

ACT 148

H.B. NO. 2500

A Bill for an Act Relating to Statutory References Affected by Act 253, Session Laws of Hawaii 2000.

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

SECTION 1. Section 10-9, Hawaii Revised Statutes, is amended to read as follows:

“§10-9 Salaries; benefit; expenses. Members of the board:

- (1) Shall receive an annual salary which shall be paid:
 - (A) Exclusively from revenue under section 10-13.5; and
 - (B) In equal amounts, beginning with the first pay period for state employees in November of the year the member of the board is elected.

Effective July 1, 1993, and until the salary commission makes recommendations for salary, the salary of the chairperson of the board shall be \$37,000 a year and the salary of other members of the board shall be \$32,000 a year. Any provision of law to the contrary notwithstanding, all members of the board shall be included in any benefit program generally applicable to officers and employees of the State except for benefit programs relating to retirements;

- (2) Shall be allowed transportation fares between islands and abroad;
- (3) Shall be allowed personal expenses at the rates specified by ~~section 78-15,~~ the board while attending board meetings or while on official business as authorized by the chairperson, when those board meetings or official business shall require a member to leave the island upon which the member resides; and
- (4) Shall be allowed a protocol allowance to cover expenses incurred in the course of a member's duties and responsibilities.”

SECTION 2. Section 26-38, Hawaii Revised Statutes, is amended to read as follows:

“§26-38 Powers and duties of heads of departments. Except as otherwise provided by this chapter, every power and duty conferred by law and required to be performed by any officer, board, department, bureau, commission, administrative agency, or instrumentality of the State existing immediately prior to November 25, 1959, shall hereafter be exercised and performed by the head of the respective department established by this chapter, whether the head of the department be a single executive, board, or commission.

Except as otherwise provided by this chapter, the head of a department may assign any function vested in his department to any subordinate officer or employee as he deems desirable. With the approval of the governor, the head of a department may establish or abolish within his department any division or other administrative unit to achieve economy and efficiency and in accord with sound administrative principles and practices and procedures.

The head of each department may prescribe regulations for the administration of his department, for the conduct of its employees, for the performance of its business, and for the custody, use and preservation of records, equipment, and other property pertaining thereto; provided that the regulations shall not be inconsistent with the requirements of chapters 76, [77,] 91, and 92, or rules promulgated by the governor, or other laws of the State.’’

SECTION 3. Section 29-1, Hawaii Revised Statutes, is amended to read as follows:

“**§29-1 Establishment of office.** There shall be in Washington, District of Columbia, a Hawaii office of federal programs coordinator. The office shall be headed by a coordinator who shall be appointed and removed by the governor, not subject to chapters 76[77,] and 89. Effective July 1, 1982, the salary shall be \$38,610 a year. Effective July 1, 1986, the salary of the federal programs coordinator shall be \$0 a year. The coordinator shall appoint necessary staff, within available appropriations, not subject to chapters 76[77,] and 89.

The office is placed within the department of budget and finance for administrative purposes.’’

SECTION 4. Section 76-16, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The civil service to which this chapter applies shall comprise all positions in the State now existing or hereafter established and embrace all personal services performed for the State, except the following:

- (1) Commissioned and enlisted personnel of the Hawaii national guard as such, and positions in the Hawaii national guard that are required by state or federal laws or regulations or orders of the national guard to be filled from those commissioned or enlisted personnel;
- (2) Positions filled by persons employed by contract where the director of human resources development has certified that the service is special or unique or is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform the service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (3) Positions that must be filled without delay to comply with a court order or decree if the director determines that recruitment through normal recruitment civil service procedures would result in delay or noncompliance, such as the Felix-Cayetano consent decree;
- (4) Positions filled by the legislature or by either house or any committee thereof;
- (5) Employees in the office of the governor and office of the lieutenant governor, and household employees at Washington Place;
- (6) Positions filled by popular vote;
- (7) Department heads, officers, and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;

