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# 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; one additional deputy in the department of  
17                  human services either in charge of welfare or other  
18                  functions within the department as may be assigned by  
19                  the director of human services, with the approval of  
20                  the governor; four additional deputies in the  
21                  department of health, each in charge of one of the



1 following: behavioral health, environmental health,  
2 hospitals, and health resources administration,  
3 including other functions within the department as may  
4 be assigned by the director of health, with the  
5 approval of the governor; an administrative assistant  
6 to the state librarian; and an administrative  
7 assistant to the superintendent of education;

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

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

14 (B) All of the positions defined by paragraph (9)  
15 shall be included in the position classification  
16 plan;

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





- 1           (19) Household employees at the official residence of the  
2           president of the University of Hawaii;
- 3           (20) Employees in the department of education engaged in  
4           the supervision of students during meal periods in the  
5           distribution, collection, and counting of meal  
6           tickets, and in the cleaning of classrooms after  
7           school hours on a less than half-time basis;
- 8           (21) Employees hired under the tenant hire program of the  
9           Hawaii public housing authority; provided that not  
10          more than twenty-six per cent of the authority's  
11          workforce in any housing project maintained or  
12          operated by the authority shall be hired under the  
13          tenant hire program;
- 14          (22) Positions of the federally funded expanded food and  
15          nutrition program of the University of Hawaii that  
16          require the hiring of nutrition program assistants who  
17          live in the areas they serve;
- 18          (23) Positions filled by persons with severe disabilities  
19          who are certified by the state vocational  
20          rehabilitation office that they are able to perform  
21          safely the duties of the positions;



1 (24) The sheriff;

2 (25) A gender and other fairness coordinator hired by the  
3 judiciary; and

4 (26) Positions in the Hawaii National Guard youth and adult  
5 education programs.

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

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

20 (c) The permanent or temporary exempt positions  
21 established by this section shall be appointed by the director



1 of health without regard to chapter 76, Hawaii Revised Statutes;  
2 provided that the exemptions shall expire three years after the  
3 effective date of this Act, unless affirmatively extended by an  
4 act of the legislature.

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

12 (1) In the Med-QUEST division of the department of human  
13 services: the division administrator, finance officer,  
14 health care services branch administrator, medical  
15 director, clinical standards administrator, and  
16 research/health analytics manager;

17 (2) In the director's office of the department of human  
18 services: the community/project development director  
19 and policy director;

20 (3) In the department of public safety: all psychologist  
21 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;
- 5           (5) In the department of health adult mental health  
6           division: all physicians, dentists, forensic  
7           psychologist supervisors, and forensic psychologists;
- 8           (6) In the department of labor and industrial relations:  
9           all occupational safety and health inspector  
10          positions, including supervising and environmental  
11          health specialists, supervising and occupational  
12          safety and health compliance officers, and supervising  
13          and occupational safety and health advisors; and
- 14          (7) In the state energy office in the department of  
15          business, economic development and tourism: all energy  
16          program managers, energy program specialists, energy  
17          program assistants, and energy analysts.

18          SECTION 4. New statutory material is underscored.

19          SECTION 5. This Act shall take effect on July 1, 2076.



**Report Title:**

Position Exemptions; Civil Service

**Description:**

Restores the second civil service-exempt deputy director position for the department of human services. 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, department of health, department of labor and industrial relations, and department of business, economic development, and tourism. Effective 7/1/2076. (SD2)

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

