
A BILL FOR AN ACT

RELATING TO PUBLIC EMPLOYMENT.

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

1 SECTION 1. Act 253, Session Laws of Hawaii 2000, and Act
2 300, Session Laws of Hawaii 2006, sought to reduce the number of
3 civil service exempt employees in public service within the
4 State. The legislature finds that since the enactment of these
5 Acts, there have been few conversions of civil service exempt
6 positions to civil service positions and conversions are
7 overdue.

8 The purpose of this Act is to:

- 9 (1) Require, rather than permit, hiring to be done in
10 accordance with civil service laws when the state
11 historic preservation division of the department of
12 land and natural resources hires professional and
13 technical staff; and
- 14 (2) Require any civil service exempt positions created
15 after July 1, 2014, to expire after three years of its
16 enactment unless affirmatively extended by the
17 legislature.



1 SECTION 2. Section 6E-3, Hawaii Revised Statutes, is
2 amended to read as follows:

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

- 7 (1) Development of an ongoing program of historical,
8 architectural, and archaeological research and
9 development, including surveys, excavations,
10 scientific recording, interpretation, signage, and
11 publications on the State's historical and cultural
12 resources;
- 13 (2) Acquisition of historic or cultural properties, real
14 or personal, in fee or in any lesser interest, by
15 gift, purchase, condemnation, devise, bequest, land
16 exchange, or other means; preservation, restoration,
17 administration, or transference of the property; and
18 the charging of reasonable admissions to that
19 property;
- 20 (3) Development of a statewide survey and inventory to
21 identify and document historic properties, aviation



- 1 artifacts, and burial sites, including all those owned
2 by the State and the counties;
- 3 (4) Preparation of information for the Hawaii register of
4 historic places and listing on the national register
5 of historic places;
- 6 (5) Preparation, review, and revisions of a state historic
7 preservation plan, including budget requirements and
8 land use recommendations;
- 9 (6) Application for and receipt of gifts, grants,
10 technical assistance, and other funding from public
11 and private sources for the purposes of this chapter;
- 12 (7) Provision of technical and financial assistance to the
13 counties and public and private agencies involved in
14 historic preservation activities;
- 15 (8) Coordination of activities of the counties in
16 accordance with the state plan for historic
17 preservation;
- 18 (9) Stimulation of public interest in historic
19 preservation, including the development and
20 implementation of interpretive programs for historic
21 properties listed on or eligible for the Hawaii
22 register of historic places;



- 1 (10) Coordination of the evaluation and management of
2 burial sites as provided in section 6E-43;
- 3 (11) Acquisition of burial sites in fee or in any lesser
4 interest, by gift, purchase, condemnation, devise,
5 bequest, land exchange, or other means, to be held in
6 trust;
- 7 (12) Submittal of an annual report to the governor and
8 legislature detailing the accomplishments of the year,
9 recommendations for changes in the state plan or
10 future programs relating to historic preservation, and
11 an accounting of all income, expenditures, and the
12 fund balance of the Hawaii historic preservation
13 special fund;
- 14 (13) Regulation of archaeological activities throughout the
15 State;
- 16 (14) Employment of sufficient professional and technical
17 staff for the purposes of this chapter which [~~may~~]
18 shall be in accordance with chapter 76;
- 19 (15) The charging of fees to be determined by the
20 department that are proportional to the nature and
21 complexity of the projects or services provided, and
22 adjusted from time to time to ensure that the



1 proceeds, together with all other fines, income, and
2 penalties collected under this chapter, do not surpass
3 the annual operating costs of the comprehensive
4 historic preservation program;

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

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

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

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

19 (1) Commissioned and enlisted personnel of the Hawaii
20 National Guard as such, and positions in the Hawaii
21 National Guard that are required by state or federal
22 laws or regulations or orders of the National Guard to



