



EXECUTIVE CHAMBERS  
HONOLULU

DAVID Y. IGE  
GOVERNOR

June 29, 2018

**GOV. MSG. NO. 1172**

The Honorable Ronald D. Kouchi,  
President  
and Members of the Senate  
Twenty-Ninth State Legislature  
State Capitol, Room 409  
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,  
Speaker and Members of the  
House of Representatives  
Twenty-Ninth State Legislature  
State Capitol, Room 431  
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on June 29, 2018, the following bill was signed into law:

HB2362 HD1 SD1 CD1

RELATING TO ADMINISTRATIVE HEARING  
OFFICERS  
**ACT 071 (18)**

Sincerely,

DAVID Y. IGE  
Governor, State of Hawai'i

ORIGINAL

Approved by the Governor

on JUN 29 2018

HOUSE OF REPRESENTATIVES  
TWENTY-NINTH LEGISLATURE, 2018  
STATE OF HAWAII

ACT 071  
H.B. NO.

2362  
H.D. 1  
S.D. 1  
C.D. 1

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## A BILL FOR AN ACT

RELATING TO ADMINISTRATIVE HEARING OFFICERS.

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

1           SECTION 1. The department of human services has the  
2 largest operating budget of any state department, approximately  
3 \$3,304,000,000, including seventy-nine per cent of all the  
4 executive branch's federal funds. The department provides  
5 benefits and services to one in four Hawaii residents or nearly  
6 360,000 individuals.

7           The department serves vulnerable and needy adults and  
8 children statewide and is responsible for diverse and complex  
9 programs driven by their own unique and ubiquitous state and  
10 federal laws, rules, and regulations. With little overlap  
11 between the wide array of services offered by the department and  
12 each program's laws and regulations, the breadth of knowledge  
13 necessary for effective management of all the programs is  
14 extensive and difficult to develop.

15           The department's programs and services include: protection  
16 of vulnerable children and adults; vocational rehabilitation and  
17 financial assistance to the disabled; the Supplemental Nutrition  
18 Assistance Program; financial assistance; job training and



1 placement; housing and services for the homeless; medicaid  
2 services for the State's medically needy population; and  
3 prevention, treatment, and housing for the State's youth  
4 offenders.

5 In addition to helping Hawaii's vulnerable individuals, the  
6 department manages significant federal and state funds and  
7 processes vast amounts of information. The department is  
8 currently engaged in investing in an enterprise integrated  
9 eligibility system to better serve recipients of public benefits  
10 and the State's vulnerable populations.

11 As required by federal and state laws, regulations, and  
12 administrative rules, the department provides applicants and  
13 recipients of public benefits with administrative review  
14 processes to request relief from an adverse decision made by the  
15 department. The department also provides an administrative  
16 review process for providers of medical goods or services who  
17 disagree with a department's decision.

18 The department's administrative appeals office receives  
19 nearly 1,900 requests annually for administrative relief from  
20 applicants or recipients of public benefits or services.  
21 Additionally, the administrative appeals office receives



1 approximately thirty requests per year for administrative review  
2 from providers of medical goods or services. Administrative  
3 appeal hearings are held statewide.

4 To render timely, impartial, and informed quasi-judicial  
5 administrative appeals hearing decisions, the department must  
6 maintain a cadre of experienced, trained, and knowledgeable  
7 administrative appeals hearing officers to review federal and  
8 state laws, regulations, rules, documents, receive testimony,  
9 conduct hearings, determine findings of facts and conclusions of  
10 law, and render final administrative appeal hearing decisions.

11 Timely, accurate, and prompt administrative appeals hearing  
12 decisions in contested cases positively help eligible applicants  
13 and recipients gain access to benefits and services and support  
14 efficiency of government by terminating benefits to ineligible  
15 recipients and allowing the department to begin recovery of  
16 improperly provided benefits.

17 The purpose of this Act is to exempt from civil service the  
18 administrative appeals hearing officers of the department of  
19 human services.

