

JAN 24 2019

A BILL FOR AN ACT

RELATING TO EXEMPTIONS FROM CIVIL SERVICE.

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

1 SECTION 1. The department of human services has one of the
2 largest operating budgets of any state department and a staff of
3 more than 2,400 employees deployed state wide; to effectively
4 lead and manage the department's programs and improve service
5 delivery, the department requires a well-experienced and
6 knowledgeable leadership team.

7 The department serves one in four Hawaii residents through
8 programs and services that include: protection of vulnerable
9 children and adults; vocational rehabilitation and financial
10 assistance to the disabled individuals; the Supplemental
11 Nutrition Assistance Program; financial assistance; job training
12 and placement; housing and support services for individuals and
13 families experiencing homelessness; medicaid services for the
14 State's low income population; and prevention, treatment, and
15 housing and services for the State's youthful offenders and
16 other young adults at risk for homelessness, chronic
17 unemployment, and vulnerable to becoming victims of labor or sex
18 trafficking.

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1 Each program is governed by complex state and federal laws,
2 rules, and regulations. To improve the efficiency and
3 accessibility to these services statewide, the federal and state
4 governments have made significant investment to transform the
5 department's information technology systems from a 30 plus year
6 old siloed legacy system to an integrated enterprise system.
7 Once completed the department of human services enterprise
8 system will be capable of determining eligibility of multiple
9 programs, improve timely service delivery, and provide greater
10 program and fiscal oversight.

11 To capitalize on investments made to the medicaid
12 eligibility system, known as KOLEA, and to enable complex
13 analytics of public health insurance medical claims through the
14 all-payer claims data warehouse, in 2018, the legislature
15 established the department's health analytics program in the
16 med-QUEST division, and that program will begin to provide
17 analysis of state-funded medical insurance claims that will
18 assist policy makers and program administrators to make
19 necessary adjustments to the coverage of health care in Hawaii.

20 Improving the department's information technology systems
21 likewise necessitates robust investment in department
22 administrators who have the expertise in design and maintenance

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1 of information technology systems as well as establishing
2 security programs to ensure the department has sufficient
3 security protocols and processes, as well as a workforce that is
4 trained to recognize and respond to potential system breaches
5 and or attempted hacks.

6 The effective management and transformation of the
7 department into an integrated service delivery system requires
8 department management to lead internal changes as well as to
9 engage in collaborative efforts with other state and federal
10 agencies, legislative bodies, and other external and community
11 partners. Expertise, experience, foresight and continuity in
12 leadership are necessary to drive departmental changes to
13 address conditions that give rise to poverty and other public
14 welfare problems.

15 The department is challenged in attracting and retaining
16 professionals with necessary qualifications to assume the
17 leadership and oversee personnel matters, fiscal and budget
18 issues, information technology development, and operational
19 matters related to quality control, program oversight, and
20 reporting.

21 Particular issues of homelessness and the status of
22 fatherhood in Hawaii also need dedicated and predictable

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1 leadership resources. Homelessness in Hawaii is a major social
2 and economic issues that impact individuals and families,
3 residents and visitors, businesses and communities. There are
4 multiple causes of homelessness and the effective coordinated
5 response to homelessness requires a focused, strategic effort by
6 the governor's coordinator on homelessness who has the
7 expertise, ability, authority, and credentials to work with all
8 stakeholders.

9 In 2015, the state commission on fatherhood commissioned a
10 study of the state of fathers in Hawaii that presented
11 information that was both encouraging and concerning. To
12 further advance the work of the commission on fatherhood and to
13 fulfill its statutory duties, the commission requires an
14 executive director to represent the commission's interests and
15 to conduct the day to day business of the commission to move
16 upon the commission's objectives.

17 In 2016, the legislature passed Act 79 that exempted from
18 the civil service requirements of chapter 76, Hawaii Revised
19 Statutes, for a period of three calendar years commencing on the
20 effective date of the act, the following positions in the Med-
21 QUEST division of the department of human services: the division
22 administrator, finance officer, health care services branch

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1 administrator, medical director, and clinical standards
2 administrator. The department seeks to permanently exempt these
3 positions from civil service.

4 To provide oversight on continued development of the
5 department's enterprise system and to address increased security
6 needs of the information technology infrastructure and program
7 integrity, the department seeks to permanently exempt from civil
8 services positions in the director's office: enterprise officer,
9 chief information security and compliance officer, security and
10 privacy compliance engineer, and the security and privacy
11 compliance analyst, to support the overall security of the
12 department's enterprise system.

