
A BILL FOR AN ACT

RELATING TO THE HAWAII NATIONAL GUARD.

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



- 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



1 attorneys appointed by a state court for a special
2 temporary service;

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



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

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

17 (11) (A) Teachers, principals, vice-principals, complex
 18 area superintendents, deputy and assistant
 19 superintendents, other certificated personnel,
 20 and no more than twenty noncertificated



- 1 administrative, professional, and technical
2 personnel not engaged in instructional work;
- 3 (B) Effective July 1, 2003, teaching assistants,
4 educational assistants, bilingual or bicultural
5 school-home assistants, school psychologists,
6 psychological examiners, speech pathologists,
7 athletic health care trainers, alternative school
8 work study assistants, alternative school
9 educational or supportive services specialists,
10 alternative school project coordinators, and
11 communications aides in the department of
12 education;
- 13 (C) The special assistant to the state librarian and
14 one secretary for the special assistant to the
15 state librarian; and
- 16 (D) Members of the faculty of the university of
17 Hawaii, including research workers, extension
18 agents, personnel engaged in instructional work,
19 and administrative, professional, and technical
20 personnel of the university;



- 1 (12) Employees engaged in special, research, or
- 2 demonstration projects approved by the governor;
- 3 (13) (A) Positions filled by inmates, patients of state
- 4 institutions, and persons with severe physical or
- 5 mental disabilities participating in the work
- 6 experience training programs;
- 7 (B) Positions filled with students in accordance with
- 8 guidelines for established state employment
- 9 programs; and
- 10 (C) Positions that provide work experience training
- 11 or temporary public service employment that are
- 12 filled by persons entering the workforce or
- 13 persons transitioning into other careers under
- 14 programs such as the federal Workforce Investment
- 15 Act of 1998, as amended, or the Senior Community
- 16 Service Employment Program of the Employment and
- 17 Training Administration of the United States
- 18 Department of Labor, or under other similar state
- 19 programs;
- 20 (14) A custodian or guide at Iolani Palace, the Royal
- 21 Mausoleum, and Hulihee Palace;



1 (15) Positions filled by persons employed on a fee,
2 contract, or piecework basis, who may lawfully perform
3 their duties concurrently with their private business
4 or profession or other private employment and whose
5 duties require only a portion of their time, if it is
6 impracticable to ascertain or anticipate the portion
7 of time to be devoted to the service of the State;
8 (16) Positions of first deputies or first assistants of
9 each department head appointed under or in the manner
10 provided in section 6, article V, of the Hawaii State
11 Constitution; three additional deputies or assistants
12 either in charge of the highways, harbors, and
13 airports divisions or other functions within the
14 department of transportation as may be assigned by the
15 director of transportation, with the approval of the
16 governor; one additional deputy in the department of
17 human services either in charge of welfare or other
18 functions within the department as may be assigned by
19 the director of human services; four additional
20 deputies in the department of health, each in charge
21 of one of the following: behavioral health,



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

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



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

5 (B) All of the positions defined by paragraph (9)
6 shall be included in the position classification
7 plan;

8 (18) Positions in the state foster grandparent program and
9 positions for temporary employment of senior citizens
10 in occupations in which there is a severe personnel
11 shortage or in special projects;

12 (19) Household employees at the official residence of the
13 president of the university of Hawaii;

14 (20) Employees in the department of education engaged in
15 the supervision of students during meal periods in the
16 distribution, collection, and counting of meal
17 tickets, and in the cleaning of classrooms after
18 school hours on a less than half-time basis;

19 (21) Employees hired under the tenant hire program of the
20 Hawaii public housing authority; provided that no more
21 than twenty-six per cent of the authority's workforce



1 in any housing project maintained or operated by the
2 authority shall be hired under the tenant hire
3 program;

4 (22) Positions of the federally funded expanded food and
5 nutrition program of the university of Hawaii that
6 require the hiring of nutrition program assistants who
7 live in the areas they serve;

