

JAN 23 2025

A BILL FOR AN ACT

RELATING TO EXEMPTIONS FROM CIVIL SERVICE FOR CERTAIN POSITIONS
IN THE DEPARTMENT OF HEALTH.

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 and positions in the Hawaii National
9 Guard that are required by state or federal laws or
10 regulations or orders of the National Guard to be
11 filled from those commissioned or enlisted personnel;
- 12 (2) Positions filled by persons employed by contract where
13 the director of human resources development has
14 certified that the service is special or unique or is
15 essential to the public interest and that, because of
16 circumstances surrounding its fulfillment, personnel
17 to perform the service cannot be obtained through

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- 1 normal civil service recruitment procedures. Any
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,
17 and no more than twenty noncertificated
18 administrative, professional, and technical
19 personnel not engaged in instructional work;

20 (B) Effective July 1, 2003, teaching assistants,
21 educational assistants, bilingual or 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 or 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]
12 university of Hawaii, including research workers,
13 extension agents, personnel engaged in
14 instructional work, and administrative,
15 professional, and technical personnel of the
16 university;

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

19 (13) (A) Positions filled by inmates, patients of state
20 institutions, and persons with severe physical or
21 mental disabilities participating in the work
22 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 or 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; two
8 administrative assistants 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~~] 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 no more
12 than twenty-six per cent of the authority's workforce
13 in any housing project maintained or operated by the
14 authority shall be hired under the tenant hire
15 program;
- 16 (22) Positions of the federally funded expanded food and
17 nutrition program of the [~~University~~] university of
18 Hawaii that require the hiring of nutrition program
19 assistants who 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 Hawaii 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, community or
3 project development director, policy director, special
4 assistant to the director, and limited English
5 proficiency project manager or coordinator;

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

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

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

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

4 (36) In the social services division of the department of
5 human services, the business technology analyst;

6 [+] (37) [+] The executive director and staff of the 911 board;

7 [+] (38) [+] Senior software developers in the department of
8 taxation;

9 [+] (39) [+] In the department of law enforcement, five
10 Commission on Accreditation for Law Enforcement
11 Agencies, Inc., coordinator positions;

12 [+] (40) [+] The state fire marshal; ~~and~~

13 +] (41) [+] The administrator for the law enforcement standards
14 board[-];

15 (42) In the department of health, the public information
16 officer in the office of the director of health, the
17 federal initiatives operations coordinator in the
18 developmental disabilities division, and two medical
19 directors in the emergency medical services and injury
20 prevention system branch; and

21 (43) In the Hawaii state hospital, five associate
22 administrators and two project managers.

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

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

5 SECTION 2. Section 334-4, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§334-4 Personnel for mental health program.** The director
8 shall appoint professional and nonprofessional staff as the
9 director deems necessary to carry out the state mental health
10 program and for which appropriations are available. Positions
11 for psychiatrists are exempted from chapter 76. The director
12 may employ psychiatrists as needed by the department on a
13 contractual basis, subject to the approval of the governor. The
14 director may appoint an administrator, [~~three~~] five associate
15 administrators, a director of psychosocial rehabilitation, a
16 chief of the department of nursing, a risk manager, a patients'
17 rights advisor, two project managers, and a facilities plant
18 engineer for the state hospital or a secure psychiatric
19 rehabilitation facility established pursuant to this chapter and
20 these positions shall be exempt from chapter 76."

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

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1 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: 

4

BY REQUEST

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Report Title:

DOH; Office of the Director of Health; Developmental Disabilities Division; Emergency Medical Services and Injury Prevention System Branch; Hawaii State Hospital; Civil Service; Exemptions

Description:

Exempts certain positions in the Department of Health, including the Hawaii State Hospital, 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.

JUSTIFICATION SHEET

DEPARTMENT: Health

TITLE: A BILL FOR AN ACT RELATING TO EXEMPTIONS FROM CIVIL SERVICE FOR CERTAIN POSITIONS IN THE DEPARTMENT OF HEALTH.

PURPOSE: To exempt from the civil service several positions in the Department of Health (DOH), including the Hawaii State Hospital (HSH), to improve public health services, behavioral health care services, emergency medical services, and developmental disabilities services.

MEANS: Amend sections 76-16(b) and 334-4, Hawaii Revised Statutes (HRS).

JUSTIFICATION: The DOH Public Information Officer (PIO) is a vital component of a robust public health system. The communication of guidance, guidelines, and advisories is essential to increase the health literacy and guide the behavior of Hawaii's residents in emergency and non-emergent situations. For more than a decade, the DOH PIO has occupied an Administrative Assistant position, the salary for which is uncompetitive with exempt PIOs in other state agencies and the private sector.

The Developmental Disabilities Division (DDD) is the operating agency for the Medicaid 1915(c) Home and Community Based Services Waiver (HCBS Waiver) for Individuals with Intellectual and Developmental Disabilities in Hawaii by virtue of a Memorandum of Agreement with the Department of Human Services, Med-QUEST Division). DDD must meet all federal requirements for operating the HCBS Waiver or risk the loss of federal matching funds. The federal share of funding in FY2004 for HCBS Waiver Services was \$114,401,884. Compliance with federal regulations requires a clear interpretation of requirements,

analysis of changes that must be recommended at the state policy and operational levels, analysis of resource needs, and management of operational planning and implementation accountability. The Federal Initiatives Operations Coordinator will ensure that the DDD remains compliant with federal requirements.

The Medical Directors of the Emergency Medical Services and Injury Prevention System Branch coordinate the statewide emergency medical services system to assure equity, parity, and quality of services in rural counties. The in-depth knowledge of medicine, health care, transportation infrastructure and geography, training and education, and technology required to effectively coordinate services for over 1.3 million residents is sufficiently specialized and uncommon that existing civil service physician positions and salaries are unable to compete with the private sector. Therefore, an exemption from civil service for two additional Medical Directors will make these positions more flexible and competitive for retention and recruitment purposes in rural areas.

For the Hawaii State Hospital, the establishment of one Associate Administrator Chief of Staff, one Associate Administrator of Operations, and two project managers were recommendations from a security review conducted after the fatal incident at HSH in November 2023. The Legislature appropriated funds in the 2024 regular session to establish these new permanent positions, all intended to be exempt from civil service to compete with the private sector.

Impact on the public: Improved public health services due to the ability to attract qualified personnel.

Impact on the department and other agencies:
None.

GENERAL FUND: None.

OTHER FUNDS: Intellectual and Developmental Disabilities
Medicaid Waiver Administrative Claiming
Special Fund moneys to be used for the DDD
Federal Initiatives Operations Coordinator.

PPBS PROGRAM
DESIGNATION: HTH 430; HTH 501; HTH 730; and HTH 907.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.