13 Act 79, Session Laws of Hawaii 2016, also temporarily
14 exempted in the med-QUEST division a research/health analytics
15 manager, and in the director's office of the department of human
16 services: the community/project development director and policy
17 director. The department seeks to continue the temporary
18 exemptions of these positions for three additional years.
19 Additionally, the department seeks a similar temporary exemption
20 of the special assistant to the director.

21 The purpose of this Act is to permanently exempt from
22 provisions of the civil services: the governor's coordinator on

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1 homelessness, the executive director of the Hawaii commission on
2 fatherhood, five positions at the Med-QUEST division and four
3 positions in the office of the director of the department of
4 human services. Further, the department seeks to temporarily
5 exempt from civil service in the med-QUEST division the
6 research/health analytics manager, and in the director's office
7 of the department of human services: the community/project
8 development director, policy director, and the special assistant
9 to the director.

10 SECTION 2. Chapter 346, Hawaii Revised Statutes, is
11 amended by adding to part XVIII a new section to be
12 appropriately designated and to read as follows:

13 "§346- Governor's coordinator on homelessness. The
14 governor shall appoint the governor's coordinator on
15 homelessness for the proper administration and enforcement of
16 this chapter without regard to chapter 76."

17 SECTION 3. Chapter 577E, Hawaii Revised Statutes, is
18 amended by adding a new section to be appropriately designated
19 and to read as follows:

20 "§577E- Executive director. The commission shall
21 appoint an executive director for the proper administration and
22 enforcement of this chapter without regard to chapter 76."

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1 SECTION 4. 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
19 normal civil service recruitment procedures. Any such
20 contract may be for any period not exceeding one year;
- 21 (3) Positions that must be filled without delay to comply
22 with a court order or decree if the director

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1 determines that recruitment through normal recruitment
2 civil service procedures would result in delay or
3 noncompliance, such as the Felix-Cayetano consent
4 decree;

5 (4) Positions filled by the legislature or by either house
6 or any committee thereof;

7 (5) Employees in the office of the governor and office of
8 the lieutenant governor, and household employees at
9 Washington Place;

10 (6) Positions filled by popular vote;

11 (7) Department heads, officers, and members of any board,
12 commission, or other state agency whose appointments
13 are made by the governor or are required by law to be
14 confirmed by the senate;

15 (8) Judges, referees, receivers, masters, jurors, notaries
16 public, land court examiners, court commissioners, and
17 attorneys appointed by a state court for a special
18 temporary service;

19 (9) One bailiff for the chief justice of the supreme court
20 who shall have the powers and duties of a court
21 officer and bailiff under section 606-14; one
22 secretary or clerk for each justice of the supreme

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1 court, each judge of the intermediate appellate court,
2 and each judge of the circuit court; one secretary for
3 the judicial council; one deputy administrative
4 director of the courts; three law clerks for the chief
5 justice of the supreme court, two law clerks for each
6 associate justice of the supreme court and each judge
7 of the intermediate appellate court, one law clerk for
8 each judge of the circuit court, two additional law
9 clerks for the civil administrative judge of the
10 circuit court of the first circuit, two additional law
11 clerks for the criminal administrative judge of the
12 circuit court of the first circuit, one additional law
13 clerk for the senior judge of the family court of the
14 first circuit, two additional law clerks for the civil
15 motions judge of the circuit court of the first
16 circuit, two additional law clerks for the criminal
17 motions judge of the circuit court of the first
18 circuit, and two law clerks for the administrative
19 judge of the district court of the first circuit; and
20 one private secretary for the administrative director
21 of the courts, the deputy administrative director of
22 the courts, each department head, each deputy or first

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- 1 assistant, and each additional deputy, or assistant
2 deputy, or assistant defined in paragraph (16);
- 3 (10) First deputy and deputy attorneys general, the
4 administrative services manager of the department of
5 the attorney general, one secretary for the
6 administrative services manager, an administrator and
7 any support staff for the criminal and juvenile
8 justice resources coordination functions, and law
9 clerks;
- 10 (11) (A) Teachers, principals, vice-principals, complex
11 area superintendents, deputy and assistant
12 superintendents, other certificated personnel,
13 not more than twenty noncertificated
14 administrative, professional, and technical
15 personnel not engaged in instructional work;
- 16 (B) Effective July 1, 2003, teaching assistants,
17 educational assistants, bilingual/bicultural
18 school-home assistants, school psychologists,
19 psychological examiners, speech pathologists,
20 athletic health care trainers, alternative school
21 work study assistants, alternative school
22 educational/supportive services specialists,