- (8) Judges, referees, receivers, masters, jurors, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;
- (9) One bailiff for the chief justice of the supreme court who shall have the powers and duties of a court officer and bailiff under section 606-14; one secretary or clerk for each justice of the supreme court, each judge of the intermediate appellate court, and each judge of the circuit court; one secretary for the judicial council; one deputy administrative director of the courts; three law clerks for the chief justice of the supreme court, two law clerks for each associate justice of the supreme court and each judge of the intermediate appellate court, one law clerk for each judge of the circuit court, two additional law clerks for the civil administrative judge of the circuit court of the first circuit, two additional law clerks for the criminal administrative judge of the circuit court of the first circuit, one additional law clerk for the senior judge of the family court of the first circuit, two additional law clerks for the civil motions judge of the circuit court of the first circuit, two additional law clerks for the criminal motions judge of the circuit court of the first circuit, and two law clerks for the administrative judge of the district court of the first circuit; and one private secretary for the administrative director of the courts, the deputy administrative director of the courts, each department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant defined in paragraph (16);
- (10) First deputy and deputy attorneys general, the administrative services manager of the department of the attorney general, one secretary for the administrative services manager, an administrator and any support staff for the criminal and juvenile justice resources coordination functions, and law clerks;
- (11) (A) Teachers, principals, vice-principals, district superintendents, chief deputy superintendents, other certificated personnel, not more than twenty noncertificated administrative, professional, and technical personnel not engaged in instructional work[;];
 (B) Effective July 1, 2003, teaching assistants, educational assistants, bilingual/bicultural school-home assistants, school psychologists, psychological examiners, speech pathologists, athletic health care trainers, alternative school work study assistants, alternative school educational/supportive services specialists, [and] alternative school project coordinators, and communication aides in the department of education; [the]
 (C) The special assistant to the state librarian[;] and one secretary for the special assistant to the state librarian[~~and members~~]; and
 (D) Members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work, and administrative, professional, and technical personnel of the university;
- (12) Employees engaged in special, research, or demonstration projects approved by the governor;
- (13) Positions filled by inmates, kokuas, patients of state institutions, persons with severe physical or mental handicaps participating in the work experience training programs, and students and positions filled through federally funded programs that provide temporary public service employment such as the federal Comprehensive Employment and Training Act of 1973;

- (14) A custodian or guide at Iolani Palace, the Royal Mausoleum, and Hulihee Palace;
- (15) Positions filled by persons employed on a fee, contract, or piecework basis, who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;
- (16) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, Article V, of the State Constitution; three additional deputies or assistants either in charge of the highways, harbors, and airports divisions or other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; four additional deputies in the department of health, each in charge of one of the following: behavioral health, environmental health, hospitals, and health resources administration, including other functions within the department as may be assigned by the director of health, with the approval of the governor; an administrative assistant to the state librarian; and an administrative assistant to the superintendent of education;
- (17) Positions specifically exempted from this part by any other law; provided that all of the positions defined by paragraph (9) shall be included in the position classification plan;
- (18) Positions in the state foster grandparent program and positions for temporary employment of senior citizens in occupations in which there is a severe personnel shortage or in special projects;
- (19) Household employees at the official residence of the president of the University of Hawaii;
- (20) Employees in the department of education engaged in the supervision of students during lunch periods and in the cleaning of classrooms after school hours on a less than half-time basis;
- (21) Employees hired under the tenant hire program of the housing and community development corporation of Hawaii; provided that not more than twenty-six per cent of the corporation's work force in any housing project maintained or operated by the corporation shall be hired under the tenant hire program;
- (22) Positions of the federally funded expanded food and nutrition program of the University of Hawaii that require the hiring of nutrition program assistants who live in the areas they serve;
- (23) Positions filled by severely handicapped persons who are certified by the state vocational rehabilitation office that they are able to perform safely the duties of the positions;
- (24) One public high school student to be selected by the Hawaii state student council as a nonvoting member on the board of education as authorized by the State Constitution;
- (25) Sheriff, first deputy sheriff, and second deputy sheriff; and
- (26) A gender and other fairness coordinator hired by the judiciary.

The director shall determine the applicability of this section to specific positions.

Nothing in this section shall be deemed to affect the civil service status of any incumbent as it existed on July 1, 1955."

SECTION 5. Section 88-60, Hawaii Revised Statutes, is amended to read as follows:

“§88-60 Members whose services are on loan to other governments. Any member whose services are on loan to another government, as authorized by section [79-17;] 78-27, shall retain the member’s membership and shall receive credit in the system for such service[;]; provided that the member returns to the member’s former employment within ninety days after the termination of such service; and[;] provided further that the government receiving the loan of the member’s services fulfills all of the requirements of section [79-18.] 78-27.”

SECTION 6. Section 89-12, Hawaii Revised Statutes, is amended to read as follows:

“§89-12 Strikes, rights and prohibitions. (a) It shall be unlawful for any employee to participate in a strike if the employee:

- (1) Is not included in the appropriate bargaining unit involved in an impasse; or
- (2) Is included in the appropriate bargaining unit involved in an impasse that has been referred to arbitration for a decision.

