

JAN 24 2024

A BILL FOR AN ACT

RELATING TO EMPLOYEES' RETIREMENT SYSTEM PERSONNEL.

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

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- 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
21 attorneys appointed by a state court for a special
22 temporary service;

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

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

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

14 (11) (A) Teachers, principals, vice-principals, complex
15 area superintendents, deputy and assistant
16 superintendents, other certificated personnel, no
17 more than twenty noncertificated administrative,
18 professional, and technical personnel not engaged
19 in instructional work;

20 (B) Effective July 1, 2003, teaching assistants,
21 educational assistants, bilingual/bicultural
22 school-home assistants, school psychologists,

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1 psychological examiners, speech pathologists,
2 athletic health care trainers, alternative school
3 work study assistants, alternative school
4 educational/supportive services specialists,
5 alternative school project coordinators, and
6 communications aides in the department of
7 education;

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

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

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

18 (13) (A) Positions filled by inmates, patients of state
19 institutions, persons with severe physical or
20 mental disabilities participating in the work
21 experience training programs;

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

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

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1 of the governor; three additional deputies each in
2 charge of the correctional institutions,
3 rehabilitation services and programs, and
4 administration and other functions within the
5 department of corrections and rehabilitation as may be
6 assigned by the director of corrections and
7 rehabilitation, with the approval of the governor; an
8 administrative assistant to the state librarian; and
9 an administrative assistant to the superintendent of
10 education;

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

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

17 (B) All of the positions defined by paragraph (9)
18 shall be included in the position classification
19 plan;

20 (18) Positions in the state foster grandparent program and
21 positions for temporary employment of senior citizens

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

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- 1 rehabilitation office that they are able to perform
2 safely the duties of the positions;
- 3 (24) The sheriff;
- 4 (25) A gender and other fairness coordinator hired by the
5 judiciary;
- 6 (26) Positions in the Hawaii National Guard youth and adult
7 education programs;
- 8 (27) In the state energy office in the department of
9 business, economic development, and tourism, all
10 energy program managers, energy program specialists,
11 energy program assistants, and energy analysts;
- 12 (28) Administrative appeals hearing officers in the
13 department of human services;
- 14 (29) In the Med-QUEST division of the department of human
15 services, the division administrator, finance officer,
16 health care services branch administrator, medical
17 director, and clinical standards administrator;
- 18 (30) In the director's office of the department of human
19 services, the enterprise officer, information security
20 and privacy compliance officer, security and privacy
21 compliance engineer, security and privacy compliance
22 analyst, information technology implementation

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1 manager, assistant information technology
2 implementation manager, resource manager,
3 community/project development director, policy
4 director, special assistant to the director, and
5 limited English proficiency project
6 manager/coordinator;

7 (31) The Alzheimer's disease and related dementia services
8 coordinator in the executive office on aging;

9 (32) In the Hawaii emergency management agency, the
10 executive officer, public information officer, civil
11 defense administrative officer, branch chiefs, and
12 emergency operation center state warning point
13 personnel; provided that for state warning point
14 personnel, the director shall determine that
15 recruitment through normal civil service recruitment
16 procedures would result in delay or noncompliance;

17 (33) The executive director and seven full-time
18 administrative positions of the school facilities
19 authority;

20 (34) Positions in the Mauna Kea stewardship and oversight
21 authority;

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1 (35) In the office of homeland security of the department
2 of law enforcement, the statewide interoperable
3 communications coordinator; [~~and~~

4 ~~+] (36) [+]~~ In the social services division of the department of
5 human services, the business technology analyst~~[-]~~;
6 and

7 (37) In the employees' retirement system of the State of
8 Hawaii, the deputy executive director, the chief
9 compliance officer, and branch managers; provided that
10 nothing in this paragraph shall be deemed to affect
11 the civil service status of any incumbent in the
12 deputy executive director position or branch manager
13 positions at the time of enactment.

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

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

18 SECTION 2. Statutory material to be repealed is bracketed
19 and stricken. Statutory material to be added is underlined.

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1 SECTION 3. This Act shall take effect upon its approval.

2

3

INTRODUCED BY: *M. N. V. J.*

4

BY REQUEST

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Report Title:

ERS; Personnel; Civil Service; Exemption

Description:

Amends section 76-16(b), Hawaii Revised Statutes, to exempt the Deputy Executive Director, Chief Compliance Officer, and branch managers of the Employees' Retirement System of the State of Hawaii from civil service.

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

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JUSTIFICATION SHEET

DEPARTMENT: BUDGET AND FINANCE

TITLE: A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM PERSONNEL.

PURPOSE: To exempt the Deputy Executive Director (DED), Chief Compliance Officer (CCO), and branch manager positions at the Employees' Retirement System of the State of Hawaii (ERS) from chapter 76, Hawaii Revised Statutes (HRS). The change from civil service positions to exempt positions would apply upon approval to the CCO position but would not apply to the DED or branch manager positions until the positions are vacated by the incumbents in the positions at the time of approval.

MEANS: Amends section 76-16(b), HRS.

JUSTIFICATION: The continued administration of a strong pension system is reliant on experienced management to be responsive to the ERS's Board, its Executive Director, and ERS membership. The responsibilities of these managerial positions have increased with the growth of the membership of the ERS and staff, advancement in technology, and regulatory requirements. Specialized pension managerial skills, experience, and commensurate compensation are required to maintain the level of professionalism that the ERS requires. The DED position reports to the Executive Director and fills in as acting Executive Director, when the Executive Director is unavailable, and manages the day-to-day operations of the ERS. The CCO reports to the Executive Director and manages the ethics, risk, and compliance program and is integral to not only the protection of the assets of the ERS but also to the success, stability, and sustainability of the ERS. The branch

managers, who in combination with executive leadership, develop policies and procedures, report to the DED and manage staff who execute the retirement benefits programs, accounting services for both pensions and investments, and the maintenance and security of the ERS's information technology. These managerial positions also periodically report to the ERS Board, which has the responsibility for the proper operation of the ERS. The stakeholders of the ERS, which include employees of the State and counties, are reliant on a strong ERS to secure current and future benefits.

Impact on the public: None.

Impact on the department and other agencies:
The proposed amendments will impact the ERS, which is an attached agency of the Department of Budget and Finance.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: BUF-141/Retirement.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.