- 1 be filled from those commissioned or enlisted
2 personnel;
- 3 (2) Positions filled by persons employed by contract where
4 the director of human resources development has
5 certified that the service is special or unique or is
6 essential to the public interest and that, because of
7 circumstances surrounding its fulfillment, personnel
8 to perform the service cannot be obtained through
9 normal civil service recruitment procedures. Any such
10 contract may be for any period not exceeding one year;
- 11 (3) Positions that must be filled without delay to comply
12 with a court order or decree if the director
13 determines that recruitment through normal recruitment
14 civil service procedures would result in delay or
15 noncompliance, such as the Felix-Cayetano consent
16 decree;
- 17 (4) Positions filled by the legislature or by either house
18 or any committee thereof;
- 19 (5) Employees in the office of the governor and office of
20 the lieutenant governor, and household employees at
21 Washington Place;
- 22 (6) Positions filled by popular vote;



- 1 (7) Department heads, officers, and members of any board,
2 commission, or other state agency whose appointments
3 are made by the governor or are required by law to be
4 confirmed by the senate;
- 5 (8) Judges, referees, receivers, masters, jurors, notaries
6 public, land court examiners, court commissioners, and
7 attorneys appointed by a state court for a special
8 temporary service;
- 9 (9) One bailiff for the chief justice of the supreme court
10 who shall have the powers and duties of a court
11 officer and bailiff under section 606-14; one
12 secretary or clerk for each justice of the supreme
13 court, each judge of the intermediate appellate court,
14 and each judge of the circuit court; one secretary for
15 the judicial council; one deputy administrative
16 director of the courts; three law clerks for the chief
17 justice of the supreme court, two law clerks for each
18 associate justice of the supreme court and each judge
19 of the intermediate appellate court, one law clerk for
20 each judge of the circuit court, two additional law
21 clerks for the civil administrative judge of the
22 circuit court of the first circuit, two additional law



1 clerks for the criminal administrative judge of the
2 circuit court of the first circuit, one additional law
3 clerk for the senior judge of the family court of the
4 first circuit, two additional law clerks for the civil
5 motions judge of the circuit court of the first
6 circuit, two additional law clerks for the criminal
7 motions judge of the circuit court of the first
8 circuit, and two law clerks for the administrative
9 judge of the district court of the first circuit; and
10 one private secretary for the administrative director
11 of the courts, the deputy administrative director of
12 the courts, each department head, each deputy or first
13 assistant, and each additional deputy, or assistant
14 deputy, or assistant defined in paragraph (16);
15 (10) First deputy and deputy attorneys general, the
16 administrative services manager of the department of
17 the attorney general, one secretary for the
18 administrative services manager, an administrator and
19 any support staff for the criminal and juvenile
20 justice resources coordination functions, and law
21 clerks;



- 1 (11) (A) Teachers, principals, vice-principals, complex
- 2 area superintendents, deputy and assistant
- 3 superintendents, other certificated personnel,
- 4 not more than twenty noncertificated
- 5 administrative, professional, and technical
- 6 personnel not engaged in instructional work;
- 7 (B) Effective July 1, 2003, teaching assistants,
- 8 educational assistants, bilingual/bicultural
- 9 school-home assistants, school psychologists,
- 10 psychological examiners, speech pathologists,
- 11 athletic health care trainers, alternative school
- 12 work study assistants, alternative school
- 13 educational/supportive services specialists,
- 14 alternative school project coordinators, and
- 15 communications aides in the department of
- 16 education;
- 17 (C) The special assistant to the state librarian and
- 18 one secretary for the special assistant to the
- 19 state librarian; and
- 20 (D) Members of the faculty of the University of
- 21 Hawaii, including research workers, extension
- 22 agents, personnel engaged in instructional work,

1 and administrative, professional, and technical
2 personnel of the university;

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

5 (13) (A) Positions filled by inmates, patients of state
6 institutions, persons with severe physical or
7 mental disabilities participating in the work
8 experience training programs;

