

MAR 13 2008

SENATE CONCURRENT RESOLUTION

REQUESTING STATE DEPARTMENTS TO CONVERT EXEMPT EMPLOYEES TO
CIVIL SERVICE IN ACCORDANCE WITH ACT 253, SESSION LAWS OF
HAWAII 2000, AND ACT 300, SESSION LAWS OF HAWAII 2006.

1 WHEREAS, Act 253, Session Laws of Hawaii 2000, amended
2 public employment laws and rules that had evolved over decades
3 by reforming the civil service system and making government more
4 efficient, effective, and responsive; and
5

6 WHEREAS, an important objective of civil service reform and
7 Act 253, Session Laws of Hawaii 2000, was to increase the number
8 of positions included in the civil service system, where
9 appointments and promotions are made under a system of merit
10 determined by competitive examination, and to decrease the use
11 of exempt appointments, which are positions outside the civil
12 service system; and
13

14 WHEREAS, the Director of Human Resources Development was
15 charged under Act 253, Session Laws of Hawaii 2000, with the
16 responsibility of reviewing exempt positions and determining
17 whether these positions should remain exempt permanently; and
18

19 WHEREAS, if the Director of Human Resources Development
20 determines that a position should no longer be exempt, the
21 Director of Human Resources Development is supposed to consult
22 with the appropriate appointing authority and remove the
23 exemption from civil service; and
24

25 WHEREAS, Act 253, Session Laws of Hawaii 2000, also
26 required the Department of Human Resources Development to submit
27 an annual report to the Legislature on the number of positions
28 exempted from civil service prior to the effective date of Act
29 253, and to determine whether the position should remain exempt
30 permanently or be converted to civil service; and
31



1 WHEREAS, the Legislature adopted H.C.R. No. 94, H.D. 1,
2 during the 2003 Regular Session, which requested the Director of
3 Human Resources Development to submit annual reports as required
4 under Act 253, Session Laws of Hawaii 2000; and

5
6 WHEREAS, in response, the first report submitted to the
7 Legislature from the Department of Human Resources Development
8 on the number of exempt positions was submitted in 2004 and
9 revealed that there were 2,150 positions exempted from the civil
10 service under section 76-16(b)(17), Hawaii Revised Statutes, and
11 only two hundred fifty-five would be converted into civil
12 service positions; and

13
14 WHEREAS, the Legislature passed Act 300, Session Laws of
15 Hawaii 2006, which set forth a fair process to convert positions
16 from exempt to civil service in compliance with Act 253, Session
17 Laws of Hawaii 2000; and

18
19 WHEREAS, the Hawaii Government Employees
20 Association/American Federation of State County and Municipal
21 Employees and the Department of Human Resources Development
22 subsequently negotiated a supplemental agreement in 2007 to
23 facilitate the conversion of exempt positions to civil service
24 by providing compensation incentives; and

25
26 WHEREAS, the report submitted to the 2008 Regular Session
27 of the Legislature by the Department of Human Resources
28 Development on the number of exempt positions revealed a total
29 of 2,178 exempt positions under section 76-16(b)(17), Hawaii
30 Revised Statutes, and only eighteen of these exempt positions
31 were converted to civil service between November 2006 and
32 October 2007, leaving a total of 2,160 exempt positions under
33 this particular exemption; and

34
35 WHEREAS, although the Department of Human Resources
36 Development has been supportive and helpful in developing the
37 conversion process, other departments remain resistant to
38 converting exempt positions to civil service despite the
39 legislative mandates of Act 253, Session Laws of Hawaii 2000,
40 and Act 300, Session Laws of Hawaii 2006; and

41
42 WHEREAS, there are fundamental differences between civil
43 service employment, which has tenure provided that performance
44 requirements are met and maintained and consistent treatment



1 statewide based upon civil service laws and rules, and exempt
2 service, which is essentially "at will" employment with no
3 formal system for consistency between departments; and

4
5 WHEREAS, exempt employees who are within collective
6 bargaining units do not have the same rights and benefits as
7 their civil service counterparts in terms of actions relating to
8 reduction-in-force or discipline; now, therefore,

9
10 BE IT RESOLVED by the Senate of the Twenty-fourth
11 Legislature of the State of Hawaii, Regular Session of 2008, the
12 House of Representatives concurring, that the heads of the
13 Departments of Budget and Finance; Business, Economic
14 Development, and Tourism; Commerce and Consumer Affairs;
15 Hawaiian Home Lands; Health; Human Services; Labor and
16 Industrial Relations; Land and Natural Resources; and Public
17 Safety, respectively, are requested to submit reports to the
18 Legislature no later than twenty days prior to the convening of
19 the 2009 Regular Session on the number of exempt positions under
20 section 76-16(b)(17), Hawaii Revised Statutes, that have been
21 converted to civil service in their respective departments; and

22
23 BE IT FURTHER RESOLVED that these departments are further
24 requested to convert all exempt clerical and paraprofessional
25 positions to civil service by December 31, 2008; and

26
27 BE IT FURTHER RESOLVED that certified copies of this
28 Concurrent Resolution be transmitted to the Director of Finance;
29 the Director of Business, Economic Development, and Tourism; the
30 Director of Commerce and Consumer Affairs; the Chairperson of
31 the Hawaiian Homes Commission; the Director of Health; the
32 Director of Human Services; the Director of Labor and Industrial
33 Relations; the Chairperson of the Board of Land and Natural
34 Resources; the Director of Public Safety; the Director of Human
35 Resources Development; and the Executive Director of the Hawaii
36 Government Employees Association.

37
38
39 OFFERED BY: 

