
A BILL FOR AN ACT

RELATING TO CIVIL SERVICE EXEMPT POSITIONS WITHIN THE DEPARTMENT
OF LAND AND NATURAL RESOURCES.

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

1 SECTION 1. Section 6E-3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§6E-3 Historic preservation program.** There is
4 established within the department a division to administer a
5 comprehensive historic preservation program, which shall include
6 but not be limited to the following:

- 7 (1) Development of an ongoing program of historical,
8 architectural, and archaeological research and
9 development, including surveys, excavations,
10 scientific recording, interpretation, signage, and
11 publications on the State's historical and cultural
12 resources;
- 13 (2) Acquisition of historic or cultural properties, real
14 or personal, in fee or in any lesser interest, by
15 gift, purchase, condemnation, devise, bequest, land
16 exchange, or other means; preservation, restoration,



1 administration, or transference of the property; and
2 the charging of reasonable admissions to that
3 property;

4 (3) Development of a statewide survey and inventory to
5 identify and document historic properties, aviation
6 artifacts, and burial sites, including all those owned
7 by the State and the counties;

8 (4) Preparation of information for the Hawaii register of
9 historic places and listing on the national register
10 of historic places;

11 (5) Preparation, review, and revisions of a state historic
12 preservation plan, including budget requirements and
13 land use recommendations;

14 (6) Application for and receipt of gifts, grants,
15 technical assistance, and other funding from public
16 and private sources for the purposes of this chapter;

17 (7) Provision of technical and financial assistance to the
18 counties and public and private agencies involved in
19 historic preservation activities;



- 1 (8) Coordination of activities of the counties in
2 accordance with the state plan for historic
3 preservation;
- 4 (9) Stimulation of public interest in historic
5 preservation, including the development and
6 implementation of interpretive programs for historic
7 properties listed on or eligible for the Hawaii
8 register of historic places;
- 9 (10) Coordination of the evaluation and management of
10 burial sites as provided in section 6E-43;
- 11 (11) Acquisition of burial sites in fee or in any lesser
12 interest, by gift, purchase, condemnation, devise,
13 bequest, land exchange, or other means, to be held in
14 trust;
- 15 (12) Submittal of an annual report to the governor and
16 legislature detailing the accomplishments of the year,
17 recommendations for changes in the state plan or
18 future programs relating to historic preservation, and
19 an accounting of all income, expenditures, and the
20 fund balance of the Hawaii historic preservation
21 special fund;



- 1 (13) Regulation of archaeological activities throughout the
2 State;
- 3 (14) Employment of sufficient professional and technical
4 staff for the purposes of this chapter, which shall be
5 in accordance with chapter 76; provided that the state
6 historic preservation administrator, assistant
7 administrator, grants managers, Hawaii and national
8 register coordinators, preservation planners, Hawaii
9 cultural resource information system managers, intake
10 specialists, librarians, archivists, administrative
11 specialists, archaeologists, architects, architectural
12 historians, branch chiefs, burial site specialists,
13 cultural historians, ethnographers, historians,
14 historic preservation analysts, and geographic
15 information system technical assistants may be exempt
16 from chapter 76;
- 17 (15) The charging of fees to be determined by the
18 department that are proportional to the nature and
19 complexity of the projects or services provided, and
20 adjusted from time to time to ensure that the
21 proceeds, together with all other fines, income, and



1 penalties collected under this chapter, do not surpass
2 the annual operating costs of the comprehensive
3 historic preservation program;

4 (16) Adoption of rules in accordance with chapter 91,
5 necessary to carry out the purposes of this chapter;
6 and

7 (17) Development and adoption, in consultation with the
8 office of Hawaiian affairs native historic
9 preservation council, of rules governing permits for
10 access by native Hawaiians and Hawaiians to cultural,
11 historic, and pre-contact sites and monuments."

