

## ACT 83

S.B. NO. 797

A Bill for an Act Relating to Public Service.

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

SECTION 1. The purpose of this Act is to delete outdated references to language in chapter 85, Hawaii Revised Statutes, repealed in 1993, from sections 78-8 and 78-9, Hawaii Revised Statutes, and to delete language from section 78-9, Hawaii Revised Statutes, that has been interpreted as limiting legislative bodies' subpoena power.

SECTION 2. Section 78-8, Hawaii Revised Statutes, is amended to read as follows:

**“§78-8 Persons subject to sections 78-8 to 78-11.** The persons subject to sections 78-8 to 78-11 are those elected to or appointed or employed in the government of the State or any county, or in any political subdivision thereof, or appointed to or employed in any office or employment any part of the compensation of which is paid out of public funds[~~-, and who are required to take and subscribe a loyalty oath or affirmation pursuant to chapter 85. All persons exempted from the requirements of chapter 85 are and shall be exempted from sections 78-8 to 78-11.~~].”

SECTION 3. Section 78-9, Hawaii Revised Statutes, is amended to read as follows:

**“§78-9 Failure to appear or testify, termination of employment.** If any person subject to sections 78-8 to 78-11, after lawful notice or process, wilfully refuses or fails to appear before any court or judge, any legislative committee, or any officer, board, or commission, [~~or other body authorized to conduct any hearing or inquiry,~~] or having appeared refuses to testify or to answer any question regarding (1) the government, property or affairs of the State or of any political subdivision thereof, or (2) the person's qualifications for public office or employment [~~(including matters pertaining to loyalty or disloyalty)~~], or (3) the qualifications of any officer or employee of the State or any political subdivision thereof, on the ground that the person's answer would tend to incriminate the person, or refuses to testify or to answer any such question without right, the person's term or tenure of office or employment shall terminate and the office or employment shall be vacant, and the person shall not be eligible to election or appointment to any office or employment under the State or any political subdivision thereof. To the extent that the State is without authority to require, under the constitution or laws of the United States, compliance by any public officer or public employee herewith, sections 78-8 to 78-11 shall not apply to the officer or employee, but the sections shall apply to the extent that they or any part thereof can lawfully be made applicable.”

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

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

(Approved May 2, 2001.)