8 (23) Positions filled by persons with severe disabilities
9 who are certified by the state vocational
10 rehabilitation office that they are able to perform
11 safely the duties of the positions;

12 (24) The sheriff;

13 (25) A gender and other fairness coordinator hired by the
14 judiciary;

15 (26) Positions in the Hawaii [~~National Guard youth and~~
16 ~~adult education programs;~~] national guard civil-
17 military program;

18 (27) In the Hawaii state energy office in the department of
19 business, economic development, and tourism, all
20 energy program managers, energy program specialists,
21 energy program assistants, and energy analysts;



- 1 (28) Administrative appeals hearing officers in the
2 department of human services;
- 3 (29) In the Med-QUEST division of the department of human
4 services, the division administrator, finance officer,
5 health care services branch administrator, medical
6 director, and clinical standards administrator;
- 7 (30) In the director's office of the department of human
8 services, the enterprise officer, information security
9 and privacy compliance officer, security and privacy
10 compliance engineer, security and privacy compliance
11 analyst, information technology implementation
12 manager, assistant information technology
13 implementation manager, resource manager, community or
14 project development director, policy director, special
15 assistant to the director, and limited English
16 proficiency project manager or coordinator;
- 17 (31) The Alzheimer's disease and related dementia services
18 coordinator in the executive office on aging;
- 19 (32) In the Hawaii emergency management agency, the
20 executive officer, public information officer, civil
21 defense administrative officer, branch chiefs, and



- 1 emergency operations center state warning point
2 personnel; provided that for state warning point
3 personnel, the director shall determine that
4 recruitment through normal civil service recruitment
5 procedures would result in delay or noncompliance;
- 6 (33) The executive director and seven full-time
7 administrative positions of the school facilities
8 authority;
- 9 (34) Positions in the Mauna Kea stewardship and oversight
10 authority;
- 11 (35) In the office of homeland security of the department
12 of law enforcement, the statewide interoperable
13 communications coordinator;
- 14 (36) In the social services division of the department of
15 human services, the business technology analyst;
- 16 (37) The executive director and staff of the 911 board;
- 17 (38) The software developer supervisor and senior software
18 developers in the department of taxation;
- 19 (39) In the department of law enforcement, five Commission
20 on Accreditation for Law Enforcement Agencies, Inc.,
21 coordinator positions;



1 (40) The state fire marshal and deputy state fire marshal
2 in the office of the state fire marshal;

3 (41) The administrator for the law enforcement standards
4 board;

5 (42) In the office of the director of taxation, the data
6 privacy officer and tax business analysts; and

7 [+](43)[+] All positions filled by the Hawaii tourism
8 authority within the department of business, economic
9 development, and tourism.

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

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

14 SECTION 2. Section 89-6, Hawaii Revised Statutes, is
15 amended by amending subsection (f) to read as follows:

16 "(f) The following individuals shall not be included in
17 any appropriate bargaining unit or be entitled to coverage under
18 this chapter:

19 (1) Elected or appointed official;

20 (2) Member of any board or commission; provided that

21 nothing in this paragraph shall prohibit a member of a



- 1 collective bargaining unit from serving on a governing
2 board of a charter school, on the state public charter
3 school commission, or as a charter school authorizer
4 established under chapter 302D;
- 5 (3) Top-level managerial and administrative personnel,
6 including the department head, deputy or assistant to
7 a department head, administrative officer, director,
8 or chief of a state or county agency or major
9 division, and legal counsel;
- 10 (4) Secretary to top-level managerial and administrative
11 personnel under paragraph (3);
- 12 (5) Individual concerned with confidential matters
13 affecting employee-employer relations;
- 14 (6) Part-time employee working less than twenty hours per
15 week, except part-time employees included in unit (5);
- 16 (7) Temporary employee of three months' duration or less;
- 17 (8) Employee of the executive office of the governor or a
18 household employee at Washington Place;
- 19 (9) Employee of the executive office of the lieutenant
20 governor;
- 21 (10) Employee of the executive office of the mayor;