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

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

18 (1) Commissioned and enlisted personnel of the Hawaii
19 National Guard and positions in the Hawaii National
20 Guard that are required by state or federal laws or



- 1 regulations or orders of the National Guard to be
2 filled from those commissioned or enlisted personnel;
- 3 (2) Positions filled by persons employed by contract where
4 the director of human resources development has
5 certified that the service is special or unique or is
6 essential to the public interest and that, because of
7 circumstances surrounding its fulfillment, personnel
8 to perform the service cannot be obtained through
9 normal civil service recruitment procedures. Any
10 contract may be for any period not exceeding one year;
- 11 (3) Positions that must be filled without delay to comply
12 with a court order or decree if the director
13 determines that recruitment through normal recruitment
14 civil service procedures would result in delay or
15 noncompliance, such as the Felix-Cayetano consent
16 decree;
- 17 (4) Positions filled by the legislature or by either house
18 or any committee thereof;
- 19 (5) Employees in the office of the governor and office of
20 the lieutenant governor, and household employees at
21 Washington Place;



- 1 (6) Positions filled by popular vote;
- 2 (7) Department heads, officers, and members of any board,
3 commission, or other state agency whose appointments
4 are made by the governor or are required by law to be
5 confirmed by the senate;
- 6 (8) Judges, referees, receivers, masters, jurors, notaries
7 public, land court examiners, court commissioners, and
8 attorneys appointed by a state court for a special
9 temporary service;
- 10 (9) One bailiff for the chief justice of the supreme court
11 who shall have the powers and duties of a court
12 officer and bailiff under section 606-14; one
13 secretary or clerk for each justice of the supreme
14 court, each judge of the intermediate appellate court,
15 and each judge of the circuit court; one secretary for
16 the judicial council; one deputy administrative
17 director of the courts; three law clerks for the chief
18 justice of the supreme court, two law clerks for each
19 associate justice of the supreme court and each judge
20 of the intermediate appellate court, one law clerk for
21 each judge of the circuit court, two additional law



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

17 (10) First deputy and deputy attorneys general, the
18 administrative services manager of the department of
19 the attorney general, one secretary for the
20 administrative services manager, an administrator and
21 any support staff for the criminal and juvenile



1 justice resources coordination functions, and law
2 clerks;

3 (11) (A) Teachers, principals, vice-principals, complex
4 area superintendents, deputy and assistant
5 superintendents, other certificated personnel,
6 and no more than twenty noncertificated
7 administrative, professional, and technical
8 personnel not engaged in instructional work;

9 (B) Effective July 1, 2003, teaching assistants,
10 educational assistants, bilingual or bicultural
11 school-home assistants, school psychologists,
12 psychological examiners, speech pathologists,
13 athletic health care trainers, alternative school
14 work study assistants, alternative school
15 educational or supportive services specialists,
16 alternative school project coordinators, and
17 communications aides in the department of
18 education;

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



- 1 (D) Members of the faculty of the university of
2 Hawaii, including research workers, extension
3 agents, personnel engaged in instructional work,
4 and administrative, professional, and technical
5 personnel of the university;
- 6 (12) Employees engaged in special, research, or
7 demonstration projects approved by the governor;
- 8 (13) (A) Positions filled by inmates, patients of state
9 institutions, and persons with severe physical or
10 mental disabilities participating in the work
11 experience training programs;
- 12 (B) Positions filled with students in accordance with
13 guidelines for established state employment
14 programs; and
- 15 (C) Positions that provide work experience training
16 or temporary public service employment that are
17 filled by persons entering the workforce or
18 persons transitioning into other careers under
19 programs such as the federal Workforce Investment
20 Act of 1998, as amended, or the Senior Community
21 Service Employment Program of the Employment and



1 Training Administration of the United States
2 Department of Labor, or under other similar state
3 programs;

4 (14) A custodian or guide at Iolani Palace, the Royal
5 Mausoleum, and Hulihee Palace;

6 (15) Positions filled by persons employed on a fee,
7 contract, or piecework basis, who may lawfully perform
8 their duties concurrently with their private business
9 or profession or other private employment and whose
10 duties require only a portion of their time, if it is
11 impracticable to ascertain or anticipate the portion
12 of time to be devoted to the service of the State;

13 (16) Positions of first deputies or first assistants of
14 each department head appointed under or in the manner
15 provided in section 6, article V, of the Hawaii State
16 Constitution; three additional deputies or assistants
17 either in charge of the highways, harbors, and
18 airports divisions or other functions within the
19 department of transportation as may be assigned by the
20 director of transportation, with the approval of the
21 governor; one additional deputy in the department of



