

ACT 81

H.B. NO. 999

A Bill for an Act Relating to Exemptions From Civil Service.

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

SECTION 1. The department of human services has one of the largest operating budgets of any state department and a staff of more than 2,400 employees deployed statewide. To effectively lead and manage the department's programs and improve service delivery, the department requires a well-experienced and knowledgeable leadership team.

The department serves one in four Hawaii residents through programs and services that include: protection of vulnerable children and adults; vocational rehabilitation and financial assistance to disabled individuals; the Supplemental Nutrition Assistance Program; financial assistance; job training and placement; housing and support services for individuals and families experiencing homelessness; medicaid services for the State's low income population; and prevention, treatment, and housing and services for the State's youthful offenders and other young adults at risk for homelessness, chronic unemployment, and vulnerable to becoming victims of labor or sex trafficking.

Each program is governed by complex state and federal laws, rules, and regulations. To improve the efficiency and accessibility to these services statewide, the federal and state governments have made significant investments to transform the department's information technology systems from a thirty-plus year old siloed legacy system to an integrated enterprise system. Once completed, the department of human services enterprise system will be capable of determining eligibility for multiple programs, improve timely service delivery, and provide greater program and fiscal oversight.

To capitalize on investments made to the medicaid eligibility system, known as KOLEA, and enable complex analytics of public health insurance medical claims through the all-payer claims data warehouse, in 2018, the legislature established the department's health analytics program in the med-QUEST

division. That program will begin to provide analysis of state-funded medical insurance claims that will assist policy makers and program administrators to make necessary adjustments to the coverage of health care in Hawaii.

Improving the department's information technology systems likewise necessitates robust investment in department administrators who have the expertise in design and maintenance of information technology systems, the establishment of security programs to ensure the department has sufficient security protocols and processes, and investment in a workforce that is trained to recognize and respond to potential system breaches and or attempted hacks.

The effective management and transformation of the department into an integrated service delivery system requires department management to lead internal changes and to engage in collaborative efforts with other state and federal agencies, legislative bodies, and other external and community partners. Expertise, experience, foresight, and continuity in leadership are necessary to drive departmental changes to address conditions that give rise to poverty and other public welfare problems.

The department is challenged in attracting and retaining professionals with necessary qualifications to assume the leadership and oversee personnel matters, fiscal and budget issues, information technology development, and operational matters related to quality control, program oversight, and reporting.

Specific issues regarding homelessness in Hawaii also need dedicated and predictable leadership resources. Homelessness in Hawaii is a major social and economic issue that impacts individuals and families, residents and visitors, and businesses and communities. There are multiple causes of homelessness and an effective, coordinated response to homelessness requires a focused, strategic effort by the governor's coordinator on homelessness who has the expertise, ability, authority, and credentials to work with all stakeholders.

The legislature passed Act 79, Session Laws of Hawaii 2016 (Act 79), that exempted from the civil service requirements of chapter 76, Hawaii Revised Statutes, for a period of three calendar years commencing on the effective date of Act 79, the following positions in the Med-QUEST division of the department of human services: the division administrator, finance officer, health care services branch administrator, medical director, and clinical standards administrator. The department seeks to permanently exempt these positions from civil service.

To provide oversight on continued development of the department's enterprise system and address increased security needs of the information technology infrastructure and program integrity, the department seeks to permanently exempt from civil service the following positions in the director's office: enterprise officer, information security and compliance officer, security and privacy compliance engineer, and security and privacy compliance analyst, to support the overall security of the department's enterprise system.

Act 79 also temporarily exempted a research/health analytics manager in the med-QUEST division, and the community/project development director and policy director in the director's office. The department seeks to continue the temporary exemptions of these positions for three additional years. Additionally, the department seeks a similar temporary exemption of the special assistant to the director.

The purpose of this Act is to permanently exempt from provisions of civil service the following positions: the governor's coordinator on homelessness, five positions at the Med-QUEST division, and four positions in the office of the director of human services. Further, this Act temporarily exempts from civil service the research/health analytics manager in the med-QUEST division and the community/project development director, policy director, and special assistant to the director in the director's office.

