

JAN 23 2025

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# A BILL FOR AN ACT

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RELATING TO EXEMPTIONS FROM CIVIL SERVICE FOR CERTAIN POSITIONS  
IN THE DEPARTMENT OF HEALTH.

**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 and positions in the Hawaii National  
9 Guard that are required by state or federal laws or  
10 regulations or orders of the National Guard to be  
11 filled from those commissioned or enlisted personnel;

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

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1 normal civil service recruitment procedures. Any  
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;

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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

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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 and no 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 or bicultural  
22 school-home assistants, school psychologists,

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1 psychological examiners, speech pathologists,  
2 athletic health care trainers, alternative school  
3 work study assistants, alternative school  
4 educational or 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~~]  
12 university of Hawaii, including research workers,  
13 extension agents, personnel engaged in  
14 instructional work, and administrative,  
15 professional, and technical personnel of the  
16 university;

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

19 (13) (A) Positions filled by inmates, patients of state  
20 institutions, and persons with severe physical or  
21 mental disabilities participating in the work  
22 experience training programs;

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

(C) Positions that provide work experience training or temporary public service employment that are filled by persons entering the workforce or persons transitioning into other careers under programs such as the federal Workforce Investment Act of 1998, as amended, or the Senior Community Service Employment Program of the Employment and Training Administration of the United States Department of Labor, or under other similar state programs;

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

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

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1       (16) Positions of first deputies or first assistants of  
2           each department head appointed under or in the manner  
3           provided in section 6, article V, of the Hawaii State  
4           Constitution; three additional deputies or assistants  
5           either in charge of the highways, harbors, and  
6           airports divisions or other functions within the  
7           department of transportation as may be assigned by the  
8           director of transportation, with the approval of the  
9           governor; one additional deputy in the department of  
10          human services either in charge of welfare or other  
11          functions within the department as may be assigned by  
12          the director of human services; four additional  
13          deputies in the department of health, each in charge  
14          of one of the following: behavioral health,  
15          environmental health, hospitals, and health resources  
16          administration, including other functions within the  
17          department as may be assigned by the director of  
18          health, with the approval of the governor; two  
19          additional deputies in charge of the law enforcement  
20          programs, administration, or other functions within  
21          the department of law enforcement as may be assigned  
22          by the director of law enforcement, with the approval

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1 of the governor; three additional deputies each in  
2 charge of the correctional institutions,  
3 rehabilitation services and programs, and  
4 administration or other functions within the  
5 department of corrections and rehabilitation as may be  
6 assigned by the director of corrections and  
7 rehabilitation, with the approval of the governor; two  
8 administrative assistants to the state librarian; and  
9 an administrative assistant to the superintendent of  
10 education;

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

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

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

20 (18) Positions in the state foster grandparent program and  
21 positions for temporary employment of senior citizens



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1 in occupations in which there is a severe personnel  
2 shortage or in special projects;

3 (19) Household employees at the official residence of the  
4 president of the [~~University~~] university of Hawaii;

5 (20) Employees in the department of education engaged in  
6 the supervision of students during meal periods in the  
7 distribution, collection, and counting of meal  
8 tickets, and in the cleaning of classrooms after  
9 school hours on a less than half-time basis;

10 (21) Employees hired under the tenant hire program of the  
11 Hawaii public housing authority; provided that no more  
12 than twenty-six per cent of the authority's workforce  
13 in any housing project maintained or operated by the  
14 authority shall be hired under the tenant hire  
15 program;

16 (22) Positions of the federally funded expanded food and  
17 nutrition program of the [~~University~~] university of  
18 Hawaii that require the hiring of nutrition program  
19 assistants who live in the areas they serve;

20 (23) Positions filled by persons with severe disabilities  
21 who are certified by the state vocational

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1           rehabilitation office that they are able to perform  
2           safely the duties of the positions;

3       (24)   The sheriff;

4       (25)   A gender and other fairness coordinator hired by the  
5           judiciary;

6       (26)   Positions in the Hawaii National Guard youth and adult  
7           education programs;

8       (27)   In the Hawaii state energy office in the department of  
9           business, economic development, and tourism, all  
10          energy program managers, energy program specialists,  
11          energy program assistants, and energy analysts;

12      (28)   Administrative appeals hearing officers in the  
13          department of human services;

14      (29)   In the Med-QUEST division of the department of human  
15          services, the division administrator, finance officer,  
16          health care services branch administrator, medical  
17          director, and clinical standards administrator;

18      (30)   In the director's office of the department of human  
19          services, the enterprise officer, information security  
20          and privacy compliance officer, security and privacy  
21          compliance engineer, security and privacy compliance  
22          analyst, information technology implementation

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1 manager, assistant information technology  
2 implementation manager, resource manager, community or  
3 project development director, policy director, special  
4 assistant to the director, and limited English  
5 proficiency project manager or coordinator;

6 (31) The Alzheimer's disease and related dementia services  
7 coordinator in the executive office on aging;

8 (32) In the Hawaii emergency management agency, the  
9 executive officer, public information officer, civil  
10 defense administrative officer, branch chiefs, and  
11 emergency operations center state warning point  
12 personnel; provided that for state warning point  
13 personnel, the director shall determine that  
14 recruitment through normal civil service recruitment  
15 procedures would result in delay or noncompliance;

16 (33) The executive director and seven full-time  
17 administrative positions of the school facilities  
18 authority;