1 human services either in charge of welfare or other
2 functions within the department as may be assigned by
3 the director of human services; four additional
4 deputies in the department of health, each in charge
5 of one of the following: behavioral health,
6 environmental health, hospitals, and health resources
7 administration, including other functions within the
8 department as may be assigned by the director of
9 health, with the approval of the governor; two
10 additional deputies in charge of the law enforcement
11 programs, administration, or other functions within
12 the department of law enforcement as may be assigned
13 by the director of law enforcement, with the approval
14 of the governor; three additional deputies each in
15 charge of the correctional institutions,
16 rehabilitation services and programs, and
17 administration or other functions within the
18 department of corrections and rehabilitation as may be
19 assigned by the director of corrections and
20 rehabilitation, with the approval of the governor; two
21 administrative assistants to the state librarian; and



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



- 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 no more
5 than twenty-six per cent of the authority's workforce
6 in any housing project maintained or operated by the
7 authority shall be hired under the tenant hire
8 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;



- 1 (27) In the Hawaii state energy office in the department of
2 business, economic development, and tourism, all
3 energy program managers, energy program specialists,
4 energy program assistants, and energy analysts;
- 5 (28) Administrative appeals hearing officers in the
6 department of human services;
- 7 (29) In the Med-QUEST division of the department of human
8 services, the division administrator, finance officer,
9 health care services branch administrator, medical
10 director, and clinical standards administrator;
- 11 (30) In the director's office of the department of human
12 services, the enterprise officer, information security
13 and privacy compliance officer, security and privacy
14 compliance engineer, security and privacy compliance
15 analyst, information technology implementation
16 manager, assistant information technology
17 implementation manager, resource manager, community or
18 project development director, policy director, special
19 assistant to the director, and limited English
20 proficiency project manager or coordinator;



- 1 (31) The Alzheimer's disease and related dementia services
2 coordinator in the executive office on aging;
- 3 (32) In the Hawaii emergency management agency, the
4 executive officer, public information officer, civil
5 defense administrative officer, branch chiefs, and
6 emergency operations center state warning point
7 personnel; provided that for state warning point
8 personnel, the director shall determine that
9 recruitment through normal civil service recruitment
10 procedures would result in delay or noncompliance;
- 11 (33) The executive director and seven full-time
12 administrative positions of the school facilities
13 authority;
- 14 (34) Positions in the Mauna Kea stewardship and oversight
15 authority;
- 16 (35) In the office of homeland security of the department
17 of law enforcement, the statewide interoperable
18 communications coordinator;
- 19 (36) In the social services division of the department of
20 human services, the business technology analyst;
- 21 (37) The executive director and staff of the 911 board;



1 (38) The software developer supervisor and senior software
2 developers in the department of taxation;

3 (39) In the department of law enforcement, five Commission
4 on Accreditation for Law Enforcement Agencies, Inc.,
5 coordinator positions;

6 (40) The state fire marshal and deputy state fire marshal
7 in the office of the state fire marshal;

8 (41) The administrator for the law enforcement standards
9 board;

10 (42) In the office of the director of taxation, the data
11 privacy officer and tax business analysts; [~~and~~

12 ~~]~~ (43) ~~[+]~~ All positions filled by the Hawaii tourism authority
13 within the department of business, economic
14 development, and tourism~~[-]~~;

15 (44) In the state historic preservation division of the
16 department of land and natural resources, the state
17 historic preservation administrator, assistant
18 administrator, grants managers, Hawaii and national
19 register coordinators, preservation planners, Hawaii
20 cultural resource information system managers, intake
21 specialists, librarians, archivists, administrative



1 specialists, archaeologists, architects, architectural
2 historians, branch chiefs, burial site specialists,
3 cultural historians, ethnographers, historians,
4 historic preservation analysts, and geographic
5 information system technical assistants; and
6 (45) In the commission on water resource management of the
7 department of land and natural resources, hydrologists
8 and hydrologic program managers.

