

ACT 250

H.B. NO. 1494

A Bill for an Act Relating to Public Employment.

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

SECTION 1. Section 78-1, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 78-1 Citizenship and residence of government officials and employees; exceptions. (a) All elective officers in the service of the government of the State or in the service of any county or municipal subdivision of the State shall be citizens of the United States and residents of the State for at least three years immediately preceding assumption of office.

(b) All appointive officers in the service of the government of the State or in the service of any county or municipal subdivision of the State who are employed as

department heads, first assistants, first deputies, second assistants, or second deputies to a department head shall be citizens of the United States and residents of the State for at least one year immediately preceding their appointment; however, all others appointed in the service of the government of the State or in the service of any county or municipal subdivision of the State shall be citizens, nationals, or permanent resident aliens of the United States and residents of the State at the time of their appointment. A national or permanent resident alien appointed pursuant to this section shall not be eligible for continued employment unless such person diligently seeks citizenship upon becoming eligible to apply for United States citizenship.

(c) All employees in the service of the government of the State or in the service of any county or municipal subdivision of the State shall be citizens, nationals, or permanent resident aliens of the United States and residents of the State at the time of their application for employment.

"Resident" means a person who is physically present in the State at the time he claims to have established his domicile in the State and shows his intent is to make Hawaii his permanent residence. In determining this intent, the following factors shall be considered:

- (1) Maintenance of a domicile or permanent place of residence in the State;
- (2) Absence of residency in another state.

(d) For the purpose of obtaining services which are essential to the public interest for which no competent person with the qualifications under subsection (c) applies within forty-five days after the first publication of an advertisement of the position or a notice of an examination therefor, which advertisement or notice has been published more than once, and not more often than once a week, in a newspaper of general circulation in the State, a person without the qualifications may, upon prior certification by the state director of personnel services or the city and county director of civil service or the county personnel director, whichever is applicable, and with the approval of the chief executive officer for the State or the political subdivision concerned, be employed.

(e) The requirement of residency, as defined under subsection (c) above, shall not apply to a resident who was a resident of the State before marrying a non-resident and who continues to reside in the State.

(f) For the positions involved in the performance of services in planning and executing measures for the security of Hawaii and the United States, the employees shall be citizens of the United States in addition to meeting the requirement of residency in subsection (c).

(g) The requirements of subsections (c), (d), and (h) shall not apply to persons recruited by the University of Hawaii under the authority of section 304-11; provided that all persons recruited as Administrative/Professional/Technical personnel of the University of Hawaii shall be subject to the requirement of residency as defined under subsection (c) and the requirement of subsection (h); provided further that appointment of persons to positions requiring highly specialized technical and scientific skills or knowledge may be made without consideration of residency.

(h) A preference shall be granted to state residents who have filed resident income tax returns within the State or who have been claimed as a dependent on such a return at the time of their application for employment with the State or any county or municipal subdivision of the State.

For residents applying for positions covered by chapters 76 and 77, the preference shall be accomplished as provided in section 76-23.

For residents applying for positions not covered by chapters 76 and 77, the preference shall be accomplished by giving first consideration to such residents, if all other factors are relatively equal.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.*

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

(Approved June 13, 1980.)

*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.