

A Bill for an Act Relating to Human Resources.

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

PART I

SECTION 1. Section 26-5, Hawaii Revised Statutes, is amended to read as follows:

“§26-5 Department of human resources development. The department of human resources development shall be headed by a single executive to be known as the director of human resources development.

The director shall have the authority to adopt rules as heretofore exercised by the civil service commission. Whenever consistent with economic and efficient administration, the director may delegate any of the duties imposed upon the director by chapter 76 or chapter 77 to the department heads, or any of them, in accordance with standards and procedures issued by the director. The director shall institute and maintain a system of inspection to determine that the personnel laws are applied and administered by the departments in a manner consistent with the purposes and provisions of the civil service law. Whenever an inspection indicates failure on the part of a department to comply with established policies, rules, and standards, the director shall take any action that may be appropriate, including suspension or revocation of any delegation of the director’s authority.

The department shall administer the state human resources program, including human resources development and training, and central human resources services such as recruitment, examination, position classification, and pay administration for all departments.

There shall be within the department of human resources development a commission to be known as the civil service commission which shall sit as an appellate body on matters within the jurisdiction of the department of human resources development. The commission shall consist of seven members, one from each county and three at large. At least one member of the commission shall be selected from among persons employed in private industry in skilled or unskilled laboring positions as distinguished from executive or professional positions. The functions, duties, and powers of the commission with respect to appeals shall be as heretofore provided by law for the civil service commission and for the loyalty board existing immediately prior to November 25, 1959.

The functions and authority heretofore exercised by the department of civil service and loyalty board as heretofore constituted are transferred to the department of human resources development established by this chapter.

Nothing in this section shall be construed as in any manner affecting the civil service laws applicable to the several counties which shall remain the same as if this chapter had not been enacted.

~~[There is created in the state treasury a special fund, which shall consist of two separate accounts to be expended by the department as follows:~~

- ~~(1) All revenues received by the department as a result of entrepreneurial efforts in securing new sources of funds not provided for in the~~

department's budget for services rendered by the department shall be deposited into the entrepreneurial account and expended for the department's related activities and programs; provided that the department may use the moneys in the fund to employ necessary personnel or for other purposes in support of departmental entrepreneurial initiatives and programs; and

- (2) All revenues received by the department from the charging of participant fees for in-service training, that are in addition to general fund appropriations in the department's budget for developing and operating in-service training programs, shall be deposited into the in-service training account and expended for the department's training activities and programs.]

There is established in the state treasury the human resources development special fund, to be administered by the department of human resources development, which shall consist of: all revenues received by the department as a result of entrepreneurial efforts in securing new sources of funds not provided for in the department's budget for services rendered by the department, all revenues received by the department from the charging of participant fees for in-service training that are in addition to general fund appropriations in the department's budget for developing and operating in-service training programs, appropriations made by the legislature to the fund, and moneys directed to the department from any other source, including gifts, grants, and awards.

Moneys in the human resources development special fund shall be used for the following purposes:

- (1) Supporting the department's entrepreneurial initiatives, training activities, and programs;
- (2) Administrative costs of the department's entrepreneurial initiatives, training activities, and programs; and
- (3) Any other purpose deemed necessary by the director for the purpose of facilitating the department's entrepreneurial initiatives, training activities, and programs."

SECTION 2. Chapter 76, part IV, Hawaii Revised Statutes, is repealed.

SECTION 3. Chapter 76, part VI, Hawaii Revised Statutes, is repealed.

SECTION 4. Section 76-101, Hawaii Revised Statutes, is repealed.

SECTION 5. Section 76-102, Hawaii Revised Statutes, is repealed.

SECTION 6. Section 76-104, Hawaii Revised Statutes, is repealed.

SECTION 7. Section 76-105, Hawaii Revised Statutes, is repealed.

SECTION 8. Section 76-106, Hawaii Revised Statutes, is repealed.

SECTION 9. Act 253, Session Laws of Hawaii 2000, section 2, is amended by amending subsection (f) of section 26-5, Hawaii Revised Statutes, to read as follows:

"(f) There is [ereated] established in the state treasury [a] the human resources development special fund, [which shall consist of two separate accounts to be expended by the department as follows:

- (1) All revenues received by the department as a result of entrepreneurial efforts in securing new sources of funds not provided for in the

department's budget for services rendered by the department shall be deposited into the entrepreneurial account and expended for the department's related activities and programs; provided that the department may use the moneys in the fund to employ necessary personnel or for other purposes in support of departmental entrepreneurial initiatives and programs; and

- (2) All revenues received by the department from the charging of participant fees for in-service training, that are in addition to general fund appropriations in the department's budget for developing and operating in-service training programs, shall be deposited into the in-service training account and expended for the department's training activities and programs].¹

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- (1) Supporting the department's entrepreneurial initiatives, training activities, and programs;
- (2) Administrative costs of the department's entrepreneurial initiatives, training activities, and programs; and
- (3) Any other purpose deemed necessary by the director for the purpose of facilitating the department's entrepreneurial initiatives, training activities, and programs."