(b) It shall be lawful for an employee, who is not prohibited from striking under subsection (a) and who is in the appropriate bargaining unit involved in an impasse, to participate in a strike under the following conditions:

- (1) The requirements of section 89-11 relating to the resolution of disputes have been complied with in good faith;
- (2) The proceedings for the prevention of any prohibited practices have been exhausted;
- (3) The collective bargaining agreement and any extension of the agreement has expired; and
- (4) The exclusive representative has given a ten-day notice of intent to strike to the board and to the employer.

~~[(c) No employee organization shall declare or authorize a strike of employees, which is or would be in violation of this section. Where it is alleged by the public employer that an employee organization has declared or authorized a strike of employees which is or would be in violation of this section, the public employer may apply to the board for a declaration that the strike is or would be unlawful and the board, after affording an opportunity to the employee organization to be heard on the application, may make such a declaration.]~~

~~(d)]~~ (c) If any employee organization or any employee is violating or failing to comply with the requirements of this section, or if there is reasonable cause to believe that an employee organization or an employee will violate or fail to comply with such requirements, the public employer affected shall, forthwith, institute appropriate proceedings in the circuit in which the violation occurs to enjoin the performance of any acts or practices forbidden by this section, or to require the employee organization or employees to comply with the requirements of this section. Jurisdiction to hear and dispose of all actions under this section is conferred upon each circuit court, and each court may issue in compliance with chapter 380, such orders and decrees, by way of injunction, mandatory injunction, or otherwise, as may be appropriate to enforce this section. The right to a jury trial shall not apply to any proceeding brought under this section.”

SECTION 7. Section 103D-201, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The policy board shall consist of seven members. Notwithstanding the limitations of section [78-5;] 78-4, the members of the board shall include:

- (1) The comptroller;

- (2) A county employee with significant high-level procurement experience; and
- (3) Five persons who shall not otherwise be full-time employees of the State or any county; provided that at least one member shall be a certified professional in the field of procurement, at least one member shall have significant high-level, federal procurement experience, and at least two members shall have significant experience in the field of health and human services.

Each appointed member shall have demonstrated sufficient business or professional experience to discharge the functions of the policy board. The initial and subsequent members of the policy board, other than the comptroller, shall be appointed by the governor from a list of three individuals for each vacant position, submitted by a nominating committee composed of four individuals chosen as follows: two persons appointed by the governor; one person appointed by the president of the senate; and one person appointed by the speaker of the house. Except as provided in this section, the selection and terms of the policy board members shall be subject to the requirements of section 26-34. No member of the policy board shall act concurrently as a chief procurement officer. The members of the policy board shall devote such time to their duties as may be necessary for the proper discharge thereof.”

SECTION 8. Section 103D-204, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The administrator shall operate independently of the comptroller. The administrator may appoint and dismiss a private secretary without regard to [~~chapter~~] chapters 76 [or 77,] and 89, who shall serve at the administrator’s pleasure. The comptroller shall provide support to permit the administrator to satisfy all of the administrator’s responsibilities as the chief procurement officer for those governmental bodies of the executive branch of the State for which a chief procurement officer is not otherwise designated.”

SECTION 9. Section 103D-1102, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§103D-1102]]~~ **State agency for surplus property.** The state procurement office shall be the state agency for federal and state surplus personal property unless otherwise specified in this chapter or rules adopted pursuant to chapter 91.

The administrator of the state procurement office shall appoint and prescribe the duties of a surplus property director and other personnel pursuant to [~~chapters~~] chapter 76[, 77,] and the appropriate collective bargaining agreement, executive order, executive directive, or rule and this chapter.”

SECTION 10. Section 103F-301, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§103F-301]]~~ **Powers and duties of the administrator.** The administrator of the state procurement office shall carry out the following duties:

- (1) Assist, advise, and guide state agencies in matters relating to planning and purchasing health and human services;
- (2) Establish and maintain a central health and human services contracts database;
- (3) Develop and administer a statewide orientation and training program for purchasing agency employees, provider organization employees, and all other interested parties on all matters relating to carrying out the purposes of this chapter;

- (4) Develop, distribute, and maintain a health and human service procurement manual for all state procurement officials;
- (5) Develop, distribute, and maintain a procurement guide for health and human service vendors wishing to do business with the State;
- (6) Perform periodic review of the procurement practices of all governmental bodies which purchase health and human services;
- (7) Contract for such services as may be necessary for the purposes of this chapter; and
- (8) Establish and fill such positions as may be necessary to carry out the functions of this chapter, without regard to chapters 76[~~77~~] and 89.”