SECTION 2. Chapter 346, Hawaii Revised Statutes, is amended by adding to part XVIII a new section to be appropriately designated and to read as follows:

“§346- Governor’s coordinator on homelessness. The governor shall appoint the governor’s coordinator on homelessness for the proper administration and enforcement of this chapter without regard to chapter 76.”

SECTION 3. Section 76-16, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The civil service to which this chapter applies shall comprise all positions in the State now existing or hereafter established and embrace 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 human resources development 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 that must be filled without delay to comply with a court order or decree if the director determines that recruitment through normal recruitment civil service procedures would result in delay or noncompliance, such as the Felix-Cayetano consent decree;
- (4) Positions filled by the legislature or by either house or any committee thereof;
- (5) Employees in the office of the governor and office of the lieutenant 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 secretary for the judicial council; 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, one law clerk for each judge of the circuit court, two additional law clerks for the civil administrative judge of the circuit court of the first circuit, two additional law clerks for the criminal administrative judge of the circuit court of the first circuit, one additional law clerk for the senior judge of the family court of the first circuit, two additional law clerks for the civil motions judge of the circuit court of the first circuit, two additional law clerks 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) (A) Teachers, principals, vice-principals, complex area superintendents, deputy and assistant superintendents, other certificated personnel, not more than twenty noncertificated administrative, professional, and technical personnel not engaged in instructional work;
 - (B) Effective July 1, 2003, teaching assistants, educational assistants, bilingual/bicultural school-home assistants, school psychologists, psychological examiners, speech pathologists, athletic health care trainers, alternative school work study assistants, alternative school educational/supportive services specialists, alternative school project coordinators, and communications aides in the department of education;
 - (C) The special assistant to the state librarian and one secretary for the special assistant to the state librarian; and
 - (D) 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) (A) Positions filled by inmates, patients of state institutions, persons with severe physical or mental disabilities participating in the work experience training programs;
 - (B) Positions filled with students in accordance with guidelines for established state employment programs; and
 - (C) Positions that provide work experience training or temporary public service employment that are filled by persons entering the workforce or persons transitioning into other careers under programs such as the federal Workforce Investment Act of 1998, as amended, or the Senior Community Service Employment Program of the Employment and Training Administration of the United States Department of Labor, or under other similar state programs;
 - (14) A custodian or guide at Iolani Palace, the 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 Hawaii State Constitution; 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; four additional deputies in the department of health, each in charge of one of the following: behavioral health, environmental health, 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; 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:
 - (A) Any exemption created after July 1, 2014, shall expire three years after its enactment unless affirmatively extended by an act of the legislature; and
 - (B) 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 meal periods in the distribution, collection, and counting of meal tickets, 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 public housing authority; provided that not more than twenty-six per cent of the authority's workforce 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 that require the hiring of nutrition program assistants who live in the areas they serve;
 - (23) Positions filled by persons with severe disabilities who are certified by the state vocational rehabilitation office that they are able to perform safely the duties of the positions;
 - (24) The sheriff;
 - (25) A gender and other fairness coordinator hired by the judiciary;
 - (26) Positions in the Hawaii National Guard youth and adult education programs;
 - (27) In the state energy office in the department of business, economic development, and tourism, all energy program managers, energy program specialists, energy program assistants, and energy analysts; [and]
 - (28) Administrative appeals hearing officers in the department of human services[-];
 - (29) In the Med-QUEST division of the department of human services, the division administrator, finance officer, health care services branch administrator, medical director, and clinical standards administrator; and
 - (30) In the director's office of the department of human services, the enterprise officer, information security and privacy compliance officer,

security and privacy compliance engineer, and security and privacy compliance analyst.

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 4. Notwithstanding any other law to the contrary, including section 76-16(b)(17), Hawaii Revised Statutes, and unless affirmatively extended by an act of the legislature, for a period of three calendar years commencing on the effective date of this Act, the following positions shall be exempt from the civil service requirements of chapter 76, Hawaii Revised Statutes:

- (1) In the Med-QUEST division of the department of human services, the research/health analytics manager; and
- (2) In the director’s office of the department of human services, the community/project development director, policy director, and the special assistant to the director.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 6. This Act shall take effect on June 29, 2019.

(Approved June 7, 2019.)

Note

1. Edited pursuant to HRS §23G-16.5.