

JAN 24 2018

A BILL FOR AN ACT

RELATING TO THE STRUCTURE OF GOVERNMENT.

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

PART I

SECTION 1. The purpose of this Act is to consolidate the department of human resources development and the department of budget and finance into a single department. The legislature finds that this consolidation will promote the efficiency and effectiveness of state government by improving the coordination between the budgeting of state resources and the hiring of employees for state positions.

PART II

SECTION 2. Section 26-4, Hawaii Revised Statutes, is amended to read as follows:

"§26-4 Structure of government. Under the supervision of the governor, all executive and administrative offices, departments, and instrumentalities of the state government and their respective functions, powers, and duties shall be allocated among and within the following principal departments that are hereby established:



S.B. NO. 3100

- 1 ~~[(1)]~~ ~~Department of human resources development~~ ~~(Section 26-~~
2 ~~5)~~
- 3 ~~[(2)]~~ (1) Department of accounting and general services
4 (~~[Section]~~ section 26-6);
- 5 ~~[(3)]~~ (2) Department of the attorney general (~~[Section]~~
6 section 26-7);
- 7 ~~[(4)]~~ (3) Department of budget ~~[and]~~, finance, and human
8 resources (~~[Section]~~ section 26-8);
- 9 ~~[(5)]~~ (4) Department of commerce and consumer affairs
10 (~~[Section]~~ section 26-9);
- 11 ~~[(6)]~~ (5) Department of taxation (~~[Section]~~ section 26-10);
- 12 ~~[(7)]~~ (6) University of Hawaii (~~[Section]~~ section 26-11);
- 13 ~~[(8)]~~ (7) Department of education (~~[Section]~~ section
14 26-12);
- 15 ~~[(9)]~~ (8) Department of health (~~[Section]~~ section 26-13);
- 16 ~~[(10)]~~ (9) Department of human services (~~[Section]~~ section
17 26-14);
- 18 ~~[(11)]~~ (10) Department of land and natural resources
19 (~~[Section]~~ section 26-15);
- 20 ~~[(12)]~~ (11) Department of agriculture (~~[Section]~~ section
21 26-16);



S.B. NO. 3100

1 ~~[(13)]~~ (12) Department of Hawaiian home lands (~~[Section]~~
2 section 26-17);

3 ~~[(14)]~~ (13) Department of business, economic development,
4 and tourism (~~[Section]~~ section 26-18);

5 ~~[(15)]~~ (14) Department of transportation (~~[Section]~~ section
6 26-19);

7 ~~[(16)]~~ (15) Department of labor and industrial relations
8 (~~[Section]~~ section 26-20);

9 ~~[(17)]~~ (16) Department of defense (~~[Section]~~ section 26-21);
10 and

11 ~~[(18)]~~ (17) Department of public safety (~~[Section]~~ section
12 26-14.6)."

13 SECTION 3. Section 26-8, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§26-8 Department of budget ~~[and]~~, finance[-], and human
16 resources. (a) The department of budget ~~[and]~~, finance, and
17 human resources shall be headed by a single executive to be
18 known as the director of finance[-] and human resources.

19 (b) The department shall:

20 (1) Undertake the preparation and execution of the
21 executive budget of the state government;



1 (2) Conduct a systematic and continuous review of the
2 finances, organization, and methods of each department
3 of the State to assist each department in achieving
4 the most effective expenditure of all public funds and
5 to determine that ~~[such]~~ those expenditures are in
6 accordance with the budget laws and controls in force;

7 (3) Have custody of state funds and be responsible for the
8 safekeeping, management, investment, and disbursement
9 thereof; ~~[and]~~

10 (4) Administer state debts~~[-]~~; and

11 (5) Administer the state human resources program,
12 including human resources development and training,
13 and central human resources services such as
14 recruitment, examination, classification, pay
15 administration, and payment of any claims as required
16 under chapter 386.

17 (c) The functions and authority heretofore exercised by
18 the department of human resources development and the bureau of
19 the budget (except for insurance management, surplus property
20 management, and central purchasing transferred to the department
21 of accounting and general services) and the funds custody, cash



1 management, debt management, and administering of veterans loan
2 functions of the treasurer as heretofore constituted are
3 transferred to the department of budget [~~and~~], finance, and
4 human resources established by this chapter.

