

# S.B. NO. 2877

JAN 27 2016

## A BILL FOR AN ACT

RELATING TO PERMANENT EXEMPT POSITIONS IN THE DEPARTMENT OF  
HUMAN SERVICES.

### 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 \$3,100,000,000, including seventy-three per cent of all the  
4 State's federal operating funds. The department also has the  
5 fifth largest staff of any department, with over 2,000 employees  
6 staffing its four divisions and three administratively attached  
7 agencies.

8       Currently, the department has only one deputy director.  
9 Act 223, Session Laws of Hawaii 1994, deleted the second deputy  
10 director position, which was prompted by the State's poor  
11 economy at that time.

12       The department serves vulnerable and needy adults and  
13 children statewide and is responsible for diverse and complex  
14 programs driven by their own unique and ubiquitous state and  
15 federal laws, rules, and regulations. With little overlap  
16 between the wide array of services offered by the department and  
17 each program's laws and regulations, the breadth of knowledge

1 necessary for effective management of all the programs is  
2 extensive and difficult to develop.

3       The department's programs and services include: protection  
4 of vulnerable children and adults; vocational rehabilitation and  
5 financial assistance to the disabled; the Supplemental Nutrition  
6 Assistance Program; financial assistance; job training and  
7 placement; housing and services for the homeless; Medicaid  
8 services for the State's medically needy population; and  
9 prevention, treatment, and housing for the State's youthful  
10 offenders.

11       In addition to helping Hawaii's vulnerable individuals, the  
12 department manages significant federal and state funds and  
13 processes vast amounts of information and is currently engaged  
14 in investing in an enterprise integrated eligibility system to  
15 better serve recipients of public benefits and the state's  
16 vulnerable populations. The department's accounting and budget  
17 functions have grown more complex as requirements to track the  
18 receipt and expenditure of federal funds have increased the  
19 number of departmental appropriation accounts from 51 to 118.  
20 The department also takes on new federal and state programs or  
21 mandates on a regular and ongoing basis. Implementation of the  
22 federal Affordable Care Act required the department to expend  
23 significant resources to conform its administrative rules to the

1 Affordable Care Act's new requirements and to develop KOLEA--the  
2 Med-QUEST division's application or "app" of the DHS Enterprise  
3 System that determines medicaid eligibility and also determines  
4 eligibility for advanced premium tax credits and cost share  
5 reductions for the clients of the State's health insurance  
6 exchange, formerly known as the Hawaii health connector. This  
7 effort severely taxed the resources of the director's office and  
8 the Med-QUEST division.

9       The effective management of the department and its programs  
10 also requires collaboration within the department, with other  
11 state, federal, and local agencies, with the community and the  
12 clients served. Maintaining these necessary collaborations  
13 further erodes the ability of the director's office to fully  
14 oversee personnel matters, fiscal and budget issues, information  
15 technology development, and operational matters related to  
16 quality control, program oversight, and reporting.

17       The purpose of this Act is to restore the second deputy  
18 director position for the department of human services,  
19 establish the positions of community/project development  
20 director and policy director within the office of the Director,  
21 and convert six identified management positions within the Med-  
22 QUEST division to permanent exempt status. The proposal also  
23 funds the second deputy director position, a private secretary

1 for that second deputy director position, the community/project  
2 development director position, and the policy director position.  
3 The measure is necessary for the effective management of the  
4 department's diverse and complex programs affecting poor and  
5 vulnerable adults and children statewide. The department's  
6 budget of over \$3,100,000,000 also makes it especially critical  
7 that programs are run well and comply with federal and state  
8 laws and regulations and that state and federal tax dollars are  
9 well spent by programs meeting their objectives and serving the  
10 community as intended.

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

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

- 17 (1) Commissioned and enlisted personnel of the Hawaii  
18 National Guard as such, and positions in the Hawaii  
19 National Guard that are required by state or federal  
20 laws or regulations or orders of the National Guard to  
21 be filled from those commissioned or enlisted  
22 personnel;

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- (2) Positions filled by persons employed by contract where the director of human resources development has certified that the service is special or unique or is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform the service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (3) Positions that must be filled without delay to comply with a court order or decree if the director determines that recruitment through normal recruitment civil service procedures would result in delay or noncompliance, such as the Felix-Cayetano consent decree;
- (4) Positions filled by the legislature or by either house or any committee thereof;
- (5) Employees in the office of the governor and office of the lieutenant governor, and household employees at Washington Place;
- (6) Positions filled by popular vote;
- (7) Department heads, officers, and members of any board, commission, or other state agency whose appointments

