THE SENATE
STATE OF HAWAII

S.B. NO. 3099
S.D. 1
H.D. 1
C.D. 1

A BILL FOR AN ACT
RELATING TO PUBLIC EMPLOYMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Act 253, Session Laws of Hawaii 2000, and Act 300, Session Laws of Hawaii 2006, sought to reduce the number of civil service exempt employees in public service within the State. The legislature finds that since the enactment of these Acts, there have been few conversions of civil service exempt positions to civil service positions and conversions are overdue.

The purpose of this Act is to:

(1) Require, rather than permit, hiring to be done in accordance with civil service laws when the state historic preservation division of the department of land and natural resources hires professional and technical staff; and

(2) Require any civil service exempt positions created after July 1, 2014, to expire after three years of their enactment unless affirmatively extended by the legislature.
SECTION 2. Section 6E-3, Hawaii Revised Statutes, is amended to read as follows:

"6E-3 Historic preservation program. There is established within the department a division to administer a comprehensive historic preservation program, which shall include but not be limited to the following:

(1) Development of an ongoing program of historical, architectural, and archaeological research and development, including surveys, excavations, scientific recording, interpretation, signage, and publications on the State's historical and cultural resources;

(2) Acquisition of historic or cultural properties, real or personal, in fee or in any lesser interest, by gift, purchase, condemnation, devise, bequest, land exchange, or other means; preservation, restoration, administration, or transference of the property; and the charging of reasonable admissions to that property;

(3) Development of a statewide survey and inventory to identify and document historic properties, aviation
artifacts, and burial sites, including all those owned
by the State and the counties;

(4) Preparation of information for the Hawaii register of
historic places and listing on the national register
of historic places;

(5) Preparation, review, and revisions of a state historic
preservation plan, including budget requirements and
land use recommendations;

(6) Application for and receipt of gifts, grants,
technical assistance, and other funding from public
and private sources for the purposes of this chapter;

(7) Provision of technical and financial assistance to the
counties and public and private agencies involved in
historic preservation activities;

(8) Coordination of activities of the counties in
accordance with the state plan for historic
preservation;

(9) Stimulation of public interest in historic
preservation, including the development and
implementation of interpretive programs for historic
properties listed on or eligible for the Hawaii
register of historic places;
(10) Coordination of the evaluation and management of burial sites as provided in section 6E-43;

(11) Acquisition of burial sites in fee or in any lesser interest, by gift, purchase, condemnation, devise, bequest, land exchange, or other means, to be held in trust;

(12) Submittal of an annual report to the governor and legislature detailing the accomplishments of the year, recommendations for changes in the state plan or future programs relating to historic preservation, and an accounting of all income, expenditures, and the fund balance of the Hawaii historic preservation special fund;

(13) Regulation of archaeological activities throughout the State;

(14) Employment of sufficient professional and technical staff for the purposes of this chapter which shall be in accordance with chapter 76;

(15) The charging of fees to be determined by the department that are proportional to the nature and complexity of the projects or services provided, and adjusted from time to time to ensure that the
proceeds, together with all other fines, income, and penalties collected under this chapter, do not surpass the annual operating costs of the comprehensive historic preservation program;

(16) Adoption of rules in accordance with chapter 91, necessary to carry out the purposes of this chapter; and

(17) Development and adoption, in consultation with the office of Hawaiian affairs native historic preservation council, of rules governing permits for access by native Hawaiians and Hawaiians to cultural, historic, and pre-contact sites and monuments."

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;
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;

Judges, referees, receivers, masters, jurors, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;

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 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 [all]:

(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 except during the time period specified in paragraph (27), 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; and
From July 1, 2012, to June 30, 2015, persons hired or contracted to perform repair, maintenance, or capital improvement projects work on vacant housing units under the jurisdiction of the Hawaii public housing authority.

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

SECTION 5. This Act shall take effect on July 1, 2014; provided that the amendments made to section 76-16(b), Hawaii Revised Statutes, by this Act shall not be repealed when section 76-16(b), Hawaii Revised Statutes, is reenacted on July 1, 2015, pursuant to section 5 of Act 159, Session Laws of Hawaii 2012.
Report Title:
Civil Service Conversion; State Historic Preservation Division

Description:
Makes hiring of technical and professional staff in accordance with civil service laws by the state historic preservation division mandatory. Sunsets civil service exemptions for positions created after July 1, 2014, three years after enactment unless affirmatively extended by the legislature. (CD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*