

A Bill for an Act Relating to Public Employment.

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

PART I

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

**“§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 that are required by state or federal laws or regulations or orders of the national guard to be filled from those 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 or is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform the 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 position does not exceed one year, but before any person may be employed to render the 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, 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; one deputy administrative director of the courts; three law clerks for the chief justice of the supreme court, two law clerks for each associate justice of the supreme court and each judge of the intermediate appellate court, and one law clerk for each judge of the circuit court, one additional law clerk for the civil administrative judge of the circuit court of the first circuit, one additional law clerk

- for the civil motions judge of the circuit court of the first circuit, one additional law clerk for the criminal motions judge of the circuit court of the first circuit, and two law clerks for the administrative judge of the district court of the first circuit; and one private secretary for the administrative director of the courts, the deputy administrative director of the courts, 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, the administrative services manager of the department of the attorney general, one secretary for the administrative services manager, an administrator and any support staff for the criminal and juvenile justice resources coordination functions, 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, the special assistant to the state librarian, one secretary for the special assistant to the state librarian, 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;
  - (13) Positions filled by inmates, kokuas, patients of state institutions, persons with severe physical or mental handicaps participating in the work experience training programs, and students and positions filled through federally funded programs [which] that 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 piece-work 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; [four] three additional deputies or assistants either in charge of the highways, harbors, and airports divisions or 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 other functions within the department as may be assigned by the director of human services; four] three additional deputies in the department of health, each in charge of one of the following: administration [or], hospitals, and health resources

administration, including 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, economic development, and tourism to perform the duties assigned by the director of business, economic development, and tourism and approved by the governor; one additional deputy in the department of business, economic development, and tourism in charge of the office of tourism and other tourism-related activities as may be assigned by the director of business, economic development, and tourism, with the approval of the governor; one additional deputy in the department of budget and finance to perform the 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; one additional deputy in the department of taxation to perform the duties assigned by the director of taxation and approved by the governor;] an administrative assistant to the state librarian; 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 personnel 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 not 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] that require the hiring of nutrition program assistants who live in the areas they serve;
- (23) Positions filled by severely handicapped persons who are certified by the state vocational rehabilitation office that they are able to perform safely the duties of the positions;
- (24) One public high school student to be selected by the Hawaii state student council as a nonvoting member on the board of education as authorized by the State Constitution;
- (25) Sheriff, first deputy sheriff, and second deputy sheriff; and
- (26) A gender and other fairness coordinator hired by the judiciary.

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 201-91, Hawaii Revised Statutes, is amended by deleting the definition of "deputy director of tourism".

["“Deputy director of tourism” means the deputy director of business, economic development, and tourism in charge of the office of tourism.”]

SECTION 3. Section 201-92, Hawaii Revised Statutes, is amended to read as follows:

“**[[§201-92]] Office of tourism; deputy director of tourism; staff.** (a) There is established an office of tourism within the department of business, economic development, and tourism.

[(b) This office shall be headed by a deputy director.]”

SECTION 4. Section 201-94, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established within the department, for administrative purposes, an advisory council to be known as the Hawaii tourism marketing council, which shall review and make recommendations on matters relating to [the] state tourism marketing and promotion programs and activities. The council shall be composed of nine voting members and four ex officio nonvoting members. The voting members shall be appointed in [the manner provided in] accordance with section 26-34, except as otherwise provided [otherwise in this section.] by law. The president of the Hawaii Visitors Bureau, the president of the Hawaii hotel association, the president of the Hawaii resort developers’ conference, and the [deputy] director [of tourism], or their respective designated representatives, shall serve as ex officio, nonvoting members.”

## PART II

SECTION 5. Chapter 76, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§76- Recruitment flexibility for the counties.** Notwithstanding section 76-23, Hawaii Revised Statutes, or any other provision to the contrary, the directors of the county departments of civil service and the administrative director of the courts may determine, establish, and maintain the manner in which positions shall be filled in accordance with section 78-1 and the following standards:

- (1) Equal opportunity for all regardless of race, sex, age, religion, color, ancestry, physical handicap, or politics;
- (2) First consideration for competent employees already within public service; and
- (3) Impartial selection of the ablest person through competitive means which are fair, objective, and practical.”

SECTION 6. Section 76-78, Hawaii Revised Statutes, is amended to read as follows:

“**§76-78 Provisions of part II applicable.** Except as otherwise specifically provided in this part, all of the provisions of part II shall apply to each of the counties of Hawaii, Maui, and Kauai and shall be deemed a part of this part, for which purpose wherever reference is made in part II to the State or governor or the legislature, it means each of the counties, the mayor of each county, and the council of each county, respectively, and references therein to the state director of personnel services and the civil service commission mean the director and the

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commission provided for in section 76-71; provided that the reference to the director in sections 76-12, 76-17, 76-42, and 76-43 means the commission provided for in section 76-71; and provided further that [sections] section 76-16 [and 76-22.5] shall not be deemed a part of this part.”

SECTION 7. Act 32, Session Laws of Hawaii 1992, is amended by amending section 5 to read as follows:

“SECTION 5. This Act shall take effect upon its approval [and shall be repealed on June 30, 1994; provided that section 76-78 is reenacted in the form in which it read on the day before the approval of this Act].”

SECTION 8. The director of state personnel services, after consulting with the directors of the county departments of civil service and the Administrative Director of the Courts, shall report to the legislature on the actions taken and the progress made by the counties, in applying the recruitment flexibility provisions of section 1, at least twenty days before the convening of the regular session of 1996.

SECTION 9. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 10. This Act shall take effect on June 29, 1994; provided that sections 1, 2, 3, and 4 shall take effect on January 1, 1995.

(Approved June 22, 1994.)

### Note

1. Edited pursuant to HRS §23G-16.5.