

ACT 217

H.B. NO. 62

A Bill for an Act Relating to Elderly Affairs.

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

SECTION 1. Findings and declaration of necessity. The legislature finds that:

The State of Hawaii, perhaps more than any other jurisdiction in the United States, has been in the forefront in the enactment of legislation designed to assist the elderly. More than a decade ago, the state legislature enacted Act 198, Session Laws of Hawaii 1963, which created the state commission on aging and correspondingly county committees on aging to advise and assist all levels of government in the formulation and implementation of programs to meet the specific needs and requirements of Hawaii's elderly population. Act 198 preceded the passage by the Congress of the Older Americans Act of 1965 which provided federal financial support for state and local elderly program planning and development.

In support of its commitment to make the lives of the elderly more secure and enduring, the legislature enacted Act 261, in 1965. This Act marked the formal recognition of Hawaii's elderly population, including articulation of the State's goal, duty, and responsibility to its aged people. Briefly stated, the declared goal of the State of Hawaii is "... in keeping with the traditional American concept of the inherent dignity of the individual in our democratic society, the older people of our State are entitled to, and it is the joint and several duty and responsibility of the State of Hawaii and its counties to enable our older people to secure equal opportunity to the full and free enjoyment of ..." and adequate income in retirement, the best possible physical and mental health,

suitable housing, full restorative services for those who require institutional care, opportunity for employment with no discriminatory personnel practices because of age, pursuit of meaningful activity within the widest range of civic, cultural, and recreational opportunities and freedom, independence, and the free exercise of individual initiative in planning and managing their own lives.

Still other manifestations of the legislature's concern and support for the elderly are evidenced by its authorization in 1969 of the establishment of the Hawaii State senior center, the enactment of Act 198, Session Laws of Hawaii 1972, which mandated the development of adult day care centers and the enactment of Act 225, Session Laws of Hawaii 1974, which mandated the state commission on aging to develop and implement a comprehensive master plan for the elderly.

To help oversee the development of the master plan, a senate interim committee on elderly affairs was formed. In its report, the committee determined that the dissatisfaction and problems associated with the current delivery of programs and services to the elderly can be attributed primarily to the fragmented fashion in which projects have been established, funded, and operated. Gordon Associates, Inc., in their report "comprehensive master plan for the elderly", December 15, 1974, confirmed the finding of the senate committee noting that "The examination of current service delivery capabilities in Hawaii for service programs for the elderly presents a picture of a system operating in contradiction to itself. In the jargon of the analyst, there is no comprehensive, coordinated, and integrated delivery system for the elderly. There are a number of competing public and private agencies that have more finite managerial control over the development and implementation of service programs that impact on the elderly than either the commission on aging or local area agencies despite the latter's mandate for informal clearance and review of all elderly program matters. This condition deprives the State of any effective administrative and planning function that could effectively integrate service delivery functions."

The present fragmentation of service delivery functions at both the State and local levels can be eliminated by assigning a clear responsibility to independent agencies at both levels. This coordinated system of management and organization will be empowered to act on behalf of individual elderly persons before the courts, administrative bodies of state and local governments, and in seeking required changes before legislative bodies. The elderly themselves will have a stake in directing the service delivery system to meet their needs through participation as majority members on either the state level policy advisory board for elderly affairs or the county level policy council for elderly affairs.

SECTION 2. The Hawaii Revised Statutes is amended by repealing chapter 349 and adding a new chapter 349 to read as follows:

## **"CHAPTER 349 EXECUTIVE OFFICE ON AGING**

**Sec. 349-1 Declaration of purpose; support; duties.** (a) The legislature hereby declares that, in keeping with the traditional American concept of the

inherent dignity of the individual in our democratic society, the older people of our State are entitled to, and it is the joint and several duty and responsibility of the State of Hawaii and its counties to enable our older people to secure equal opportunity to the full and free enjoyment of the following:

- (1) An adequate income in retirement in accordance with the American standard of living.
  - (2) The best possible physical and mental health which science can make available, without regard to economic status.
  - (3) Suitable housing, independently selected, designed, and located with reference to special needs and available at costs which older citizens can afford.
  - (4) Full restorative services for those who require institutional care.
  - (5) Opportunity for employment with no discriminatory personnel practices because of age.
  - (6) Retirement in health, honor, and dignity.
  - (7) Pursuit of meaningful activity within the widest range of civic, cultural, and recreational opportunities.
  - (8) Efficient community services which provide social assistance in a coordinated manner and which are readily available when needed.
  - (9) Immediate benefit from proven research knowledge which can sustain and improve health and happiness.
  - (10) Freedom, independence, and the free exercise of individual initiative in planning and managing their own lives.
- (b) In support of the declaration of purpose in subsection (a), it shall be the policy of the State of Hawaii and its counties to:
- (1) Make available comprehensive programs which include a full range of health, education, and social services to our older residents who need them;
  - (2) Give full and special consideration to older residents with special needs in planning such programs; and, pending the availability of such programs for all older residents, give priority to the elderly with the greatest economic and social need;
  - (3) Provide comprehensive programs which will assure the coordinated delivery of a full range of essential services to our older residents, and where applicable, also furnish meaningful employment opportunities for individuals, including older persons from the community; and
  - (4) Insure that the planning and operation of such programs will be undertaken as a partnership of older residents, the at-large community, and the State and its counties with appropriate assistance from the federal government.
- (c) It shall be the duty and responsibility of every state department and county agency providing programs and services to the elderly to actively work toward the goals articulated in subsections (a) and (b) and to employ the State's policy as included in the state master plan for the elderly in the planning and implementation of their individual programs.

**Sec. 349-2 Executive office on aging; appointments.** (a) There is established within the office of the governor, an executive office on aging.

(b) The head of this office shall be known as the director of the executive office on aging, hereinafter referred to as director. The director shall have professional training in the field of social work, education, public health, and other related fields; extensive direct experience in programs or services related to the elderly; and recent experience in a supervisory, consultative, or administrative position. The director shall be nominated and appointed by the governor without regard to chapters 76 and 77. The salary of the director shall be \$32,500 annually, effective July 1, 1976, and \$37,500 annually, effective January 1, 1977. The director shall be included in any benefit program generally applicable to the officers and employees of the State.

**Sec. 349-3 General functions, duties, and powers of the director.** The director shall have the following principal functions, duties, and powers:

- (1) Serve as the principal official in state government solely responsible for the performance, development, and control of programs, policies, and activities on behalf of the elderly;
- (2) Oversee, supervise, and direct the performance by his subordinates of activities in such areas as planning, evaluation, and coordination of elderly programs and development of a statewide service delivery network;
- (3) Assess the policies and practices of other agencies impacting on the elderly and conduct advocacy efforts for the elderly;
- (4) Advise the governor on new legislation, programs, and policy initiatives and conduct such liaison as would be required to implement them;
- (5) Serve as a member of advisory boards and regulatory panels of state agencies in such areas as income maintenance, public employment, retirement systems, certification of health care facilities and programs, social service and medical assistance, and housing and employment, among others;
- (6) Administer funds allocated for the executive office on aging; and apply for, receive, and disburse grants and donations from all sources for elderly programs and services;
- (7) Establish a clearinghouse for complaints of persons regarding services to the elderly, or operations of state and county agencies affecting the elderly, investigate the complaints, and refer the complaints and his findings to the appropriate agency for corrective action;
- (8) Adopt, amend, and repeal rules pursuant to chapter 91 for the purposes of this chapter;
- (9) Employ and retain such staff as may be necessary for the purposes of this chapter, in conformity with chapters 76 and 77; and
- (10) Contract for or grant such services as may be necessary for the purposes of this chapter, including master contract with other state agencies receiving federal and state funds for programs and services for the aging, and purchase of service agreements with appropriate agencies.