5 (d) The employees' retirement system as constituted by
6 chapter 88 is placed within the department of budget [~~and~~],
7 finance, and human resources for administrative purposes. The
8 functions, duties, and powers, subject to the administrative
9 control of the director of finance[~~7~~] and human resources, and
10 the composition of the board of trustees of the employees'
11 retirement system shall be as heretofore provided by law.

12 (e) There shall be within the department of budget,
13 finance, and human resources a board to be known as the merit
14 appeals board, which shall sit as an appellate body on matters
15 set forth in section 76-14. The merit appeals board shall
16 consist of three members. All members shall have knowledge of
17 public employment laws and prior experience with public
18 employment; provided that at least one member's experience was
19 with an employee organization as a member or an employee of that
20 organization and at least one member's experience was with
21 management. The governor shall consider the names of qualified



1 individuals submitted by employee organizations or management
2 before appointing the members of the board. The chairperson of
3 the board shall be designated as specified in the rules of the
4 board.

5 (f) Section 26-34 shall not apply to the merit appeals
6 board members. The merit appeals board members shall be
7 appointed by the governor for four-year terms and may be
8 reappointed without limitation; provided that the initial
9 appointments shall be for staggered terms, as determined by the
10 governor. The governor shall fill any vacancy by appointing a
11 new member for a four-year term. The governor may remove for
12 cause any member after due notice and public hearing.

13 (g) Nothing in subsections (e) and (f) shall be construed
14 as in any manner affecting the civil service laws applicable to
15 the several counties, the judiciary, or the Hawaii health
16 systems corporation or its regional system boards.

17 (h) There is established in the state treasury the human
18 resources development special fund, to be administered by the
19 department of budget, finance, and human resources, which shall
20 consist of: all revenues received by the department as a result
21 of entrepreneurial efforts in securing new sources of funds not



1 provided for in the department's budget for services rendered by
2 the department, all revenues received by the department from the
3 charging of participant fees for in-service training that are in
4 addition to general fund appropriations in the department's
5 budget for developing and operating in-service training
6 programs, appropriations made by the legislature to the fund,
7 and moneys directed to the department from any other source,
8 including gifts, grants, and awards.

9 Moneys in the human resources development special fund
10 shall be used for the following purposes:

11 (1) Supporting the department's entrepreneurial
12 initiatives, training activities, and programs;

13 (2) Administrative costs of the department's
14 entrepreneurial initiatives, training activities, and
15 programs; and

16 (3) Any other purpose deemed necessary by the director for
17 the purpose of facilitating the department's
18 entrepreneurial initiatives, training activities, and
19 programs.

20 (i) The department of budget, finance, and human resources
21 shall submit, no later than twenty days prior to the convening



1 of each regular session, a report of the number of exempt
2 positions that were converted to civil service positions during
3 the previous twelve months. The report shall include but not be
4 limited to:

- 5 (1) The date that each exempt position was established;
- 6 (2) The purpose of the exempt position;
- 7 (3) Rationale for the conversion; and
- 8 (4) The number of exempt positions remaining in each state
9 department after the conversions."

10 SECTION 4. Section 76-47, Hawaii Revised Statutes, is
11 amended by amending subsection (b) to read as follows:

12 "(b) Members of the merit appeals board shall be persons
13 that can objectively apply the merit principle to public
14 employment. Other qualifications of board members and other
15 matters pertaining to the establishment of the merit appeals
16 board, whether composition of the board, manner of appointment,
17 term of office, limitation on terms, chairperson, removal of
18 members, and name for its merit appeals board, shall be left to
19 the determination of each jurisdiction based on its own
20 preferences and needs. A jurisdiction may continue to use its
21 civil service commission or appeals board, with or without



1 modification, as its merit appeals board to assume all of the
2 functions and responsibilities under section 76-14; provided
3 that the merit appeals board for the State shall be as provided
4 in section ~~[26-5.]~~ 26-8."