20 SECTION 2. Section 76-16, Hawaii Revised Statutes, is  
21 amended by amending subsection (b) to read as follows:



1           "(b) The civil service to which this chapter applies shall  
2 comprise all positions in the State now existing or hereafter  
3 established and embrace all personal services performed for the  
4 State, except the following:

5           (1) Commissioned and enlisted personnel of the Hawaii  
6 National Guard as such, and positions in the Hawaii  
7 National Guard that are required by state or federal  
8 laws or regulations or orders of the National Guard to  
9 be filled from those commissioned or enlisted  
10 personnel;

11           (2) Positions filled by persons employed by contract where  
12 the director of human resources development has  
13 certified that the service is special or unique or is  
14 essential to the public interest and that, because of  
15 circumstances surrounding its fulfillment, personnel  
16 to perform the service cannot be obtained through  
17 normal civil service recruitment procedures. Any such  
18 contract may be for any period not exceeding one year;

19           (3) Positions that must be filled without delay to comply  
20 with a court order or decree if the director  
21 determines that recruitment through normal recruitment



- 1 civil service procedures would result in delay or  
2 noncompliance, such as the Felix-Cayetano consent  
3 decree;
- 4 (4) Positions filled by the legislature or by either house  
5 or any committee thereof;
- 6 (5) Employees in the office of the governor and office of  
7 the lieutenant governor, and household employees at  
8 Washington Place;
- 9 (6) Positions filled by popular vote;
- 10 (7) Department heads, officers, and members of any board,  
11 commission, or other state agency whose appointments  
12 are made by the governor or are required by law to be  
13 confirmed by the senate;
- 14 (8) Judges, referees, receivers, masters, jurors, notaries  
15 public, land court examiners, court commissioners, and  
16 attorneys appointed by a state court for a special  
17 temporary service;
- 18 (9) One bailiff for the chief justice of the supreme court  
19 who shall have the powers and duties of a court  
20 officer and bailiff under section 606-14; one  
21 secretary or clerk for each justice of the supreme



1 court, each judge of the intermediate appellate court,  
2 and each judge of the circuit court; one secretary for  
3 the judicial council; one deputy administrative  
4 director of the courts; three law clerks for the chief  
5 justice of the supreme court, two law clerks for each  
6 associate justice of the supreme court and each judge  
7 of the intermediate appellate court, one law clerk for  
8 each judge of the circuit court, two additional law  
9 clerks for the civil administrative judge of the  
10 circuit court of the first circuit, two additional law  
11 clerks for the criminal administrative judge of the  
12 circuit court of the first circuit, one additional law  
13 clerk for the senior judge of the family court of the  
14 first circuit, two additional law clerks for the civil  
15 motions judge of the circuit court of the first  
16 circuit, two additional law clerks for the criminal  
17 motions judge of the circuit court of the first  
18 circuit, and two law clerks for the administrative  
19 judge of the district court of the first circuit; and  
20 one private secretary for the administrative director  
21 of the courts, the deputy administrative director of



1 the courts, each department head, each deputy or first  
2 assistant, and each additional deputy, or assistant  
3 deputy, or assistant defined in paragraph (16);

4 (10) First deputy and deputy attorneys general, the  
5 administrative services manager of the department of  
6 the attorney general, one secretary for the  
7 administrative services manager, an administrator and  
8 any support staff for the criminal and juvenile  
9 justice resources coordination functions, and law  
10 clerks;

11 (11) (A) Teachers, principals, vice-principals, complex  
12 area superintendents, deputy and assistant  
13 superintendents, other certificated personnel,  
14 not more than twenty noncertificated  
15 administrative, professional, and technical  
16 personnel not engaged in instructional work;

17 (B) Effective July 1, 2003, teaching assistants,  
18 educational assistants, bilingual/bicultural  
19 school-home assistants, school psychologists,  
20 psychological examiners, speech pathologists,  
21 athletic health care trainers, alternative school





1 work study assistants, alternative school  
2 educational/supportive services specialists,  
3 alternative school project coordinators, and  
4 communications aides in the department of  
5 education;

6 (C) The special assistant to the state librarian and  
7 one secretary for the special assistant to the  
8 state librarian; and

9 (D) Members of the faculty of the University of  
10 Hawaii, including research workers, extension  
11 agents, personnel engaged in instructional work,  
12 and administrative, professional, and technical  
13 personnel of the university;

14 (12) Employees engaged in special, research, or  
15 demonstration projects approved by the governor;

16 (13) (A) Positions filled by inmates, patients of state  
17 institutions, persons with severe physical or  
18 mental disabilities participating in the work  
19 experience training programs;



1 (B) Positions filled with students in accordance with  
2 guidelines for established state employment  
3 programs; and