SECTION 10. Act 253, Session Laws of Hawaii 2000, section 12, is amended by amending subsection (c) of section 76-14, Hawaii Revised Statutes, to read as follows:

“(c) The rules adopted by the merit appeals board shall provide for the following:

- (1) The merit appeals board shall not act on an appeal, but shall defer to other authority, if the action complained of constitutes a prohibited act that is subject to the jurisdiction of another appellate body or administrative agency or the grievance procedure under a collective bargaining agreement;
- (2) The merit appeals board shall not proceed on an appeal or shall hold proceedings in abeyance if there is any controversy regarding its authority to hear the appeal until the controversy is resolved by the Hawaii labor relations board;
- (3) The merit appeals board shall prescribe time limits for filing an appeal that require exhaustion of all internal complaint procedures, including administrative review and departmental complaint procedures, before an appeal is filed; and
- (4) The merit appeals board shall use the conditions listed in section [76-41(e)] 76-41(b) in reaching a decision on whether actions taken by the appointing authority based on a failure by the employee to meet the performance requirements of the employee's position is with or without merit.”

SECTION 11. Act 253, Session Laws of Hawaii 2000, section 19, is amended by amending subsection (d) of section 76-27, Hawaii Revised Statutes, to read as follows:

“(d) A member who is promoted or transferred to another position in the civil service may be required to successfully serve a new probation period as part of the examination process to determine the employee’s fitness and ability for the new position but shall be entitled to all the rights and privileges of a member of the civil service, except the right to appeal a [~~discharge~~] release from the new position (as distinguished from discharge from the service) for inefficiency during the probationary period, in which case the member shall be returned to the former position or a comparable position.”

SECTION 12. Act 253, Session Laws of Hawaii 2000, section 77, is amended by amending subsection (c) of section 78-12, Hawaii Revised Statutes, to read as follows:

“(c) The officer, agent, employee, or other person in the service of the jurisdiction, alleged to be indebted to a jurisdiction, may waive the right to a hearing to determine the indebtedness and instead assign by contract to the officer charged with the duty of collecting debts:

- (1) The priority right to payment of the total amount of the alleged indebtedness; and
- (2) The right of the officer to deduct from each and every periodic payment normally due the assignor an amount equal to the maximum legally permissible amount deductible under garnishment law until the total amount owing is paid in full.

For purposes of this section, a person shall be deemed to waive the hearing if the person fails to request a hearing within fifteen days from the date the person was notified of the indebtedness and the opportunity to request a hearing.”

SECTION 13. Act 253, Session Laws of Hawaii 2000, section 77, is amended by amending subsection (g) of section 78-12, Hawaii Revised Statutes, to read as follows:

“(g) If the determination of indebtedness was contested and is subsequently found to be incorrect:

- (1) Any moneys repaid or deducted under subsection (e) for any indebtedness in excess of the correct amount shall be promptly refunded with interest~~[-, to be calculated at a rate and in such manner as the disbursing officer establishes by rules;]~~ as specified by section 103-10; or
- (2) All leave or compensatory time credits applied to offset any indebtedness in excess of the correct amount shall be re-credited to the employee’s respective leave or compensatory time accounts and shall not result in a cash payment.”

SECTION 14. There is appropriated out of the human resources development special fund the sum of \$600,000 or so much thereof as may be necessary for fiscal year 2001-2002 for the purposes of the fund.

The sum appropriated shall be expended by the department of human resources development for the purposes of this part.

PART II

SECTION 15. Act 253, Session Laws of Hawaii 2000, is amended by amending section 149 to read as follows:

ACT 123

“SECTION 149. The provisions of sections 131, 132, 133, 134, 135, and 136 of this Act notwithstanding, the rights, benefits, and privileges currently enjoyed by persons occupying civil [servants] service positions under chapters 77, 79, 80, 81, 82, and 83, Hawaii Revised Statutes, who were hired prior to July 1, 2001, shall not be diminished or impaired, ~~[unless comparable]~~ until those rights, benefits, and privileges are either negotiated into collective bargaining agreements or established by executive order for civil ~~[servants.]~~ service employees.”

SECTION 16. Act 253, Session Laws of Hawaii 2000, is amended by amending section 152 to read as follows:

“SECTION 152. This Act shall take effect on July 1, 2002; provided that [section]:

- (1) Section 26-5(f), Hawaii Revised Statutes, in Section 2, and Parts V and IX of this Act shall take effect on July 1, 2000[.]; and
- (2) Section 132 of this Act shall take effect on July 1, 2001.”

PART III

SECTION 17. Statutory material to be repealed is bracketed and stricken.² New statutory material is underscored.

SECTION 18. This Act shall take effect on July 1, 2002, except that sections 1, 15, 16, and 17 of this Act shall take effect upon approval, and section 14 shall take effect on July 1, 2001.

(Approved May 18, 2001.)

Notes

1. Period should be bracketed.
2. Edited pursuant to HRS §23G-16.5.