**Sec. 349-4 Policy advisory board for elderly affairs.** There shall be a policy advisory board for elderly affairs, appointed by the governor under section 26-34

to assist the director in his policy deliberations. The board shall consist of not less than twenty-one nor more than twenty-seven members, a majority of whom are over sixty years of age and who shall be selected on the basis of their interests and knowledge in and their ability to make contributions to the solution of problems relating to aging, and shall include at least one member from the county of Hawaii, one member from the county of Maui, one member from the county of Kauai, and one member from the city and county of Honolulu. There shall be seven members who shall serve as ex officio nonvoting members and shall be chosen from among the heads of state agencies which provide services or programs affecting the elderly, including but not limited to the following departments or agencies: health, social services and housing, education, labor and industrial relations, University of Hawaii, transportation, the state retirement system, the office of consumer protection, and, by invitation, the Hawaii representative of the United States Department of Health, Education and Welfare. Of the non ex officio members, one-third of the members shall be appointed for the term of four years, one-third for the term of three years, and one-third for the term of two years; and thereafter the terms of office of each member shall be four years. The members shall serve without compensation, but shall be paid their necessary expenses in attending meetings and carrying out the responsibilities of the board. The chairman shall be elected annually from the nongovernmental voting members of the board. There shall be not less than twelve meetings of the board each year.

**Sec. 349-5 Administrative and program support for the executive office on aging.** (a) The provision of administrative and program support for the executive office on aging shall be accomplished by the creation of two principal organizational divisions in the executive office on aging. One division shall be known as the planning and administrative services division and the other shall be known as the community assistance and program management division.

(b) The planning and administrative services division shall engage in the following activities, including but not limited to:

- (1) Preparation and submission of programs and budgets;
- (2) Preparation of an annual evaluation report on elderly programs for the governor and legislature;
- (3) Preparation of studies and analysis;
- (4) Maintenance of personnel records;
- (5) Management of contracts and agreements entered into by the executive office on aging with public and private vendors, consultants, and suppliers;
- (6) Monitoring the purchase of service agreements with public and private agencies and rendering technical assistance to elderly program service providers; and
- (7) Establishment and maintenance of reimbursement systems for services provided by agreement with federal, state, and county agencies, as well as private groups.

(c) The community assistance and program management division shall engage in the following activities, including but not limited to:

- (1) Legislative research and development as well as liaison on state and federal legislative matters;
- (2) Conducting public affairs programs on elderly affairs programs, projects, and needs;
- (3) Development and implementation of educational, recreational, and cultural programs for elderly persons;
- (4) Provision of technical assistance and liaison with community groups, organizations, and independent programs of benefit to the elderly;
- (5) Development and implementation of active programs of consumer protection and pre-retirement counseling;
- (6) Establishment of a statewide information and referral system, and an annual inventory of elderly programs and service agencies;
- (7) Technical assistance and liaison for the purpose of establishing elderly-controlled local service delivery systems providing comprehensive services and employment opportunities for the elderly throughout the State; and
- (8) Development and management of federally funded programs and special projects under the Federal Older Americans Act and other federal sources.

**Sec. 349-6 State master plan for the elderly.** The executive office on aging shall be responsible for the continued development, implementation, and continuous updating of a comprehensive master plan for the elderly which shall include, but not be limited to, the following:

- (1) Compilation of basic demographic data on the elderly in the State;
- (2) Identification of the physical, sociological, psychological, and economic needs of the elderly in the State;
- (3) Establishment of immediate and long-range goals pursuant to programs and services for the elderly in the State;
- (4) Establishment of priorities for program implementation and of alternatives for program implementation; and
- (5) Organization of administrative and program structure, including the use of facilities and personnel.

The state master plan for the elderly shall be developed in accordance with the requirements of the executive budget act.

**Sec. 349-7 Recognition as responsible state agency.** The executive office on aging shall be the single state agency responsible for programs affecting senior citizens of this State; provided that those programs affecting senior citizens now operated by other departments or agencies shall not be transferred to the executive office on aging except by executive order of the governor.

**Sec. 349-8 Powers of other departments and agencies; cooperation with the executive office on aging.** It shall be the duty and responsibility of every state department and county agency providing programs and services to the aging, in actively working toward the goals and objectives articulated in the state comprehensive master plan for the elderly, to coordinate with the executive office on aging the development of its program plans and clear its final plans with the office prior to implementation of such plans. The executive heads of all such

departments and agencies shall cooperate with the executive office on aging in providing information as the office deems necessary for the effective discharge of its duties under sections 349-3, 349-5, 349-6, and 349-7. However, nothing contained in this chapter shall be deemed to delegate or detract in any way from the functions, powers, and duties prescribed by law for any other department or agency of this State, nor to interrupt or preclude the direct relationships of any such department or agency or units of county government in the performance of such functions, powers, and duties. Each department, agency, officer, and employee of the State and of the counties shall cooperate and assist the executive office on aging in the performance of the function, powers, and duties of the office.