4 (C) Positions that provide work experience training  
5 or temporary public service employment that are  
6 filled by persons entering the workforce or  
7 persons transitioning into other careers under  
8 programs such as the federal Workforce Investment  
9 Act of 1998, as amended, or the Senior Community  
10 Service Employment Program of the Employment and  
11 Training Administration of the United States  
12 Department of Labor, or under other similar state  
13 programs;

14 (14) A custodian or guide at Iolani Palace, the Royal  
15 Mausoleum, and Hulihee Palace;

16 (15) Positions filled by persons employed on a fee,  
17 contract, or piecework basis, who may lawfully perform  
18 their duties concurrently with their private business  
19 or profession or other private employment and whose  
20 duties require only a portion of their time, if it is

1 impracticable to ascertain or anticipate the portion  
2 of time to be devoted to the service of the State;

3 (16) Positions of first deputies or first assistants of  
4 each department head appointed under or in the manner  
5 provided in section 6, article V, of the Hawaii State  
6 Constitution; three additional deputies or assistants  
7 either in charge of the highways, harbors, and  
8 airports divisions or other functions within the  
9 department of transportation as may be assigned by the  
10 director of transportation, with the approval of the  
11 governor; four additional deputies in the department  
12 of health, each in charge of one of the following:  
13 behavioral health, environmental health, hospitals,  
14 and health resources administration, including other  
15 functions within the department as may be assigned by  
16 the director of health, with the approval of the  
17 governor; an administrative assistant to the state  
18 librarian; and an administrative assistant to the  
19 superintendent of education;

20 (17) Positions specifically exempted from this part by any  
21 other law; provided that:



1 (A) Any exemption created after July 1, 2014, shall  
2 expire three years after its enactment unless  
3 affirmatively extended by an act of the  
4 legislature; and

5 (B) All of the positions defined by paragraph (9)  
6 shall be included in the position classification  
7 plan;

8 (18) Positions in the state foster grandparent program and  
9 positions for temporary employment of senior citizens  
10 in occupations in which there is a severe personnel  
11 shortage or in special projects;

12 (19) Household employees at the official residence of the  
13 president of the University of Hawaii;

14 (20) Employees in the department of education engaged in  
15 the supervision of students during meal periods in the  
16 distribution, collection, and counting of meal  
17 tickets, and in the cleaning of classrooms after  
18 school hours on a less than half-time basis;

19 (21) Employees hired under the tenant hire program of the  
20 Hawaii public housing authority; provided that not  
21 more than twenty-six per cent of the authority's



- 1 workforce in any housing project maintained or  
2 operated by the authority shall be hired under the  
3 tenant hire program;
- 4 (22) Positions of the federally funded expanded food and  
5 nutrition program of the University of Hawaii that  
6 require the hiring of nutrition program assistants who  
7 live in the areas they serve;
- 8 (23) Positions filled by persons with severe disabilities  
9 who are certified by the state vocational  
10 rehabilitation office that they are able to perform  
11 safely the duties of the positions;
- 12 (24) The sheriff;
- 13 (25) A gender and other fairness coordinator hired by the  
14 judiciary;
- 15 (26) Positions in the Hawaii National Guard youth and adult  
16 education programs; [and]
- 17 (27) In the state energy office in the department of  
18 business, economic development, and tourism, all  
19 energy program managers, energy program specialists,  
20 energy program assistants, and energy analysts [-]; and



1        (28) Administrative appeals hearing officers in the  
2                    department of human services.

3            The director shall determine the applicability of this  
4 section to specific positions.

5            Nothing in this section shall be deemed to affect the civil  
6 service status of any incumbent as it existed on July 1, 1955."

7            SECTION 3. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9            SECTION 4. This Act shall take effect on July 1, 2018.

APPROVED this 29 day of JUN , 2018



GOVERNOR OF THE STATE OF HAWAII



HB No. 2362, HD 1, SD 1, CD 1

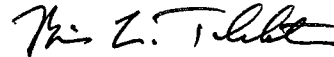
THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 1, 2018  
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Twenty-Ninth Legislature of the State of Hawaii, Regular Session of 2018.



Scott K. Saiki  
Speaker  
House of Representatives



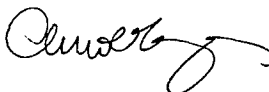
Brian L. Takeshita  
Chief Clerk  
House of Representatives

**THE SENATE OF THE STATE OF HAWAI'I**

Date: May 1, 2018  
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Twenty-ninth Legislature of the State of Hawai'i, Regular Session of 2018.

  
President of the Senate

  
Clerk of the Senate