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# A BILL FOR AN ACT

RELATING TO ADMINISTRATIVE HEARING OFFICERS.

**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 \$3,304,000,000, including seventy-nine per cent of all the  
4 executive branch's federal funds. The department provides  
5 benefits and services to one in four Hawaii residents or nearly  
6 360,000 individuals.

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

15       The department's programs and services include: protection  
16 of vulnerable children and adults; vocational rehabilitation and  
17 financial assistance to the disabled; the Supplemental Nutrition



1 Assistance Program; financial assistance; job training and  
2 placement; housing and services for the homeless; Medicaid  
3 services for the State's medically needy population; and  
4 prevention, treatment, and housing for the State's youthful  
5 offenders.

6 In addition to helping Hawaii's vulnerable individuals, the  
7 department manages significant federal and state funds, and  
8 processes vast amounts of information and is currently engaged  
9 in investing in an enterprise integrated eligibility system to  
10 better serve recipients of public benefits and the State's  
11 vulnerable populations.

12 As required by federal and state laws, regulations, and  
13 administrative rules, the department provides applicants and  
14 recipients of public benefits with administrative review  
15 processes to request relief from an adverse decision made by the  
16 department. The department also provides an administrative  
17 review process for providers of medical goods or services who  
18 disagree with a department's decision.

19 The department's administrative appeals office receives  
20 nearly 1,900 requests annually for administrative relief from  
21 applicants or recipients of public benefits or services.



1 Additionally, the administrative appeals office receives  
2 approximately thirty requests per year for administrative review  
3 from providers of medical goods or services. Administrative  
4 appeal hearings are held statewide.

5 To render timely, impartial, and informed quasi-judicial  
6 administrative appeals hearing decisions, the department must  
7 maintain a cadre of experienced, trained, and knowledgeable  
8 administrative appeals hearing officers to review federal and  
9 state laws, regulations, rules, documents, receive testimony,  
10 conduct hearings, determine findings of facts and conclusions of  
11 law, and render final administrative appeal hearing decisions.

12 Timely, accurate, and prompt administrative appeals hearing  
13 decisions in contested cases positively serve eligible  
14 applicants and recipients to gain access to those benefits and  
15 services, as well as support efficiency of government by  
16 terminating benefits to an ineligible recipient and allow the  
17 department to begin recovery of improperly provided benefits.

18 The purpose of this Act is to exempt from civil service,  
19 positions to be known as administrative appeals hearing officer  
20 of the department of human services to conduct administrative  
21 appeals hearings and other required associated duties.



1       SECTION 2. 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  
19 normal civil service recruitment procedures. Any such  
20 contract may be for any period not exceeding one year;



- 1 (3) Positions that must be filled without delay to comply  
2 with a court order or decree if the director  
3 determines that recruitment through normal recruitment  
4 civil service procedures would result in delay or  
5 noncompliance, such as the Felix-Cayetano consent  
6 decree;
- 7 (4) Positions filled by the legislature or by either house  
8 or any committee thereof;
- 9 (5) Employees in the office of the governor and office of  
10 the lieutenant governor, and household employees at  
11 Washington Place;
- 12 (6) Positions filled by popular vote;
- 13 (7) Department heads, officers, and members of any board,  
14 commission, or other state agency whose appointments  
15 are made by the governor or are required by law to be  
16 confirmed by the senate;
- 17 (8) Judges, referees, receivers, masters, jurors, notaries  
18 public, land court examiners, court commissioners, and  
19 attorneys appointed by a state court for a special  
20 temporary service;



(9) One bailiff for the chief justice of the supreme court who shall have the powers and duties of a court officer and bailiff under section 606-14; one secretary or clerk for each justice of the supreme court, each judge of the intermediate appellate court, and each judge of the circuit court; one secretary for the judicial council; one deputy administrative director of the courts; three law clerks for the chief justice of the supreme court, two law clerks for each associate justice of the supreme court and each judge of the intermediate appellate court, one law clerk for each judge of the circuit court, two additional law clerks for the civil administrative judge of the circuit court of the first circuit, two additional law clerks for the criminal administrative judge of the circuit court of the first circuit, one additional law clerk for the senior judge of the family court of the first circuit, two additional law clerks for the civil motions judge of the circuit court of the first circuit, two additional law clerks for the criminal motions judge of the circuit court of the first



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

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

15 (11) (A) Teachers, principals, vice-principals, complex  
16 area superintendents, deputy and assistant  
17 superintendents, other certificated personnel,  
18 not more than twenty noncertificated  
19 administrative, professional, and technical  
20 personnel not engaged in instructional work;



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

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

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

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





- 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



1           their duties concurrently with their private business  
2           or profession or other private employment and whose  
3           duties require only a portion of their time, if it is  
4           impracticable to ascertain or anticipate the portion  
5           of time to be devoted to the service of the State;

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



1 librarian; and an administrative assistant to the  
2 superintendent of 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



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;

20 (26) Positions in the Hawaii National Guard youth and adult  
21 education programs; [and]



(27) In the state energy office in the department of business, economic development, and tourism, all energy program managers, energy program specialists, energy program assistants, and energy analysts[-]; and

(28) Positions known as administrative appeals hearing officer in the department of human services.

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

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

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 3000.



**Report Title:**

Department of Human Services; Administrative Appeals;  
Administrative Appeals Hearing Officers; Civil Service Exemption

**Description:**

Exempts Administrative Appeals Hearing Officers in the  
Department of Human Services from civil service requirements.  
(HB2362 HD1)

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