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1 are made by the governor or are required by law to be  
2 confirmed by the senate;

3 (8) Judges, referees, receivers, masters, jurors, notaries  
4 public, land court examiners, court commissioners, and  
5 attorneys appointed by a state court for a special  
6 temporary service;

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

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

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

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

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administrative, professional, and technical  
personnel not engaged in instructional work;

(B) Effective July 1, 2003, teaching assistants,  
educational assistants, bilingual/bicultural  
school-home assistants, school psychologists,  
psychological examiners, speech pathologists,  
athletic health care trainers, alternative school  
work study assistants, alternative school  
educational/supportive services specialists,  
alternative school project coordinators, and  
communications aides in the department of  
education;

(C) The special assistant to the state librarian and  
one secretary for the special assistant to the  
state librarian; and

(D) Members of the faculty of the University of  
Hawaii, including research workers, extension  
agents, personnel engaged in instructional work,  
and administrative, professional, and technical  
personnel of the university;

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

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- 1           (13)   (A)   Positions filled by inmates, patients of state  
2                       institutions, persons with severe physical or  
3                       mental disabilities participating in the work  
4                       experience training programs;
- 5           (B)   Positions filled with students in accordance with  
6                       guidelines for established state employment  
7                       programs; and
- 8           (C)   Positions that provide work experience training  
9                       or temporary public service employment that are  
10                      filled by persons entering the workforce or  
11                      persons transitioning into other careers under  
12                      programs such as the federal Workforce Investment  
13                      Act of 1998, as amended, or the Senior Community  
14                      Service Employment Program of the Employment and  
15                      Training Administration of the United States  
16                      Department of Labor, or under other similar state  
17                      programs;
- 18       (14)   A custodian or guide at Iolani Palace, the Royal  
19                      Mausoleum, and Hulihee Palace;
- 20       (15)   Positions filled by persons employed on a fee,  
21                      contract, or piecework basis, who may lawfully perform  
22                      their duties concurrently with their private business  
23                      or profession or other private employment and whose

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1 duties require only a portion of their time, if it is  
2 impracticable to ascertain or anticipate the portion  
3 of time to be devoted to the service of the State;

4 (16) Positions of first deputies or first assistants of  
5 each department head appointed under or in the manner  
6 provided in section 6, article V, of the state  
7 constitution; three additional deputies or assistants  
8 either in charge of the highways, harbors, and  
9 airports divisions or other functions within the  
10 department of transportation as may be assigned by the  
11 director of transportation, with the approval of the  
12 governor; one additional deputy in the department of  
13 human services either in charge of welfare or other  
14 functions within the department as may be assigned by  
15 the director of human services; four additional  
16 deputies in the department of health, each in charge  
17 of one of the following: behavioral health,  
18 environmental health, hospitals, and health resources  
19 administration, including other functions within the  
20 department as may be assigned by the director of  
21 health, with the approval of the governor; an  
22 administrative assistant to the state librarian; and

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1 an administrative assistant to the superintendent of  
2 education;

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

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

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

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

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

18 (20) Employees in the department of education engaged in  
19 the supervision of students during meal periods in the  
20 distribution, collection, and counting of meal  
21 tickets, and in the cleaning of classrooms after  
22 school hours on a less than half-time basis;

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1       (21) Employees hired under the tenant hire program of the  
2       Hawaii public housing authority; provided that not  
3       more than twenty-six per cent of the authority's  
4       workforce in any housing project maintained or  
5       operated by the authority shall be hired under the  
6       tenant hire program;

7       (22) Positions of the federally funded expanded food and  
8       nutrition program of the University of Hawaii that  
9       require the hiring of nutrition program assistants who  
10      live in the areas they serve;

11      (23) Positions filled by persons with severe disabilities  
12      who are certified by the state vocational  
13      rehabilitation office that they are able to perform  
14      safely the duties of the positions;

15      (24) The sheriff;

16      (25) A gender and other fairness coordinator hired by the  
17      judiciary; and

18      (26) Positions in the Hawaii National Guard youth and adult  
19      education programs.