5 SECTION 5. Section 26-5, Hawaii Revised Statutes, is
6 repealed.

7 ~~["§26-5 Department of human resources development. (a)~~
8 ~~The department of human resources development shall be headed by~~
9 ~~a single executive to be known as the director of human~~
10 ~~resources development.~~

11 ~~(b) The department shall administer the state human~~
12 ~~resources program, including human resources development and~~
13 ~~training, and central human resources services such as~~
14 ~~recruitment, examination, classification, pay administration,~~
15 ~~and payment of any claims as required under chapter 386.~~

16 ~~(c) There shall be within the department of human~~
17 ~~resources development a board to be known as the merit appeals~~
18 ~~board which shall sit as an appellate body on matters set forth~~
19 ~~in section 76-14. The board shall consist of three members.~~
20 ~~All members shall have knowledge of public employment laws and~~
21 ~~prior experience with public employment; provided that at least~~



1 ~~one member's experience was with an employee organization as a~~
2 ~~member or an employee of that organization and at least one~~
3 ~~member's experience was with management. The governor shall~~
4 ~~consider the names of qualified individuals submitted by~~
5 ~~employee organizations or management before appointing the~~
6 ~~members of the board. The chairperson of the board shall be~~
7 ~~designated as specified in the rules of the board.~~

8 ~~(d) The provisions of section 26-34 shall not apply and~~
9 ~~the board members shall be appointed by the governor for four~~
10 ~~year terms and may be re-appointed without limitation; provided~~
11 ~~that the initial appointments shall be for staggered terms, as~~
12 ~~determined by the governor. The governor shall fill any vacancy~~
13 ~~by appointing a new member for a four year term. The governor~~
14 ~~may remove for cause any member after due notice and public~~
15 ~~hearing.~~

16 ~~(e) Nothing in this section shall be construed as in any~~
17 ~~manner affecting the civil service laws applicable to the~~
18 ~~several counties, the judiciary, or the Hawaii health systems~~
19 ~~corporation or its regional system boards, which shall remain~~
20 ~~the same as if this chapter had not been enacted.~~



~~(f) There is established in the state treasury the human resources development special fund, to be administered by the department of human resources development, which shall consist of: all revenues received by the department as a result of entrepreneurial efforts in securing new sources of funds not provided for in the department's budget for services rendered by the department, all revenues received by the department from the charging of participant fees for in-service training that are in addition to general fund appropriations in the department's budget for developing and operating in-service training programs, appropriations made by the legislature to the fund, and moneys directed to the department from any other source, including gifts, grants, and awards.~~

~~Moneys in the human resources development special fund shall be used for the following purposes:~~

~~(1) Supporting the department's entrepreneurial initiatives, training activities, and programs;~~

~~(2) Administrative costs of the department's entrepreneurial initiatives, training activities, and programs; and~~



~~(3) Any other purpose deemed necessary by the director for the purpose of facilitating the department's entrepreneurial initiatives, training activities, and programs.~~

~~(g) The department of human resources development shall submit, no later than twenty days prior to the convening of each regular session [of the legislature] beginning with the regular session of 2007, a report of the number of exempt positions that were converted to civil service positions during the previous twelve months. The report shall include but not be limited to:~~

- ~~(1) When the position was established;~~
- ~~(2) The purpose of the position;~~
- ~~(3) Rationale for the conversion; and~~
- ~~(4) How many exempt positions remain in each state department after the conversions."]~~

PART III

SECTION 6. On July 1, 2020, all rights, powers, functions, and duties of the department of budget and finance and the department of human resources development under chapter 26, Hawaii Revised Statutes, are transferred to the department of budget, finance, and human resources.



1 SECTION 7. Transfer of officers and employees. All
2 officers and employees whose functions are transferred by this
3 Act shall be transferred with their functions and shall continue
4 to perform their regular duties upon their transfer, subject to
5 the state personnel laws and this Act.

6 No officer or employee of the State having tenure shall
7 suffer any loss of salary, seniority, prior service credit,
8 vacation, sick leave, or other employee benefit or privilege as
9 a consequence of this Act, and an officer or employee may be
10 transferred or appointed to a civil service position without the
11 necessity of examination; provided that the officer or employee
12 possesses the minimum qualifications for the position to which
13 transferred or appointed; and provided further that subsequent
14 changes in status may be made pursuant to applicable civil
15 service and compensation laws.

16 An officer or employee of the State who does not have
17 tenure and who may be transferred or appointed to a civil
18 service position as a consequence of this Act shall become a
19 civil service employee without the loss of salary, seniority,
20 prior service credit, vacation, sick leave, or other employee
21 benefits or privileges and without the necessity of examination;



1 provided that the officer or employee possesses the minimum
2 qualifications for the position to which transferred or
3 appointed.

