

A Bill for an Act Relating to the Filling of a Vacant Position without Examination.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 76-23, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 76-23 Filling vacancy. All vacancies and new positions in civil service shall be filled in the manner prescribed in this part or in section 78-1.

Whenever there is a position to be filled, the appointing authority shall

request the director of personnel services to submit a list of eligibles. The director shall thereupon certify a list of five or such fewer number as may be available, taken from eligible lists in the following order: first the promotional lists, second the reemployment lists and third the open-competitive lists; provided, that with respect to the eligibles under unskilled classes, the director shall certify all of the eligibles on such list. The director shall submit eligibles in the order that they appear on the eligible list; provided that if the last of the five eligibles to be certified is one of two or more eligibles who have identical examination scores, such two or more eligibles shall be certified notwithstanding the fact that more than five persons are thereby certified to fill a vacancy.

In any case where there are three or more eligibles in one department whose names appear as eligibles on an interdepartmental list, upon the request of the appointing authority of such department such three or more names shall be certified to him as eligibles on an interdepartmental eligible list; but where the interdepartmental list has been in existence for more than six months and there are five or more persons in the department qualified for the class, the department may request an interdepartmental promotional examination, in which case the director shall hold either an interdepartmental or an interdepartmental promotional examination. The order in which eligibles are placed on eligible lists shall be fixed by rule. The appointing authority shall make the appointment only from the list of eligibles certified to him unless he finds no person acceptable to him on the list certified by the director, in which case he shall reject the list and request the director to submit a new list, in which event the director shall submit a new list of eligibles selected in like manner; provided that the appointing authority states his reasons in writing for rejecting each of the eligibles on the list previously certified to him and the director or, in case of the counties, by the civil service commission. Eligible lists, other than reemployment lists, shall be effective for one year but this period may be extended by the director.

An appointing authority may fill a vacant position in his department by promoting any regular employee in the department without examination if the employee meets the minimum class qualifications of the position to which he is to be promoted, and if the position is in the same or related series as the position held by the employee; provided, that when there is no material difference between the qualifications of the employees concerned, the employee with the longest government service shall receive first consideration for the promotion.

Any regular employee receiving any such promotion without examination shall be ineligible for a second such promotion without examination prior to his having completed one year of satisfactory service in the position to which he was so promoted, but he may at any time be eligible for a promotion to any position through examination.

An employee filling a permanent position temporarily vacant may be given a permanent appointment to the position if it later develops that the vacancy will be permanent, provided he was originally appointed from an appropriate eligible list and the appointing authority certifies that he has been performing the duties of the position in a satisfactory manner."

ACT 158

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.
(Approved June 23, 1970.)

* Edited accordingly