

ACT 303

S.B. NO. 3230

A Bill for an Act Relating to Public Officers and Employees.

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

SECTION 1. Section 76-16, Hawaii Revised Statutes, is amended to read:

**“§76-16 Civil service and exemptions.** The civil service to which this part applies comprises all positions in the State now existing or hereafter established and embraces all personal services performed for the State, except the following:

- (1) Commissioned and enlisted personnel of the Hawaii national guard as such, and positions in the Hawaii national guard which are required by state or federal laws or regulations, or orders of the national guard, to be filled from such commissioned or enlisted personnel;

- (2) Positions filled by persons employed by contract where the director of personnel services has certified that the service is special or unique, is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform such service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (3) Positions of a temporary nature needed in the public interest where the need for the same does not exceed one year, but before any person may be employed to render such temporary service the director shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable;
- (4) Positions filled by the legislature or by either house or any committee thereof;
- (5) Employees in the office of the governor and household employees at Washington Place;
- (6) Positions filled by popular vote;
- (7) Department heads, officers, and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;
- (8) Judges, referees, receivers, masters, jurors, jury commissioners, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;
- (9) One bailiff for the chief justice of the supreme court who shall have the powers and duties of a court officer and bailiff under section 606-14; one secretary or clerk for each justice of the supreme court, each judge of the intermediate appellate court, and each judge of the circuit court; three law clerks for the chief justice of the supreme court, two law clerks for each associate justice of the supreme court,<sup>1</sup> and each judge of the intermediate appellate court, and one law clerk for each judge of the circuit court and the administrative judge of the district court of the first circuit (provided that the law clerk for a judge of the circuit court shall be employed in lieu of and shall have the powers and duties of a court officer and bailiff under section 606-14); sheriff, first deputy sheriff, and second deputy sheriff; and one private secretary for each department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant defined in paragraph (16);
- (10) First deputy and deputy attorneys general and law clerks;
- (11) Teachers, principals, vice-principals, district superintendents, chief deputy superintendents, other certificated personnel, and not more than twenty noncertificated administrative, professional, and technical personnel not engaged in instructional work in the department of education, and members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work and administrative, professional, and technical personnel of the university;
- (12) Employees engaged in special, research, or demonstration projects approved by the governor[, for which projects federal funds are available];
- (13) Positions filled by inmates, kokuas, and patients of state institutions, and persons with severe physical or mental handicaps participating on the work experience training programs, students, and positions filled through federally funded programs which provide temporary public

- service employment such as the federal Comprehensive Employment and Training Act of 1973;
- (14) A custodian or guide at Iolani Palace, 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;
  - (16) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, Article V, of the State Constitution; three additional deputies or assistants either in charge of the highways, harbors, and airports divisions or such other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; one additional deputy to administer all hospitals within the jurisdiction of the department of health; one additional deputy in the department of health to administer all environmental health programs within the jurisdiction of the department; one additional deputy in the department of human services either in charge of welfare or such other functions within the department as may be assigned by the director of human services; one additional deputy in the department of health in charge of administration or such other functions within the department as may be assigned by the director of health with the approval of the governor; one additional deputy in the department of business and economic development to perform the duties assigned by the director of business and economic development and approved by the governor; one additional deputy in the department of budget and finance to perform<sup>1</sup> duties assigned by the director of finance and approved by the governor; one additional deputy within the department of land and natural resources to perform the duties to be assigned by the chairperson of the board of land and natural resources; and an administrative assistant to the superintendent of education;
  - (17) Positions specifically exempted from this part by any other law; provided that all of the positions defined by paragraph (9) shall be included in the position classification plan;
  - (18) Positions in the state foster grandparent program and positions for temporary employment of senior citizens in occupations in which there is a severe manpower shortage or in special projects;
  - (19) Household employees at the official residence of the president of the University of Hawaii;
  - (20) Employees in the department of education engaged in the supervision of students during lunch periods and in the cleaning of classrooms after school hours on a less than half-time basis;
  - (21) Employees hired under the tenant hire program of the Hawaii housing authority; provided that no more than twenty-six per cent of the authority's work force in any housing project maintained or operated by the authority shall be hired under the tenant hire program;
  - (22) Positions of the federally funded expanded food and nutrition program of the University of Hawaii which require hiring of nutrition program assistants who live in the areas they serve; and

## ACT 303

- (23) Positions filled by the severely handicapped persons who are certified by the state vocational rehabilitation office that they are able to safely perform the duties of the positions.

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

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

SECTION 2. Section 80-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The provisions of this section shall apply to:

- (1) Every officer or employee of the State or any of its political subdivisions, or of any department, board, commission, or other agency of the State or any of its political subdivisions, where pay is established by chapter 77, except:
  - (A) Elected officials;
  - (B) The head of any department, first deputy or first assistant; and
  - (C) Officers and employees assigned to salary ranges [29] 31 and over;
- (2) Students employed by the State or any of its political subdivisions or any department, board, commission, or other agency of the State or any of its political subdivisions, during the students’ summer vacation and on an exempt service basis pursuant to applicable regulations of the department of personnel services.”

SECTION 3. Chapter 76, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§76- Older Americans program personnel.** Employees in an office which is funded wholly or in part under the Older Americans Act of 1965, P.L. 89-73 or under the Domestic Volunteers Services Act of 1973, Public Law 93-113, as amended, who are employed by a county and who are not in the civil service system of that county, may be granted by the chief executive of the county permanent appointment status in the civil service system as provided in this chapter. Permanent appointment status may be granted provided that funds shall have been appropriated for the positions affected and these employees shall not be required to qualify in civil service examinations and shall be entitled to all of the rights, benefits, and privileges (including seniority credit for service in the positions occupied, vacation, and sick leave credits) earned or accrued up to the effective date of this Act, and provided further the creditable service in computing retention rights shall commence at the point of conversion to civil service status. The employees affected shall continue to receive the same rates of pay as a consequence of this section; provided there is no conflict with existing personnel laws or rules.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 5. This Act shall take effect upon its approval.

(Approved June 13, 1988.)

### Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.