**Sec. 349-9 County level agencies and organizations for the elderly.** (a) To balance the organizational changes at the state level and to ensure maximum home rule powers to the counties, the mayors of each county shall:

- (1) Establish county offices of elderly affairs, with executive or cabinet status, to plan and develop, receive, and disburse grants and donations from all sources for programs of elderly services and to assist the state executive office on aging in carrying out its functions, powers, and duties, provided that:

- (A) The offices shall be headed by a director appointed by the mayor; and

- (B) The directors shall be advised by the county level policy council for elderly affairs;

- (2) Appoint, with the consent of the county councils, a fifteen-member policy council for elderly affairs, a majority of whom are sixty years of age or older and who have exhibited an interest in elderly affairs through active participation in senior citizens' activities or programs. At least five members of each policy council shall be members of state or county agencies which provide services or programs affecting the elderly. The duties of each policy council shall include the authority to review and approve the actions of the county executive offices on aging, subject to veto by the mayor on hiring of staff, approval of program budgets, contracts, grants, service delivery plans, and applications for and acceptance of grants from any source; and

- (b) The mayors of each county may encourage the formation of elder service corporations, county level consumer-controlled nonprofit service delivery corporations. Each elder service corporation shall have a board of directors appointed by the mayor with the consent of the county council. The board shall hire an executive director and other staff to provide basic direct services in a defined local area. Accordingly, there may be one or more elder service corporations for each county depending upon the demand, service needs, and the distribution of the elderly population as well as the feasibility of meeting these requirements. The county level executive offices on aging shall provide support services such as planning, administration, and program development.

**Sec. 349-10 Annual senior citizen's fair.** Each county policy council for elderly affairs may hold an annual senior citizen's fair in its respective county.

The council shall be responsible for the planning, organizing, and coordinating of the fair in every respect. The state policy advisory board for elderly affairs may assist the policy council in any aspect upon the request of such council. Proceeds earned from this fair are deemed to be proceeds earned from casual sales as defined in chapter 237. The council shall distribute such proceeds to the various senior citizen organizations and individuals who participate in the fair in accordance with appropriate methods of distribution as determined by the council.”

SECTION 3. All functions and programs of the state commission on aging are transferred to the executive office on aging created by this Act. All functions and programs of the county committees on aging are transferred to the county offices and county councils.

All state officers, employees, and the present state commission on aging shall serve until the appointment of the director of the executive office on aging and a majority of the members of the state policy advisory board. All officers, employees and the county committees on aging shall serve until the establishment of the county offices and county policy councils.

All officers and employees whose functions are transferred by this Act shall be transferred with their functions and shall continue to perform their regular duties upon their transfer, subject to the state personnel laws and this Act.

No officer or employee of the State having tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act, and such officer or employee may be transferred or appointed to a civil service position without the necessity of examination; provided, that the officer or employee possesses the minimum qualifications for the position to which he is transferred or appointed; and provided, that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

An officer or employee of the State who does not have tenure and who may be transferred or appointed to a civil service position as a consequence of this Act shall become a civil service employee without the loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefits or privileges and without the necessity of examination; provided, that such officer or employee possesses the minimum qualifications for the position to which he is transferred or appointed.

In the event that an office or position held by an officer or employee having tenure is abolished, the officer or employee shall not thereby be separated from public employment, but shall remain in the employment of the State with the same pay and classification and shall be transferred to some other office or position for which the officer or employee is eligible under the personnel laws of the State as determined by the head of the department or the governor.

SECTION 4. All records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the state or county commission relating to the functions transferred to the executive office on aging, the county offices, or policy councils shall be transferred with the functions to which they relate.

SECTION 5. There is appropriated out of the general revenues of the



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State of Hawaii the sum of \$40,600 or so much thereof as may be necessary, to be expended by the office of the governor for the purposes of this Act.

**SECTION 6. Severability.** If any provision of this Act or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of the Act are severable.

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

(Approved June 8, 1976.)