

A Bill for an Act Relating to Public Employment.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 76, Hawaii Revised Statutes, is amended in the following respects:

1. By amending section 76-1 to read as follows:

“Sec. 76-1 Purpose of this chapter; statement of policy. It is the purpose of this chapter to establish in the State and each of the counties a system of personnel administration based on merit principles and scientific methods governing the classification of positions and the employment, conduct, movement, and separation of public officers and employees. It is also the purpose of this chapter to build a career service in government which will attract, select, and retain the best of our citizens on merit, free from coercive political influences, with incentives in the form of genuine opportunities for promotions in the service, which will eliminate unnecessary and inefficient employees, and which will provide technically competent and loyal personnel to render impartial service to the public at all times, and to render such service according to the dictates of ethics and morality. In order to achieve these purposes it is the declared policy of the State that the personnel system hereby established be ap-

plied and administered in accordance with the following merit principles:

- (1) Equal opportunity for all regardless of race, sex, age, religion, color, ancestry, or politics. No person shall be discriminated against in any case because of any physical handicap, in examination, appointment, reinstatement, reemployment, promotion, transfer, demotion, or removal, with respect to any position the duties of which, in the opinion of the director of personnel services may be efficiently performed by a person with such a physical handicap; provided that the employment will not be hazardous to the appointee or endanger the health or safety of his fellow employees or others.
 - (2) Impartial selection of the ablest person for government service by means of competitive tests which are fair, objective, and practical.
 - (3) Just opportunity for competent employees to be promoted within the service.
 - (4) Reasonable job security for the competent employee, including the right of appeal from personnel actions.
 - (5) Systematic classification of all positions through adequate job evaluation.
 - (6) Proper balance in employer-employee relations between the people as the employer and employees as the individual citizens, to achieve a well trained, productive and happy working force.”
2. By amending section 76-44 to read as follows:

“Sec. 76-44 Racial, sex, age, religious, color, ancestry, or political consideration barred. No person holding any position in the civil service shall be suspended, demoted, or dismissed from his position on racial, sex, age, religious, color, ancestry, or political grounds.”

3. By amending section 76-103 to read as follows:

“Sec. 76-103 Veteran’s preference. The extent to which veteran’s preference shall be given to veterans, to disabled veterans, to spouses of disabled veterans, and to surviving spouses of deceased servicemen who have not remarried shall be provided by rules and regulations.”

4. By adding a new section to be appropriately designated and to read as follows:

“Sec. 76- Bars to discrimination; exceptions. Nothing in sections 76-1 and 76-44 shall be deemed to:

- (1) Repeal or affect any law or ordinance or government rule or regulation having the force and effect of law which prohibits, restricts, or controls the employment of minors;
- (2) Prohibit or prevent the establishment and maintenance of bona fide occupational qualifications;
- (3) Prohibit or prevent the termination of or change the employment of any person who is unable to perform his duties;
- (4) Affect the operation of the terms or conditions of any bona fide retirement, pension, employee benefit, or insurance plan;
- (5) Repeal or affect any law prescribing maximum age limits for employees of the State or any county; and
- (6) Conflict with or affect the application of security regulations in pub-

lic employment established by the United States or the State of Hawaii.”

SECTION 2. Chapter 346, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . PUBLIC SERVICE EMPLOYMENT

Sec. 346- Findings and purpose. The legislature finds that:

- (1) The magnitude of Hawaii’s welfare situation, either in terms of people or in terms of dollar costs, is staggering;
- (2) The present welfare environment can be attributed to many variables such as, the change in society’s attitude toward welfare, poverty, and public assistance to a greater acceptance and assuming of greater responsibility and the ever-increasing rate in the population of the State;
- (3) While the State must do what it can, viable solutions to the State’s welfare crisis must be found;
- (4) In view of the aforementioned factors, perhaps one solution lies in the establishment of a public service employment program;
- (5) There is a supply of unemployed or underemployed persons receiving general assistance payments from the State who are available for public service employment;
- (6) There also exists a substantial number of unmet public needs, including environmental concerns such as, development, landscaping and beautification of highways, parks, hiking trails, botanical gardens, beaches and restoration of historic sites; and
- (7) A meaningful program of public service employment could serve persons receiving general assistance payments as well as the residential population of the State and at the same time alleviate some of the burden on the present welfare rolls.

The purpose of this part is to establish public service employment to assist in alleviating the unemployment of general assistance recipients as well as meeting some of the urgent public service needs that exist by having these individuals perform meaningful and productive services of the State which cannot otherwise be met. Public service employment will also assist the department of social services and housing in determining whether a general assistance recipient should be eligible for public assistance for refusal to participate without a justifiable reason.