20      (27) Notwithstanding any other law to the contrary,  
21      including paragraph (17), the following positions in  
22      the Med-QUEST division of the department of human  
23      services shall be permanently exempt: division

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1 administrator, finance officer, health care services  
2 branch administrator, medical director, clinical  
3 standards administrator, and research/health analytics  
4 manager;

5 (28) Notwithstanding any other law to the contrary,  
6 including paragraph (17), the following positions in  
7 the director's office of the department of human  
8 services shall be permanently exempt:  
9 community/project development director, and policy  
10 director;

11 The director shall determine the applicability of this  
12 section to specific positions.

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

15 SECTION 2. There is appropriated out of the general  
16 revenues of the State of Hawaii the sum of \$125,700 or so much  
17 thereof as may be necessary for fiscal year 2016-2017 to be used  
18 for the salary of the additional deputy director (HMS 904).

19 There is appropriated out of the general revenues of the  
20 State of Hawaii the sum of \$60,000 or so much thereof as may be  
21 necessary for fiscal year 2016-2017 to be used for the salary of  
22 the private secretary for the additional deputy director (HMS  
23 904).

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1        There is appropriated out of the general revenues of the  
2        State of Hawaii the sum of \$105,648 or so much thereof as may be  
3        necessary for fiscal year 2016-2017 to be used for the salary of  
4        the community/project development director. (HMS 904)

5        There is appropriated out of the general revenues of the  
6        State of Hawaii the sum of \$80,016 or so much thereof as may be  
7        necessary for fiscal year 2016-2017 to be used for the salary of  
8        the policy director. (HMS 904)

9        The sums appropriated shall be expended by the department  
10       of human services for the purposes of this Act.

11       SECTION 3. New statutory material is underscored.

12       SECTION 4. This Act, upon its approval, shall take effect  
13       on July 1, 2016.

14

15

INTRODUCED BY:

*MUN. 11*

16

BY REQUEST

**Report Title:**

Department of Human Services; Second Deputy Director;  
Community/project Development Director; Policy Director;  
Establishment; Converts Positions to Permanent Civil Service  
Position Exemptions.

**Description:**

Restores the second deputy director position for the Department of Human Services, establishes the community/project development director, the policy director, and provides appropriations for that second deputy director position, a private secretary for that deputy director, the community/project development director, and the policy director. Converts six identified positions in the Med-QUEST division to permanent civil service exempt status.

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

JUSTIFICATION SHEET

DEPARTMENT: Human Services

TITLE: A BILL FOR AN ACT RELATING TO PERMANENT EXEMPT POSITIONS IN THE DEPARTMENT OF HUMAN SERVICES.

PURPOSE: To restore the second deputy director position for the Department of Human Services, establish the positions of community/project development director and policy director within the office of the Director, and converts six identified positions within the Med-QUEST division to permanent exempt status. The proposal also funds the second deputy director position, a private secretary for that second deputy director position, the community/project development director position, and the policy director position.

MEANS: Amend section 76-16(b), Hawaii Revised Statutes, and appropriate general fund money for fiscal year 2016-2017.

JUSTIFICATION: Currently, the Department has only one deputy director. Act 223, Session Laws of Hawaii 1994, deleted the second deputy director position which was prompted by the State's poor economy at that time.

The Department of Human Services is proposing to restore the second deputy director position that was deleted by Act 223, Session Laws of Hawaii 1994, and to add a private secretary.

The Department of Human Services is proposing to establish the community/project development director and policy director positions within the office of the Director. These positions will assist with managing the numerous projects assigned to the department, including addressing homelessness; the individual and family functions of the State-based Marketplace using the Federal Platform (SBM-FP,

previously under the Hawaii Health Connector); ensuring continued access to health coverage for State residents from the Compact of Free Association nations; and building a collaborative, and integrated multi-generational service model for children and families. The new mandates and initiatives have increased the demands on the director's office as they may require changes to the operations of multiple divisions, and coordination with and participation of other state and federal agencies, community agencies and key stakeholders.

The Med-QUEST division Medicaid program is the most effective and cost efficient way to provide health care coverage to low-income adults and children. The program is complex as it requires compliance with complex federal regulations and integration of current health care trends in service delivery, while meeting the unique needs of Hawaii's population.

The Department of Human Services, Med-QUEST division, seeks to convert six identified management level positions within the Med-QUEST division to permanent exempt status (division administrator, finance officer, health care services branch administrator, medical director, clinical standards administrator, and research/health analytics manager) because they require unique knowledge and experience typically gained through employment in health care-related organizations (e.g., hospitals, clinics, insurance companies, etc.) or the federal government, or require clinical credentials or licenses. The conversion to permanent exempt status for these positions is necessary to allow flexibility to hire and retain highly qualified staff to manage critical on-going functions over the \$2 billion medical assistance programs.