4 If an office or position held by an officer or employee
5 having tenure is abolished, the officer or employee shall not
6 thereby be separated from public employment, but shall remain in
7 the employment of the State with the same pay and classification
8 and shall be transferred to some other office or position for
9 which the officer or employee is eligible under the personnel
10 laws of the State as determined by the head of the department or
11 the governor.

12 SECTION 8. Transfer of records, equipment, and other
13 personal property. All appropriations, records, equipment,
14 machines, files, supplies, contracts, books, papers, documents,
15 maps, and other personal property heretofore made, used,
16 acquired, or held by the department of budget and finance and
17 the department of human resources development relating to the
18 functions transferred to the department of budget, finance, and
19 human resources shall be transferred with the functions to which
20 they relate.



1 SECTION 9. Transfer of functions; continuity of rules,
2 policies, and other material. All rules, policies, procedures,
3 guidelines, and other material adopted or developed by the
4 department of budget and finance and the department of human
5 resources development to implement provisions of the Hawaii
6 Revised Statutes that are made applicable to the department of
7 budget, finance, and human resources by this Act, shall remain
8 in full force and effect until amended or repealed by the
9 department of budget, finance, and human resources, pursuant to
10 chapter 91, Hawaii Revised Statutes.

11 In the interim, every reference to the department of budget
12 and finance or department of human resources development, or the
13 director of finance or director of human resources development
14 in those rules, policies, procedures, guidelines, and other
15 material is amended to refer to the department of budget,
16 finance, and human resources or the director of finance and
17 human resources, as appropriate.

18 SECTION 10. Transfer of functions; effect on agreements,
19 contracts, deeds, leases, permits, and other documents. All
20 agreements, contracts, deeds, leases, permits, or other
21 documents executed or entered into by or on behalf of the



1 department of budget and finance or the department of human
2 resources development pursuant to the Hawaii Revised Statutes,
3 which are made applicable to the department of budget, finance,
4 and human resources by this Act, shall remain in full force and
5 effect.

6 Effective on the same day that legislation transferring the
7 functions of the department of budget and finance and the
8 department of human resources development to the department of
9 budget, finance, and human resources is approved, every
10 reference to the department of budget and finance or department
11 of human resources development, or the director of finance or
12 director of human resources development therein, shall be
13 construed as a reference to the department of budget, finance,
14 and human resources or the director of finance and human
15 resources, as appropriate.

16 PART IV

17 SECTION 11. There is appropriated out of the general
18 revenues of the State of Hawaii the sum of \$100,000 or so much
19 thereof as may be necessary for fiscal year 2018-2019 for the
20 purposes described in this Act.



1 The sum appropriated shall be expended by the department of
2 budget and finance for the purposes of part III of this Act.

3 SECTION 12. The department of budget and finance, in
4 collaboration with the department of human resources
5 development, shall submit joint status reports on the
6 consolidation to the legislature no later than twenty days prior
7 to the convening of the regular session of 2019, by no later
8 than June 30, 2019, and no later than twenty days prior to the
9 convening of the regular session of 2020.

10 PART V

11 SECTION 13. If any part of this Act is found to be in
12 conflict with federal requirements that are a prescribed
13 condition for the allocation of federal funds to the State, the
14 conflicting part of this Act is inoperative solely to the extent
15 of the conflict and with respect to the agencies directly
16 affected, and this finding does not affect the operation of the
17 remainder of this Act in its application to the agencies
18 concerned. The rules under this Act shall meet federal
19 requirements that are a necessary condition to the receipt of
20 federal funds by the State.



SECTION 14. The revisor of statutes shall replace the terms:

(1) "Department of budget and finance" or "department of human resources development" or like terms, with "department of budget, finance, and human resources"; and

(2) "Director of finance" or "director of human resources development" or like terms, with "director of finance and human resources",

as those terms appear in the Hawaii Revised Statutes.

SECTION 15. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 16. This Act shall take effect on July 1, 2018.

INTRODUCED BY: _____

Jim

Ronald H. Baka
Heidi H. H. H.
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S.B. NO. 3100

Report Title:

Government Structure; B&F; DHRD; Consolidation

Description:

Consolidates the Department of Budget and Finance and the Department of Human Resources Development into the Department of Budget, Finance, and Human Resources. Transfers functions and duties accordingly.

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