9 (B) Positions filled with students in accordance with
10 guidelines for established state employment
11 programs; and

12 (C) Positions that provide work experience training
13 or temporary public service employment that are
14 filled by persons entering the workforce or
15 persons transitioning into other careers under
16 programs such as the federal Workforce Investment
17 Act of 1998, as amended, or the Senior Community
18 Service Employment Program of the Employment and
19 Training Administration of the United States
20 Department of Labor, or under other similar state
21 programs;



- 1 (14) A custodian or guide at Iolani Palace, the Royal
2 Mausoleum, and Hulihee Palace;
- 3 (15) Positions filled by persons employed on a fee,
4 contract, or piecework basis, who may lawfully perform
5 their duties concurrently with their private business
6 or profession or other private employment and whose
7 duties require only a portion of their time, if it is
8 impracticable to ascertain or anticipate the portion
9 of time to be devoted to the service of the State;
- 10 (16) Positions of first deputies or first assistants of
11 each department head appointed under or in the manner
12 provided in section 6, article V, of the state
13 constitution; three additional deputies or assistants
14 either in charge of the highways, harbors, and
15 airports divisions or other functions within the
16 department of transportation as may be assigned by the
17 director of transportation, with the approval of the
18 governor; four additional deputies in the department
19 of health, each in charge of one of the following:
20 behavioral health, environmental health, hospitals,
21 and health resources administration, including other
22 functions within the department as may be assigned by



1 the director of health, with the approval of the
2 governor; an administrative assistant to the state
3 librarian; and an administrative assistant to the
4 superintendent of education;

5 (17) Positions specifically exempted from this part by any
6 other law; provided that [~~all~~]:

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

11 (B) All of the positions defined by paragraph (9)
12 shall be included in the position classification
13 plan;

14 (18) Positions in the state foster grandparent program and
15 positions for temporary employment of senior citizens
16 in occupations in which there is a severe personnel
17 shortage or in special projects;

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

20 (20) Employees in the department of education engaged in
21 the supervision of students during meal periods in the
22 distribution, collection, and counting of meal



- 1 tickets, and in the cleaning of classrooms after
2 school hours on a less than half-time basis;
- 3 (21) Employees hired under the tenant hire program of the
4 Hawaii public housing authority; provided that except
5 during the time period specified in paragraph (27),
6 not more than twenty-six per cent of the authority's
7 workforce in any housing project maintained or
8 operated by the authority shall be hired under the
9 tenant hire program;
- 10 (22) Positions of the federally funded expanded food and
11 nutrition program of the University of Hawaii that
12 require the hiring of nutrition program assistants who
13 live in the areas they serve;
- 14 (23) Positions filled by persons with severe disabilities
15 who are certified by the state vocational
16 rehabilitation office that they are able to perform
17 safely the duties of the positions;
- 18 (24) The sheriff;
- 19 (25) A gender and other fairness coordinator hired by the
20 judiciary;
- 21 (26) Positions in the Hawaii National Guard youth and adult
22 education programs; and



1 (27) From July 1, 2012, to June 30, 2015, persons hired or
2 contracted to perform repair, maintenance, or capital
3 improvement projects work on vacant housing units
4 under the jurisdiction of the Hawaii public housing
5 authority.

6 The director shall determine the applicability of this
7 section to specific positions.

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

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

12 SECTION 5. This Act shall take effect on July 1, 2050;
13 provided that the amendments made to section 76-16(b), Hawaii
14 Revised Statutes, by this Act shall not be repealed when section
15 76-16(b), Hawaii Revised Statutes, is reenacted on July 1, 2015,
16 pursuant to section 5 of Act 159, Session Laws of Hawaii 2012.



Report Title:

Civil Service Conversion; State Historic Preservation Division

Description:

Requires, rather than permits, 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. Requires that any civil service exempt positions created after July 1, 2014, expire after three years of its enactment unless affirmatively extended by the legislature. Effective 07/01/50. (SD1)

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