The Department of Human Services has the largest operating budget of any state

department, approximately \$3.1 billion, including seventy-three percent of all the State's federal operating funds. The Department also has the fifth largest staff of any department, with over 2,000 employees staffing its four divisions and three administratively attached agencies.

The Department serves vulnerable and needy adults and children statewide and is responsible for diverse and complex programs driven by their own unique and ubiquitous State and federal laws, rules and regulations. With little overlap between the wide array of services offered by the Department and each program's laws and regulations, the breadth of knowledge necessary for effective management of all the programs is extensive and difficult to develop.

The Department's programs and services include: protection of vulnerable children and adults; vocational rehabilitation and financial assistance to the disabled; the Supplemental Nutrition Assistance Program, financial assistance, job training and placement; housing and services for the homeless; Medicaid services for the medically needy population; and prevention, treatment, and housing for youthful offenders.

In addition to helping Hawaii's vulnerable individuals, the Department manages significant federal and state funds and processes vast amounts of information and is currently engaged in investing in an enterprise integrated eligibility system to better serve recipients of public benefits and the state's vulnerable populations. The Department's accounting and budget functions have grown more complex as requirements to track the receipt and expenditure of federal funds has increased the number of departmental appropriation accounts from 51 to 118. The Department also takes on new federal and state programs or mandates on a

regular and ongoing basis. Implementation of the federal Affordable Care Act required the Department to expend significant resources to conform its administrative rules to the Affordable Care Act's requirements and to build KOLEA -the Med-QUEST Division's application or an app of the DHS Enterprise System currently being developed. This effort severely taxed the resources of the Director's office and the Med-QUEST Division.

The effective management of the Department and its programs also requires collaboration within the Department, with other state, federal and local agencies, with the community and the clients served. Maintaining these necessary collaborations further erodes the ability of the Director's Office to fully oversee personnel matters, fiscal and budget issues, information technology development, and operational matters related to quality control, program oversight, and reporting.

The Department's programs:

- Help clients escape poverty and achieve full employment
- Ensure the well-being of low-income families and children;
- Prevent abuse and neglect among children and vulnerable adults
- Strengthen families and promote positive youth development
- Provide high-quality public health insurance to low-income adults and children;
- Empower people with disabilities so the can enter or re-enter the workforce; and
- Prevent delinquency and reduce the incidence of recidivism for at-risk youth.

Successful programs help Hawaii residents to achieve self-sufficiency, self-determination, independence, healthy

lifestyles and personal dignity as well as contributing to the State's economic base.

The purpose of this bill is to restore the second deputy director position for the Department of Human Services, establish the positions of community/project development director and policy director within the office of the Director, and to convert six identified positions within the Med-QUEST division to permanent exempt status: division administrator, finance officer, health care services branch administrator, medical director, clinical standards administrator, and research/health analytics manager. The proposal also funds the second deputy director position, a private secretary for that second deputy director position, the community/project development director position, and the policy director position.

The Department's budget of over \$3.1 billion also makes it especially critical that programs are run well, comply with federal and state law and regulations, and that state and federal tax dollars are well spent, by programs meeting their objectives and serving the community as intended.

The general fund appropriation included in this measure has been made in accordance with the statutorily defined appropriation ceiling for the Executive Branch pursuant to section 37-92, Hawaii Revised Statutes. Including appropriations made up to and including the regular session of 2015, the Executive Branch appropriation ceiling for fiscal year 2016-17 has already been exceeded by \$14,892,787 or 0.2 percent. Funding requested in this measure for these positions is necessary for the effective management of the Department's diverse and complex programs affecting poor and vulnerable adults and children statewide and will result in the appropriation ceiling for the Executive Branch to now be exceeded in

fiscal year 2016-17 by an additional \$371,364 or .0053 percent. This current declaration takes into account additional general fund appropriations authorized for fiscal year 2016-17 in this measure only, and does not include other general fund appropriations for fiscal year 2016-17 that may be authorized for the Executive Branch in other legislation submitted to the Legislature during the regular session of 2016.

Impact on the public: More effective and efficient administration of the Department of Human Services and its programs for clients and effective use of tax payer dollars.

Impact on the department and other agencies: More efficiently and effectively administered departmental programs and better coordination with partner agencies and the community.

GENERAL FUND:	\$371,364.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	HMS 904.
OTHER AFFECTED AGENCIES:	None.
EFFECTIVE DATE:	July 1, 2015.