Sec. 346- Public service employment; established. (a) The department of social services and housing shall be responsible for providing employment on public works projects as defined in section 346-71, for persons:

- (1) Receiving full or partial public assistance from the State; or
- (2) Receiving unemployment compensation benefits from the State whose benefits thereunder are within the last two weeks of eligibility and who upon termination of unemployment compensation benefits will be eligible for full or partial public assistance from the State; and
- (3) Who reside on an island where the primary economic base providing employment for such persons are lost or is in danger of being lost.

Public assistance recipients participating in public service employment shall be considered to be employees of the department; provided however that except for coverage under the workmen's compensation law, laws relating to civil service, classification, retirement, vacation, sick leave, and other matters relating to regular public employees shall not apply to such persons.

(b) The department shall promulgate rules under chapter 91 necessary to carry out the purposes of public service employment, including but not limited to the following:

- (1) The employment of public assistance recipients shall not displace any state or county employee or any individual performing work for the State or county on a contractual basis;
- (2) The minimum period of employment shall not be less than four calendar weeks; and
- (3) There shall be no discrimination based on race, color, creed, sex, age, religion, or national origin.

Sec. 346- Wages or salaries of public service employment. Any person in occupations of public service employment shall receive the prevailing rate of compensation for persons employed in similar public employment. If no prevailing rate exists, the director of social services and housing shall determine the wage or salary; provided that no wage or salary for occupations of public service employment shall be less than the minimum wage as provided in section 387-2.

Sec. 346- Refusal to work; ineligibility for public assistance. The department shall adopt rules pursuant to chapter 91 rendering any person ineligible for public assistance if he refuses to accept suitable work as provided by public service employment without justifiable reason."

SECTION 3. Section 346-71, Hawaii Revised Statutes, is amended to read as follows:

"**Sec. 346-71 General assistance.** The department of social services and housing shall administer public assistance to those needy persons not otherwise provided for under this chapter, who for reasons satisfactory to the department are unable to provide sufficient support for themselves or those dependent upon them; provided that such persons shall have resided in the State for a period of at least one year immediately preceding their application for assistance under this section. The department shall require all physically fit persons, as a condition of receiving general assistance, to actively and diligently seek gainful employment, to take whatever steps may be reasonably necessary in order to obtain such employment, and to accept such employment when offered. The department shall, by rules and regulations adopted pursuant to chapter 91, establish criteria and standards by which it shall be determined whether an applicant has met the foregoing conditions and requirements. The department shall further require all physically fit persons, as a condition to receiving general assistance, to register for work on public work projects and to accept such employment as may be offered to them by the department under public service employment. The term 'public work projects' includes any kind of labor under the department of accounting and general services of the State

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or the department of public works of any county, or under any other department, board, commission, or agency of the State or any county. All such agencies may employ persons registering under this section. Payment for the work shall not be made from the funds of the agency employing such persons but shall be made from the funds of the department. The department shall promulgate such rules and regulations as it deems necessary to enforce and carry out this section.”

SECTION 4. Section 77-13(f), Hawaii Revised Statutes, is amended to read:

“(f) Salary ranges SC-1, SC-2 and SC-3 shall be utilized in the following manner:

- (1) Salary ranges SC-1, SC-2 and SC-3 may be utilized by the State and counties for physicians and psychiatrists positions.
- (2) No position shall be classified and paid in salary ranges SC-1, SC-2 and SC-3 unless specifically recommended by the director of personnel services and approved by the governor, or recommended by the personnel director of a county and approved by the respective council and mayor.
- (3) There shall be at any given period not more than sixteen positions classified and paid in salary ranges SC-1, SC-2 and SC-3 by the State and not more than eight positions classified and paid in salary ranges SC-1, SC-2 and SC-3 by any county. Psychiatrists and physician positions shall be excluded from the above mentioned totals.
- (4) The salary of any employee assigned to SC-1, SC-2 or SC-3 shall not be more than ninety per cent of his director’s salary.
- (5) The director of personnel services and the personnel directors of each county shall report annually to the legislature as to the manner in which the positions assigned to salary ranges SC-1, SC-2 and SC-3 are being used.”

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 6. There is appropriated out of the general revenues of the State the sum of \$550,000, or so much thereof as may be necessary, for the purpose of sections 2 and 3 of this Act.

SECTION 7. This Act shall take effect upon its approval.

(Approved May 24, 1973.)

*Edited accordingly.