SECTION 11. Section 107-1.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There shall be established in the department of accounting and general services a revolving fund to be known as the public works project assessment fund for the purposes of defraying costs involved in carrying out construction projects managed by the department; managing funds representing accumulated vacation and sick leave credits and retirement benefits for non-general funded employees in the construction program in accordance with section [79-5;] ~~78-23~~; equitably collecting and distributing the costs of other current expenses associated with capital improvement, repairs and maintenance, and repairs and alterations projects; and managing the payments of employee transportation requirements such as car mileage reimbursements in accordance with applicable law and collective bargaining agreements.”

SECTION 12. Section 109-2, Hawaii Revised Statutes, is amended to read as follows:

“**§109-2 Stadium authority; powers and duties.** The powers and duties of the stadium authority shall be as follows:

- (1) To maintain, operate, and manage the stadium and related facilities, and to provide for the maintenance, operation, management, and promotion of the Kapolei recreational sports complex;
- (2) To prescribe and collect rents, fees, and charges for the use or enjoyment of the stadium or any of its facilities;
- (3) To make and execute contracts and other instruments necessary or convenient to exercise its powers under this chapter and subject to any limitations in this chapter, to exercise all powers necessary, incidental, or convenient to carry out and effectuate the purposes and provisions of this chapter, including entering into contracts under chapter 102 or 103D for the management of the Kapolei recreational sports complex, to include but not be limited to the operation, maintenance, and promotion of the complex in a manner that is beneficial to both the State and the contractor. These contracts may contain revenue sharing incentives based on increased usage of the complex;
- (4) To adopt, amend, and repeal in accordance with chapter 91 rules it may deem necessary to effectuate this chapter and in connection with its projects, operations, and facilities;
- (5) To appoint a manager and a deputy manager who shall have such qualifications as the authority deems necessary and who shall hold their respective offices at the pleasure of the authority. The manager and deputy manager shall be exempt from the requirements of chapters 76[~~77~~] and 89. Effective January 1, 1989, and January 1, 1990, the salary of the manager shall be set by the governor within the range from

- \$69,748 to \$74,608 and \$72,886 to \$77,966 a year, respectively. Effective January 1, 1989, and January 1, 1990, the salary of the deputy manager shall be \$62,854 and \$65,683 a year, respectively. The manager shall have full power to administer the affairs of the stadium and related facilities, and to provide for a management contract for the Kapolei recreational sports complex, subject to the direction and approval of the authority. The manager shall, subject to the approval of the authority, have power to appoint, suspend, and discharge a secretary who shall be exempt from the requirements of chapters 76~~[, 77,]~~ and 89, and such other employees, subordinates, and assistants as may be necessary for the proper conduct of the business of the authority. Except for persons hired on contract or otherwise as provided in section 109-3 and except for the manager, deputy manager, and secretary, all appointments, suspensions, or discharges shall be made in conformity with the applicable provisions of [~~chapters~~] chapter 76 [~~and 77~~]; and
- (6) To plan, promote, and market the stadium, its related facilities, and the Kapolei recreational sports complex.”

SECTION 13. Section 125-4, Hawaii Revised Statutes, is amended to read as follows:

“**§125-4 Personnel, delegation of powers.** The governor may appoint or employ boards, agencies, officers, employees, and other persons, or any of them, for the purpose of carrying out the provisions of this chapter, and may delegate to the boards, agencies, or persons, or to any government board, agency, officer, or employee, state or otherwise, any of the governor’s duties or powers under this chapter. All such officers and employees on a temporary basis, whether or not employed by contract, shall be exempt from and [~~not~~] neither subject to nor entitled to the benefits of the provisions of chapters 76~~[, 77, and 79,]~~ and [~~part II of chapter~~] 88, or any other law [~~which~~], appropriate collective bargaining agreement, executive order, executive directive, or rule that is inapplicable to temporary employees of the State.”

