
A BILL FOR AN ACT

RELATING TO EXEMPTIONS FROM CIVIL SERVICE.

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

1 SECTION 1. Section 76-16, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

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

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

13 (2) Positions filled by persons employed by contract where
14 the director of human resources development has
15 certified that the service is special or unique or is
16 essential to the public interest and that, because of
17 circumstances surrounding its fulfillment, personnel
18 to perform the service cannot be obtained through



- 1 normal civil service recruitment procedures. Any such
2 contract may be for any period not exceeding one year;
- 3 (3) Positions that must be filled without delay to comply
4 with a court order or decree if the director
5 determines that recruitment through normal recruitment
6 civil service procedures would result in delay or
7 noncompliance, such as the Felix-Cayetano consent
8 decree;
- 9 (4) Positions filled by the legislature or by either house
10 or any committee thereof;
- 11 (5) Employees in the office of the governor and office of
12 the lieutenant governor, and household employees at
13 Washington Place;
- 14 (6) Positions filled by popular vote;
- 15 (7) Department heads, officers, and members of any board,
16 commission, or other state agency whose appointments
17 are made by the governor or are required by law to be
18 confirmed by the senate;
- 19 (8) Judges, referees, receivers, masters, jurors, notaries
20 public, land court examiners, court commissioners, and



1 attorneys appointed by a state court for a special
2 temporary service;

3 (9) One bailiff for the chief justice of the supreme court
4 who shall have the powers and duties of a court
5 officer and bailiff under section 606-14; one
6 secretary or clerk for each justice of the supreme
7 court, each judge of the intermediate appellate court,
8 and each judge of the circuit court; one secretary for
9 the judicial council; one deputy administrative
10 director of the courts; three law clerks for the chief
11 justice of the supreme court, two law clerks for each
12 associate justice of the supreme court and each judge
13 of the intermediate appellate court, one law clerk for
14 each judge of the circuit court, two additional law
15 clerks for the civil administrative judge of the
16 circuit court of the first circuit, two additional law
17 clerks for the criminal administrative judge of the
18 circuit court of the first circuit, one additional law
19 clerk for the senior judge of the family court of the
20 first circuit, two additional law clerks for the civil
21 motions judge of the circuit court of the first



1 circuit, two additional law clerks for the criminal
 2 motions judge of the circuit court of the first
 3 circuit, and two law clerks for the administrative
 4 judge of the district court of the first circuit; and
 5 one private secretary for the administrative director
 6 of the courts, the deputy administrative director of
 7 the courts, each department head, each deputy or first
 8 assistant, and each additional deputy, or assistant
 9 deputy, or assistant defined in paragraph (16);

10 (10) First deputy and deputy attorneys general, the
 11 administrative services manager of the department of
 12 the attorney general, one secretary for the
 13 administrative services manager, an administrator and
 14 any support staff for the criminal and juvenile
 15 justice resources coordination functions, and law
 16 clerks;

17 (11) (A) Teachers, principals, vice-principals, complex
 18 area superintendents, deputy and assistant
 19 superintendents, other certificated personnel,
 20 not more than twenty noncertificated



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



- 1 (12) Employees engaged in special, research, or
- 2 demonstration projects approved by the governor;
- 3 (13) (A) Positions filled by inmates, patients of state
- 4 institutions, persons with severe physical or
- 5 mental disabilities participating in the work
- 6 experience training programs;
- 7 (B) Positions filled with students in accordance with
- 8 guidelines for established state employment
- 9 programs; and
- 10 (C) Positions that provide work experience training
- 11 or temporary public service employment that are
- 12 filled by persons entering the workforce or
- 13 persons transitioning into other careers under
- 14 programs such as the federal Workforce Investment
- 15 Act of 1998, as amended, or the Senior Community
- 16 Service Employment Program of the Employment and
- 17 Training Administration of the United States
- 18 Department of Labor, or under other similar state
- 19 programs;
- 20 (14) A custodian or guide at Iolani Palace, the Royal
- 21 Mausoleum, and Hulihee Palace;



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



1 governor; an administrative assistant to the state
2 librarian; and an administrative assistant to the
3 superintendent of education;

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

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

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

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

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

19 (20) Employees in the department of education engaged in
20 the supervision of students during meal periods in the
21 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 not
5 more than twenty-six per cent of the authority's
6 workforce in any housing project maintained or
7 operated by the authority shall be hired under the
8 tenant hire program;
- 9 (22) Positions of the federally funded expanded food and
10 nutrition program of the University of Hawaii that
11 require the hiring of nutrition program assistants who
12 live in the areas they serve;
- 13 (23) Positions filled by persons with severe disabilities
14 who are certified by the state vocational
15 rehabilitation office that they are able to perform
16 safely the duties of the positions;
- 17 (24) The sheriff;
- 18 (25) A gender and other fairness coordinator hired by the
19 judiciary; [~~and~~]
- 20 (26) Positions in the Hawaii National Guard youth and adult
21 education programs [-]; and



1 (27) In the state energy office in the department of
2 business, economic development, and tourism, all
3 energy program managers, energy program specialists,
4 energy program assistants, and energy analysts.

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

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

9 SECTION 2. (a) The department of health may establish up
10 to eighteen permanent or temporary exempt positions, known as
11 forensic psychologists, to include one court examiner
12 supervisor, to perform court ordered forensic examinations
13 requiring a state designee, monitor individuals pursuant to a
14 court order in the community, or coordinate forensic activities.

15 (b) The department of health may establish up to two
16 permanent or temporary exempt positions, known as Hawaii state
17 hospital primary care physicians, to serve as attending
18 physicians for Hawaii state hospital patients.

19 (c) The permanent or temporary exempt positions
20 established by this section shall be appointed by the director
21 of health without regard to chapter 76, Hawaii Revised Statutes;



1 provided that the exemptions shall expire three years after the
2 effective date of this Act, unless affirmatively extended by an
3 act of the legislature.

4 SECTION 3. Notwithstanding any other law to the contrary,
5 including section 76-16(b)(17), Hawaii Revised Statutes, and
6 unless affirmatively extended by an act of the legislature, for
7 a period of three calendar years commencing on the effective
8 date of this Act, the following positions shall be exempt from
9 the civil service requirements of chapter 76, Hawaii Revised
10 Statutes:

- 11 (1) In the Med-QUEST division of the department of human
12 services: the division administrator, finance officer,
13 health care services branch administrator, medical
14 director, clinical standards administrator, and
15 research/health analytics manager;
- 16 (2) In the director's office of the department of human
17 services: the community/project development director
18 and policy director;
- 19 (3) In the department of public safety: all psychologist
20 positions;



1 (4) In the correctional health care program of the
2 department of public safety: the mental health branch
3 administrator, mental health section administrators,
4 and dentists; and

5 (5) In the department of health adult mental health
6 division: all physicians, dentists, forensic
7 psychologist supervisors, and forensic psychologists.

8 SECTION 4. New statutory material is underscored.

9 SECTION 5. This Act shall take effect on July 1, 2016.



Report Title:

Position Exemptions; Civil Service

Description:

Makes various positions within the state energy office exempt from civil service. For a period of three years, authorizes the department of health to establish 18 exempt forensic psychologist positions and 2 exempt Hawaii state hospital primary care physician positions. For a period of three years, provides a civil service exemption for various positions in the department of human services, department of public safety, and the department of health. (HB2353 CD1)

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