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

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

13 SECTION 3. Section 174C-5, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§174C-5 General powers and duties.** The general
16 administration of the state water code shall rest with the
17 commission on water resource management. In addition to its
18 other powers and duties, the commission:

19 (1) Shall carry out topographic surveys, research, and
20 investigations into all aspects of water use and water
21 quality;



- 1 (2) Shall designate water management areas for regulation
2 under this chapter where the commission, after the
3 research and investigations mentioned in paragraph
4 (1), shall consult with the appropriate county council
5 and county water agency, and after public hearing and
6 published notice, finds that the water resources of
7 the areas are being threatened by existing or proposed
8 withdrawals of water;
- 9 (3) Shall establish an instream use protection program
10 designed to protect, enhance, and reestablish, where
11 practicable, beneficial instream uses of water in the
12 State;
- 13 (4) May contract and cooperate with the various agencies
14 of the federal government and with state and local
15 administrative and governmental agencies or private
16 persons;
- 17 (5) May enter, after obtaining the consent of the property
18 owner, at all reasonable times upon any property other
19 than dwelling places for the purposes of conducting
20 investigations and studies or enforcing any of the
21 provisions of this code, being liable, however, for



- 1 actual damage done. If consent cannot be obtained,
2 reasonable notice shall be given prior to entry;
- 3 (6) Shall cooperate with federal agencies, other state
4 agencies, county or other local governmental
5 organizations, and all other public and private
6 agencies created for the purpose of utilizing and
7 conserving the waters of the State, and assist these
8 organizations and agencies in coordinating the use of
9 their facilities and participate in the exchange of
10 ideas, knowledge, and data with these organizations
11 and agencies. For this purpose the commission shall
12 maintain an advisory staff of experts;
- 13 (7) Shall prepare, publish, and issue printed pamphlets
14 and bulletins as the commission deems necessary for
15 the dissemination of information to the public
16 concerning its activities;
- 17 (8) May appoint and remove agents, including hearings
18 officers and consultants, necessary to carry out the
19 purposes of this chapter, who may be engaged by the
20 commission without regard to the requirements of
21 chapter 76 and section 78-1;



- 1 (9) May hire employees in accordance with chapter 76;
2 provided that hydrologists and hydrologic program
3 managers may be exempt from chapter 76;
- 4 (10) May acquire, lease, and dispose of real and personal
5 property as may be necessary in the performance of its
6 functions, including the acquisition of real property
7 for the purpose of conserving and protecting water and
8 water related resources as provided in section 174C-
9 14;
- 10 (11) Shall identify, by continuing study, those areas of
11 the State where salt water intrusion is a threat to
12 fresh water resources and report its findings to the
13 appropriate county mayor and council and the public;
- 14 (12) Shall provide coordination, cooperation, or approval
15 necessary to the effectuation of any plan or project
16 of the federal government in connection with or
17 concerning the waters of the State. The commission
18 shall approve or disapprove any federal plans or
19 projects on behalf of the State. No other agency or
20 department of the State shall assume the duties
21 delegated to the commission under this paragraph;



1 except that the department of health shall continue to
2 exercise the powers vested in it with respect to water
3 quality, and except that the department of business,
4 economic development, and tourism shall continue to
5 carry out its duties and responsibilities under
6 chapter 205A;

7 (13) Shall plan and coordinate programs for the
8 development, conservation, protection, control, and
9 regulation of water resources, based upon the best
10 available information, and in cooperation with federal
11 agencies, other state agencies, county or other local
12 governmental organizations, and other public and
13 private agencies created for the utilization and
14 conservation of water;

15 (14) Shall catalog and maintain an inventory of all water
16 uses and water resources; and

17 (15) Shall determine appurtenant water rights, including
18 but not limited to the quantification of the amount of
19 water and the specification of the water course or the
20 means of access and delivery entitled to by that



1 right, which determination shall be valid for purposes
2 of this chapter."

3 SECTION 4. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 5. This Act shall take effect on July 1, 3000.



Report Title:

DLNR; State Historic Preservation Division; Commission on Water Resource Management; Civil Service; Exemptions

Description:

Exempts certain positions within the State Historic Preservation Division and Commission on Water Resource Management within the Department of Land and Natural Resources from the state civil service law. Effective 7/1/3000. (HD1)

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