19 (34) Positions in the Mauna Kea stewardship and oversight  
20 authority;

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(35) In the office of homeland security of the department of law enforcement, the statewide interoperable communications coordinator;

(36) In the social services division of the department of human services, the business technology analyst;

[+] (37) [+] The executive director and staff of the 911 board;

[+] (38) [+] Senior software developers in the department of taxation;

[+] (39) [+] In the department of law enforcement, five

Commission on Accreditation for Law Enforcement

Agencies, Inc., coordinator positions;

[+] (40) [+] The state fire marshal; ~~and~~

+ (41) [+] The administrator for the law enforcement standards board[-];

(42) In the department of health, the public information officer in the office of the director of health, the federal initiatives operations coordinator in the developmental disabilities division, and two medical directors in the emergency medical services and injury prevention system branch; and

(43) In the Hawaii state hospital, five associate administrators and two project managers.

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1       The director shall determine the applicability of this  
2 section to specific positions.

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

5       SECTION 2. Section 334-4, Hawaii Revised Statutes, is  
6 amended to read as follows:

7       "**§334-4 Personnel for mental health program.** The director  
8 shall appoint professional and nonprofessional staff as the  
9 director deems necessary to carry out the state mental health  
10 program and for which appropriations are available. Positions  
11 for psychiatrists are exempted from chapter 76. The director  
12 may employ psychiatrists as needed by the department on a  
13 contractual basis, subject to the approval of the governor. The  
14 director may appoint an administrator, [~~three~~] five associate  
15 administrators, a director of psychosocial rehabilitation, a  
16 chief of the department of nursing, a risk manager, a patients'  
17 rights advisor, two project managers, and a facilities plant  
18 engineer for the state hospital or a secure psychiatric  
19 rehabilitation facility established pursuant to this chapter and  
20 these positions shall be exempt from chapter 76."

21       SECTION 3. Statutory material to be repealed in bracketed  
22 and stricken. New statutory material is underscored.

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

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INTRODUCED BY: 

4

BY REQUEST

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**Report Title:**

DOH; Office of the Director of Health; Developmental Disabilities Division; Emergency Medical Services and Injury Prevention System Branch; Hawaii State Hospital; Civil Service; Exemptions

**Description:**

Exempts certain positions in the Department of Health, including the Hawaii State Hospital, from civil service.

*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: Health

TITLE: A BILL FOR AN ACT RELATING TO EXEMPTIONS FROM CIVIL SERVICE FOR CERTAIN POSITIONS IN THE DEPARTMENT OF HEALTH.

PURPOSE: To exempt from the civil service several positions in the Department of Health (DOH), including the Hawaii State Hospital (HSH), to improve public health services, behavioral health care services, emergency medical services, and developmental disabilities services.

MEANS: Amend sections 76-16(b) and 334-4, Hawaii Revised Statutes (HRS).

JUSTIFICATION: The DOH Public Information Officer (PIO) is a vital component of a robust public health system. The communication of guidance, guidelines, and advisories is essential to increase the health literacy and guide the behavior of Hawaii's residents in emergency and non-emergent situations. For more than a decade, the DOH PIO has occupied an Administrative Assistant position, the salary for which is uncompetitive with exempt PIOs in other state agencies and the private sector.

The Developmental Disabilities Division (DDD) is the operating agency for the Medicaid 1915(c) Home and Community Based Services Waiver (HCBS Waiver) for Individuals with Intellectual and Developmental Disabilities in Hawaii by virtue of a Memorandum of Agreement with the Department of Human Services, Med-QUEST Division). DDD must meet all federal requirements for operating the HCBS Waiver or risk the loss of federal matching funds. The federal share of funding in FY2004 for HCBS Waiver Services was \$114,401,884. Compliance with federal regulations requires a clear interpretation of requirements,



analysis of changes that must be recommended at the state policy and operational levels, analysis of resource needs, and management of operational planning and implementation accountability. The Federal Initiatives Operations Coordinator will ensure that the DDD remains compliant with federal requirements.

The Medical Directors of the Emergency Medical Services and Injury Prevention System Branch coordinate the statewide emergency medical services system to assure equity, parity, and quality of services in rural counties. The in-depth knowledge of medicine, health care, transportation infrastructure and geography, training and education, and technology required to effectively coordinate services for over 1.3 million residents is sufficiently specialized and uncommon that existing civil service physician positions and salaries are unable to compete with the private sector. Therefore, an exemption from civil service for two additional Medical Directors will make these positions more flexible and competitive for retention and recruitment purposes in rural areas.

For the Hawaii State Hospital, the establishment of one Associate Administrator Chief of Staff, one Associate Administrator of Operations, and two project managers were recommendations from a security review conducted after the fatal incident at HSH in November 2023. The Legislature appropriated funds in the 2024 regular session to establish these new permanent positions, all intended to be exempt from civil service to compete with the private sector.

Impact on the public: Improved public health services due to the ability to attract qualified personnel.

Impact on the department and other agencies:  
None.

GENERAL FUND: None.

OTHER FUNDS: Intellectual and Developmental Disabilities  
Medicaid Waiver Administrative Claiming  
Special Fund moneys to be used for the DDD  
Federal Initiatives Operations Coordinator.

PPBS PROGRAM  
DESIGNATION: HTH 430; HTH 501; HTH 730; and HTH 907.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Upon approval.