

ACT 295

H.B. NO. 132

A Bill for an Act Relating to Public Officers and Employees.

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

SECTION 1. The legislature finds that part of the law on citizenship and residence of government officials and employees, as originally drafted, presumes that a woman assumed the residence of her spouse upon marriage. While the language of the provision in question has been made gender neutral, the legislature finds that no particular presumption regarding residence should be made from a change in marital status and that the provision making such a presumption is archaic and unnecessary. Consequently, it is the purpose of this Act to delete such a presumption from the law.

SECTION 2. Section 78-1, Hawaii Revised Statutes, is amended to read as follows:

"§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 the person claims to have established the person's domicile in the State and shows the person's intent is to make Hawaii the person's 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.] of the appropriate county, and with the approval of the chief executive officer for the State or the political subdivision concerned, may be employed.

[(e)] (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 nonresident and who continues to reside in the State.

[(f)] (e) 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)] (f) The requirements of subsections (c), (d), and [(h)] (g) shall not apply to persons recruited by the University of Hawaii under the authority of section 304-11; provided that [all]:

- (1) 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] (g); and
- (2) Appointment of persons to positions requiring highly specialized technical and scientific skills or knowledge may be made without consideration of residency.

[(h)] (g) 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 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved June 25, 1987.)