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- 1 alternative school project coordinators, and
2 communications aides in the department of
3 education;
- 4 (C) The special assistant to the state librarian and
5 one secretary for the special assistant to the
6 state librarian; and
- 7 (D) Members of the faculty of the University of
8 Hawaii, including research workers, extension
9 agents, personnel engaged in instructional work,
10 and administrative, professional, and technical
11 personnel of the university;
- 12 (12) Employees engaged in special, research, or
13 demonstration projects approved by the governor;
- 14 (13) (A) Positions filled by inmates, patients of state
15 institutions, persons with severe physical or
16 mental disabilities participating in the work
17 experience training programs;
- 18 (B) Positions filled with students in accordance with
19 guidelines for established state employment
20 programs; and
- 21 (C) Positions that provide work experience training
22 or temporary public service employment that are

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1 filled by persons entering the workforce or
2 persons transitioning into other careers under
3 programs such as the federal Workforce Investment
4 Act of 1998, as amended, or the Senior Community
5 Service Employment Program of the Employment and
6 Training Administration of the United States
7 Department of Labor, or under other similar state
8 programs;

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

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

18 (16) Positions of first deputies or first assistants of
19 each department head appointed under or in the manner
20 provided in section 6, article V, of the Hawaii State
21 Constitution; three additional deputies or assistants
22 either in charge of the highways, harbors, and

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1 airports divisions or other functions within the
2 department of transportation as may be assigned by the
3 director of transportation, with the approval of the
4 governor; four additional deputies in the department
5 of health, each in charge of one of the following:
6 behavioral health, environmental health, hospitals,
7 and health resources administration, including other
8 functions within the department as may be assigned by
9 the director of health, with the approval of the
10 governor; an administrative assistant to the state
11 librarian; and an administrative assistant to the
12 superintendent of education;

13 (17) Positions specifically exempted from this part by any
14 other law; provided that:

15 (A) Any exemption created after July 1, 2014, shall
16 expire three years after its enactment unless
17 affirmatively extended by an act of the
18 legislature; and

19 (B) All of the positions defined by paragraph (9)
20 shall be included in the position classification
21 plan;

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- 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
15 workforce in any housing project maintained or
16 operated by the authority shall be hired under the
17 tenant hire 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;

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- 1 (23) Positions filled by persons with severe disabilities
2 who are certified by the state vocational
3 rehabilitation office that they are able to perform
4 safely the duties of the positions;
- 5 (24) The sheriff;
- 6 (25) A gender and other fairness coordinator hired by the
7 judiciary;
- 8 (26) Positions in the Hawaii National Guard youth and adult
9 education programs;
- 10 (27) In the state energy office in the department of
11 business, economic development, and tourism, all
12 energy program managers, energy program specialists,
13 energy program assistants, and energy analysts; [and]
- 14 (28) Administrative appeals hearing officers in the
15 department of human services[-];
- 16 (29) In the Med-QUEST division of the department of human
17 services, the division administrator, finance officer,
18 health care services branch administrator, medical
19 director, and clinical standards administrator; and
- 20 (30) In the director's office of the department of human
21 services, the enterprise officer, information security
22 and privacy compliance officer, security and privacy

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1 compliance engineer, and security and privacy
2 compliance analyst.

3 The director shall determine the applicability of this
4 section to specific positions.

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

7 SECTION 5. Notwithstanding any other law to the contrary,
8 including section 76-16(b)(17), Hawaii Revised Statutes, and
9 unless affirmatively extended by an act of the legislature, for
10 a period of three calendar years commencing on the effective
11 date of this Act, the following positions shall be exempt from
12 the civil service requirements of chapter 76, Hawaii Revised
13 Statutes:

14 (1) In the Med-QUEST division of the department of human
15 services: research/health analytics manager, and

16 (2) In the director's office of the department of human
17 services: the community/project development director,
18 policy director, and the special assistant to the
19 director.

20 SECTION 6. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

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1 SECTION 7. This Act, upon its approval, shall take effect
2 on June 29, 2019.