- 1 (11) Staff of the legislative branch of the State;
- 2 (12) Staff of the legislative branches of the counties,
3 except employees of the clerks' offices of the
4 counties;
- 5 (13) Any commissioned and enlisted personnel of the Hawaii
6 national guard;
- 7 (14) Inmate, kokua, patient, ward, or student of a state
8 institution;
- 9 (15) Student help;
- 10 (16) Staff of the Hawaii labor relations board;
- 11 (17) Employees of the Hawaii national guard [~~youth~~
12 ~~challenge academy;~~] civil-military program; or
- 13 (18) Employees of the office of elections."

14 SECTION 3. Section 121-44, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "[~~{}~~§121-44~~}~~ ~~Youth challenge~~] Civil-military program~~[-]~~;

17 na kula alaka'i. (a) There is established the Hawaii national
18 guard civil-military program, also known as "na kula alaka'i", to
19 be administered by the department of defense. The department of
20 defense may establish and administer youth and adult education



1 programs within the Hawaii national guard civil-military
2 program.

3 (b) Positions in the Hawaii national guard civil-military
4 program shall be exempt from chapters 76 and 89.

5 [~~(a)~~] (c) Notwithstanding any other law to the contrary,
6 the department of defense may receive, expend, use, manage, and
7 invest money, services, or property, real, personal, or mixed,
8 that may be given, bequeathed, devised, or in any other manner
9 provided, from sources other than the legislature or the federal
10 government, for any purpose authorized under the Hawaii national
11 guard [~~youth challenge~~] civil-military program, as described in
12 that certain grant program under the National Guard Bureau, and
13 not inconsistent with any terms or conditions imposed by the
14 donor, this section, or chapter 84.

15 [~~(b)~~] (d) A gift of money shall be deposited by the
16 director of finance in a separate account in the state treasury
17 and expended in accordance with law and any terms and conditions
18 that may pertain to the gift. Unless otherwise specified as a
19 term or condition, the department of defense may convert a gift
20 of property into money. Income derived from property or the
21 conversion of property may be used for the purposes described in



1 this section and to pay for the storage, handling, management,
2 repair, maintenance, and distribution of other properties held
3 by the department of defense for these purposes.

4 ~~[(e)]~~ (e) All expenditures made pursuant to this section
5 shall be subject to the approval of the adjutant general.

6 ~~[(d)]~~ (f) In the case of services and property, real,
7 personal, or mixed received, the department of defense shall
8 thereafter be responsible for their management, repair, and
9 maintenance.

10 ~~[(e)]~~ (g) The source making the gift shall not be liable
11 upon any claim for injury arising from the donated property;
12 provided that this provision shall not affect the responsibility
13 or liability of manufacturers of defective products nor shall it
14 affect the responsibilities of negligent persons who cause
15 dangerous conditions that result in injury.

16 ~~[(f)]~~ (h) The department of defense shall maintain records
17 of each gift, the essential facts of gift management, details
18 relating to expenditures of all money made pursuant to this
19 section, and the current disposition, use, and condition of each
20 gift held by the department. This information shall be compiled



1 and reported annually to the legislature and the governor, and
2 shall be made available to the general public free of charge."

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:

Hawaii National Guard Youth Challenge Program; Civil-Military Program; Na Kula Alaka'i; Civil Service; Collective Bargaining; Exemption

Description:

Clarifies that employees of the Hawaii National Guard youth and adult educational programs are excluded from collective bargaining. Renames the "Hawaii National Guard Youth Challenge Program" to the "Hawaii National Guard Civil-Military Program" and codifies its Hawaiian name, "Na Kula Alaka'i". Effective 7/1/3000. (HD2)

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