
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.



Report Title:

Department of Human Services; Administrative Appeals;
Administrative Appeals Hearing Officers; Civil Service Exemption

Description:

Exempts Administrative Appeals Hearing Officers in the
Department of Human Services from civil service requirements.
(HB2362 CD1)

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