

A Bill for an Act Relating to Vacancies in Civil Service Positions.

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

SECTION 1. Section 76-23, Hawaii Revised Statutes, is amended to read:

**“Sec. 76-23 Filling vacancy.** All vacant civil service positions shall be filled in the manner prescribed in this part or in section 78-1.

Whenever there is a position to be filled, the appointing authority shall request the director of personnel services to submit a list of eligibles. The director shall thereupon certify a list of five or such fewer number as may be available, taken from eligible lists in the following order: first the promotional lists, second the recall lists, third the reemployment lists, and fourth the open-competitive lists; provided that laid-off regular employees shall be placed on an appropriate recall list; provided further that with respect to the eligibles under unskilled classes, the director shall certify all of the eligibles on such list. The director shall submit eligibles in the order that they appear on the eligible list before applying veterans preference; provided that veterans whose examination scores, after addition of applicable preference, are equal to or exceed the examination score of the fifth eligible certified, shall also be certified; and further provided that if the last of the five eligibles to be certified is one of two or more eligibles who have identical examination scores, such two or more eligibles shall be certified notwithstanding the fact that more than five persons are thereby certified to fill a vacancy.

In any case where there are three or more eligibles in one department whose names appear as eligibles on an interdepartmental list, upon the request of the appointing authority of such department such three or more names shall be certified to him as eligibles on an intradepartmental eligible list; but where the interdepartmental list has been in existence for more than six months and there are five or more persons in the department qualified for the class, the department may request an intradepartmental promotional examination, in which case the director shall hold either an interdepartmental or an intradepartmental promotional examination. The order in which eligibles are placed on eligible lists shall be fixed by rule. The appointing authority shall make the appointment only from the list of eligibles certified to him unless he finds no person acceptable to him on the list certified by the director, in which case he shall reject the list and request the director to submit a new list, in which event the director shall submit a new list of eligibles selected in like manner; provided that the appointing authority states his reasons in writing for rejecting each of the eligibles on the list previously certified to him by the director or, in case of the counties, by the civil

service commission. Eligible lists, other than the recall and reemployment lists, shall be effective for one year but this period may be extended by the director.

An appointing authority may fill a vacant position in his department by promoting any regular employee in the department without examination if the employee meets the minimum class qualifications of the position to which he is to be promoted, and if the position is in the same or related series as the position held by the employee; provided, that when there is no material difference between the qualifications of the employees concerned, the employee with the longest government service shall receive first consideration for the promotion.

Any regular employee receiving any such promotion without examination shall be ineligible for a second such promotion without examination prior to his having completed one year of satisfactory service in the position to which he was so promoted, but he may at any time be eligible for a promotion to any position through examination.

An employee filling a permanent position temporarily vacant may be given a permanent appointment to the position if it later develops that the vacancy will be permanent, provided he was originally appointed from an appropriate eligible list and the appointing authority certifies that he has been performing the duties of the position in a satisfactory manner."

SECTION 2. Section 76-25, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 76-25 Reemployment and recall lists.** Whenever any employee who has been performing his duties in a satisfactory manner as shown by the records of the department of personnel services or the agency in which he has been employed, is demoted because of lack of work or lack of funds, has voluntarily accepted a position in a lower class, has resigned in good standing with the consent of the appointing authority, is retired for ordinary or accidental disability, or whenever his position has been reclassified to a lower class, he shall have the right to have his name placed on the appropriate reemployment list for a period of three years thereafter; provided that he files a written application for reemployment within three years after his termination and; provided further, that the period which an employee spends in a hospital, settlement or place within the State undergoing treatment for leprosy or tuberculosis, shall be excluded in computing the three year period. A person on a reemployment list shall be deemed eligible for certification to positions in the class in which he last held a permanent status.

Whenever a regular employee has been laid off because his position has been abolished due to lack of work or funds or because he was displaced by another employee because of reduction-in-force, the employee shall have the right to have his name placed on appropriate recall lists and be deemed eligible for certification to positions in the class in which he last held permanent status or in a related class in the same or lower grade for which he meets the qualification requirements.

The director of personnel services may remove the name of a person on any reemployment or recall list or refuse to certify his name on any list of eligibles, if he finds, after giving him notice and an opportunity to be heard, that

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the person is no longer able to perform the necessary duties satisfactorily.”

**SECTION 3.** 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 4.** This Act shall take effect upon its approval.

(Approved May 10, 1978.)

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\*Edited accordingly.