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INTRODUCED BY: 
BY REQUEST

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Report Title:

Department of Human Services; Positions Exempted from Civil Service

Description:

Permanently exempts from civil service the Governor's Coordinator on Homelessness; the Executive Director of the State Commission on Fatherhood; in the Med-QUEST Division: division administrator, finance officer, health care services branch administrator, medical director, clinical standards administrator; and in the Director's office of the Department of Human Services: the enterprise officer, information security and privacy compliance officer, security and privacy compliance engineer, and security and privacy compliance analyst. Temporarily exempts from civil service in the med-QUEST division: the research/health analytics manager; and in the director's office of the Department of Human services: the community/project development director, the policy director, and the special assistant to the Director.

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 Services

TITLE: A BILL FOR AN ACT RELATING TO EXEMPTIONS FROM CIVIL SERVICE.

PURPOSE: To permanently exempt from civil services the following positions in the Department of Human Services (DHS): the Governor's Coordinator on Homelessness; the Executive Director of the Hawaii State Commission on Fatherhood; in the Med-QUEST division (MQD): the division administrator, finance officer, health care services branch administrator, medical director, clinical standards administrator; and in the office of the Director of DHS: the DHS enterprise officer, chief information security and compliance officer, security and privacy compliance engineer, and the security and privacy compliance analyst.

To temporarily exempt from civil services for a period of three years, the following positions, in MQD: the research/health analytics manager; and in the office of the Director of DHS: the community/project development director, the policy director, and the special assistant to the director.

MEANS: Add new sections to part XVIII of chapter 346 and to chapter 577E, and amend section 76-16(b), Hawaii Revised Statutes (HRS); and for temporary exempt positions, proposed new session law.

JUSTIFICATION: The Department of Human Services is proposing to permanently exempt eleven positions from civil service, and temporarily exempt four positions from civil service for three years. These positions currently exist as temporarily exempt positions, or as special projects.

DHS serves 1 in 4 Hawaii residents through programs that:

- Help clients escape poverty and achieve full employment;
- Ensure the well-being of low-income families and children;
- Prevent abuse and neglect among children and vulnerable adults;
- Strengthen families and promote positive youth development;
- Provide high-quality public health insurance to low-income adults, children, kapuna, and people with disabilities;
- Empower people with disabilities so they can enter or re-enter the workforce; and
- Prevent delinquency and reduce the incidence of recidivism for at-risk youth.

Successful programs help Hawaii residents to achieve self-sufficiency, self-determination, independence, healthy lifestyles and personal dignity as well as contributing to the State's economic base.

The department seeks permanent exemption for the position of the governor's coordinator on homelessness. This position is responsible for coordinating the state's response to homelessness that requires tremendous effort and diplomacy to facilitate communication and bridge all branches of government, federal and county agencies, service providers, advocates, and community members to cooperate on a focused and strategic plan to address the complexities of homelessness in Hawaii. This position also requires expertise, experience, flexibility, and integrity able to balance and articulate the complex needs of individuals and families experiencing homelessness with the knowledge of available resources and ability of the system to respond. The position is currently a special project administratively within the office of the director of DHS, and is

physically housed in the office of the governor.

The department requests the permanent exemption of a new position of the executive director of the commission on fatherhood. Established by the legislature by Act 156 in 2003, chapter 577E, HRS, provides that the purpose and duty of the commission on fatherhood is to serve in an advisory capacity to state agencies to promote healthy family relationships between parents and children. As commissioners are volunteers and live and work in different counties, the ability of the commission to fulfill its statutory duties has been limited and incremental. To allow the commission efforts to come to fruition, the commission requires an executive director to implement decisions of the commission.

The department seeks permanent exemption from civil service for five administrative positions in MQD: the division administrator, finance officer, health care services branch administrator, medical director, and clinical standards administrator. In 2016, the legislature passed Act 79 establishing these positions as temporarily exempt for three years. Previously these positions existed in the 1990 QUEST special project that has become the State's Medicaid program.

The Med-QUEST division's Medicaid program is the most effective and cost efficient way to provide health care coverage to low-income adults, children, elders, and people with disabilities. The program is complex as it requires compliance with a myriad of federal regulations and the integration of current health care trends in service delivery, while meeting the variety of needs of Hawaii's population. These positions require unique knowledge and experience typically gained through employment in health care-related organizations (e.g., hospitals, clinics, insurance companies,

etc.) or the federal government, or require clinical credentials or licenses. The conversion to permanent exempt status is necessary to allow flexibility to attract, hire, and retain highly qualified staff to manage critical on-going functions of the more than \$2.6 billion medical assistance programs.

