of any affordable housing  
2           requirements imposed by the authority upon any  
3           proposed development project through the construction  
4           of reserved housing, as defined in section 206E-101,  
5           by a person on land located outside the geographic  
6           boundaries of the authority's jurisdiction; provided  
7           that the authority shall not permit any person to make  
8           cash payments in lieu of providing reserved housing,  
9           except to account for any fractional unit that results  
10          after calculating the percentage requirement against  
11          residential floor space or total number of units  
12          developed. The substituted housing shall be located  
13          on the same island as the development project and  
14          shall be substantially equal in value to the required  
15          reserved housing units that were to be developed on  
16          site. The authority shall establish the following  
17          priority in the development of reserved housing:  
18           (A) Within the community development district;  
19           (B) Within areas immediately surrounding the  
20           community development district;  
21           (C) Areas within the central urban core;



1 (D) In outlying areas within the same island as the  
2 development project.

3 The Hawaii community development authority shall  
4 adopt rules relating to the approval of reserved  
5 housing that are developed outside of a community  
6 development district. The rules shall include, but  
7 are not limited to, the establishment of guidelines to  
8 ensure compliance with the above priorities."

9 SECTION 5. Section 346D-8, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "§346D-8 Personnel exempt. The department of human  
12 services [may] shall employ civil service personnel in  
13 accordance with chapter 76 to service the waiver programs."

14 SECTION 6. Section 383-128, Hawaii Revised Statutes, is  
15 amended by amending subsection (k) to read as follows:

16 "(k) The director may establish positions and hire  
17 necessary personnel to establish and administer the employment  
18 and training fund; provided that after the effective date of Act  
19 , Session Laws of Hawaii 2014, positions shall be established  
20 and personnel shall be hired in accordance with chapter 76."

21 SECTION 7. Section 440G-12, Hawaii Revised Statutes, is  
22 amended by amending subsection (d) to read as follows:



1           "(d) The director may appoint, without regard to chapter  
2 76, an administrator and one or more attorneys for purposes of  
3 enforcing this chapter. The director shall define their powers  
4 and duties and fix their compensation. The director may also  
5 appoint professional, clerical, stenographic, and other staff as  
6 may be necessary for the proper administration and enforcement  
7 of this chapter; provided that they are appointed subject to  
8 chapter 76."

9           SECTION 8. Section 802-12, Hawaii Revised Statutes, is  
10 amended to read as follows:

11           "**§802-12 Organization of office; assistance.** Subject to  
12 the approval of the defender council, the state public defender  
13 may employ assistant state public defenders and other employees,  
14 including investigators, as may be necessary to discharge the  
15 function of the office. Assistant state public defenders shall  
16 be qualified to practice before the supreme court of this State.  
17 Assistant state public defenders shall be appointed without  
18 regard to chapter 76 and shall serve at the pleasure of the  
19 state public defender. All other employees [~~may~~] shall be  
20 appointed in accordance with chapter 76. An assistant state  
21 public defender may be employed on a part-time basis, and when  
22 so employed, the assistant public defender may engage in the



1 general practice of law, other than in the practice of criminal  
2 law."

3 SECTION 9. By July 1, 2015, any department, agency office,  
4 or program affected by this Act shall review and revise relevant  
5 position descriptions to accurately articulate the duties and  
6 responsibilities of each position to be converted to a civil  
7 service position; pursuant to this Act.

8 SECTION 10. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10 SECTION 11. In printing this Act, the revisor of statutes  
11 shall insert in section 6 of this Act the corresponding Act  
12 number of this Act.

13 SECTION 12. This Act shall take effect on July 1, 2300;  
14 provided that the amendments made to section 76-16(b), Hawaii  
15 Revised Statutes, by this Act shall not be repealed when section  
16 76-16(b), Hawaii Revised Statutes, is reenacted on July 1, 2015,  
17 pursuant to section 5 of Act 159, Session Laws of Hawaii 2012;  
18 provided further that sections 2, 4, 5, 6, 7, and 8 of this Act  
19 shall take effect on July 1, 2016.



**Report Title:**

Civil Service; Public Employment

**Description:**

Converts certain public employment positions to civil service status effective July 1, 2016. Requires current and accurate job descriptions for all converted positions and for all new exempt positions created after July 1, 2015. Limits exemption for positions created after July 1, 2014, to five years. Effective July 1, 2300. (HB2218 HD1)

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