The department also requests the temporary exemption from civil service for three years be continued for the position of research/health analytics manager in MQD while the department works to convert that position to a civil service position. This research/health analytics manager position was also created through Act 79 (2016). However, per Act 55 (2018), establishing the health analytics program within DHS, the legislature also created two permanent exempt positions for the health analytics program and consequently, MQD is in the process of converting the research/health analytics manager to civil service. Through the Health Analytics Program, MQD is preparing to assist in the analysis of all state funded medical claims to assist policy makers and program administrators on issues impacting community health and health care delivery.

In the office of the director of DHS, the department requests to permanently exempt from civil service the following positions: the DHS enterprise officer, information security and privacy compliance officer, security and privacy compliance engineer, and security and privacy compliance analyst.

As part of its overall IT modernization effort, the department enterprise officer will oversee the IT Modernization Project from a departmental perspective and is responsible for the continuing development, implementation, maintenance, and integration of DHS programs on to the enterprise system. Once integrated, the enterprise system will require continuous oversight from a

departmental perspective to maintain a unified a system as programs are added or modified, laws or regulations require system modification, and to manage rapidly changing IT environment. The enterprise officer is also tasked with establishing departmental data governance policies and practices that will enable integration of program data, and data analytics that will lead to improved business processes, allow resource re-allocation, and service innovation.

As technology becomes more complex, and bad actors become more sophisticated and aggressive, the department requires a more robust DHS Security Management Program. The chief information security and privacy compliance officer is responsible for the department's information security strategy, oversight, solutions, compliance, policy management, and staff training. Protecting personal information and ensuring system integrity are amongst the highest DHS priorities.

To assist the information security and privacy compliance officer, DHS requires that the security and privacy compliance analyst and the security and privacy compliance engineer to both be DHS employees and requests that these positions also be exempt from civil service. Due to difficulty in recruiting and filing information security positions, DHS used contractors to develop and implement the privacy and security practices. However, as DHS is also regulated by the U.S. Internal Revenue Service, IRS code prohibits human services contractors from accessing federal tax information and consequently, the security analyst and security engineer positions need to be department employees to access federal tax information that may be in the DHS enterprise system. Further, the supplemental nutrition assistance program and the Medicaid program require the department to have a robust information

security system with specific components, monitoring, and security controls.

Additional temporarily exempt positions are requested in the office of the director of DHS: Community/project development director; policy director; and the special assistant to the director. These positions currently exist in director's office as temporary exempt or as special projects.

These positions are required to effectively lead and manage DHS programs, improve access to services and the quality of services, improve the working conditions at DHS to improve recruitment and retention of the human services work force, improve and standardize procurement and other administrative processes, respond to legislative changes, establish and maintain clear communication, and establish collaborative relationships with recipients, policy makers, other departments and branches of government, and community partners and members.

In Act 79, Session Laws of Hawaii (SLH) 2016, the legislature established temporary exempt positions of the community/project development director and the policy director in the office of the director of DHS. DHS requests to extend these temporary exemptions for an additional three years.

The community/project development director is tasked with embedding and operationalizing 'Ohana Nui, the department's multi-generational approach to end intergenerational poverty. The community/project development director will continue to lead required internal organizational change management that is required for DHS to transform to an integrated service delivery model. Additionally, the community/project development director collaborates with external community members and providers to work with DHS to co-create solutions to

positively influence community wide changes that support multi-generational success and reduce poverty in general.

The policy director reviews and identifies policy, legislation, and strategies impacting the programs that will lead to improved service delivery and positive outcomes. The policy director assists the director and program administrators in the department's effort to identify key program changes that will remove system barriers and incorporate a multi-generational 'Ohana Nui service delivery approach.

The special assistant to the director of DHS is tasked with addressing internal policy and improving ongoing operations. As the department experiences retirement of many dedicated DHS workers who take with them centuries of experience and system know how, maintaining and improving continuity of practice and facilitating knowledge transfer are primary tasks of the special assistant. Developing and coordinating departmental administrative rules drafting and procurement processes are key initiatives that will improve departmental efficiencies and transparency. Simplifying business processes and workflows so that they will eventually become part of the DHS enterprise system are the ultimate goals.

Impact on the public: More effective and efficient administration of the Department of Human Services and its programs for clients and effective use of tax payer dollars. Improvements to IT systems and internal business processes will assist DHS recruit, maintain, and develop the state's human services workforce.

Impact on the department and other agencies: More efficiently and effectively administered departmental programs and better coordination with partner agencies and the community.

GENERAL FUND: Appropriation for these positions are made through the budget.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: HMS 904. HMS 902.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: June 29, 2019.