SECTION 14. Section 125C-8, Hawaii Revised Statutes, is amended to read as follows:

“[~~§125C-8~~] **Personnel; delegation of powers.** The governor may appoint or employ temporary boards, agencies, officers, employees, and other persons, or any of them, for the purpose of carrying out the provisions of this chapter. All such temporarily appointed or employed officers and employees, whether or not employed by contract, shall be exempt from and not subject to nor entitled to the benefits of the provisions of chapters 76~~[, 77, and 79,]~~ and [~~part II of chapter~~] 88, or any other law, collective bargaining agreement, executive order, executive directive, or rule that is inapplicable to temporary employees of the State.”

SECTION 15. Section 128-10, Hawaii Revised Statutes, is amended to read as follows:

“**§128-10 Other powers.** The governor further, irrespective of the existence of a civil defense emergency period, may:

- (1) Cooperate with the President and the heads of the armed forces, and the civil defense agency of the United States, and with the officers and agencies of other states in matters pertaining to the civil defense of the State and nation and the incidents thereof, and take any measures which

the governor may consider proper to carry into effect any request of the President or the appropriate federal officers and agencies, for any action looking to civil defense;

- (2) Lease, lend, or otherwise furnish, on such terms and conditions as the governor may consider necessary to promote the public welfare and protect the interest of the State, any real or personal property of the state government or its political subdivisions, to the President, the heads of the armed forces, or to the civil defense agency of the United States;
- (3) On behalf of the State enter into mutual aid agreements or compacts with the federal government and with other states. The agreements or compacts shall be limited to civil defense. It may be provided in an interstate compact, and the governor with the advice and consent of the political subdivisions included within the scope of the compact, may agree on behalf of the State that:
 - (A) Each party state shall extend to the civil defense forces of any other party state, while operating within its state limits under the terms and conditions of the compact, the same powers (except that of arrest unless specifically authorized by the receiving state), duties, rights, privileges, and immunities as if they were performing their duties in the state in which normally employed or rendering services;
 - (B) Whenever any person holds a license, certificate, or other permit issued by any state evidencing the meeting of qualifications for professional, mechanical, or other skills, the person may render aid involving this skill in any party state to meet an emergency or disaster and the state shall give due recognition to such license, certificate, or other permit as if issued in the state in which aid is rendered;
 - (C) No party state or its officers or employees rendering aid in another state pursuant to the compact shall be liable on account of any act or omission on the part of the forces while so engaged, or on account of the maintenance or use of any materials, equipment, goods, or facilities in connection therewith;
 - (D) As an alternative to paragraph (C), such other or modified form of immunity as the governor may find acceptable;
 - (E) Each party state shall provide for the payment of compensation and death benefits to injured members of the civil defense forces of that state and the representatives of deceased members of the forces in case the members sustain injuries or are killed while rendering aid pursuant to the compact, in the same manner and on the same terms as if the injury or death were sustained within the state;
 - (F) Any party state rendering aid in another state pursuant to the compact shall be reimbursed by the party state receiving aid, or by the United States government under plans approved by it, for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for all costs incurred in connection with requests for aid; provided that this paragraph shall not be deemed to preclude the State, if it is the aiding state, from assuming in whole or in part the loss, damage, expense, or other cost, or from loaning the equipment or donating the services to the receiving party state without charge or cost;

- (G) Any party state receiving evacuees shall be reimbursed generally for the out-of-pocket expenses incurred in receiving and caring for the evacuees, for expenditures for transportation, food, clothing, medicines, and medical care, and like items; the expenditures shall be reimbursed by the party state of which the evacuees are residents, or by the United States government under plans approved by it; and
 - (H) In the event of an evacuation, the party state of which the evacuees are residents shall, after the termination of the emergency or disaster, assume the responsibility for the ultimate support or repatriation of the evacuees;
- (4) Sponsor and develop mutual aid plans and agreements for civil defense between the political subdivisions of the State and between one or more political subdivisions and other public or private agencies, for the furnishing or exchange of food, clothing, medicine, and other materials; engineering services, emergency housing; police services; health, medical, and related services; fire fighting, rescue, transportation, and construction services and facilities; personnel necessary to provide or conduct these services; and such other materials, facilities, personnel, and services as may be needed. The mutual aid plans and agreements may be made with or without provisions for reimbursement of costs and expenses, and on such terms and conditions as are deemed necessary;
 - (5) Order and direct government agencies, officers, and employees, state or local, to take such action and employ such measures for law enforcement, medical, health, fire fighting, traffic control, warnings, and signals, engineering, rescue, construction, emergency housing, and other welfare, hospitalization, transportation, water supply, public information, training, and other civil defense and emergency functions as may be necessary, and utilize the services, materials, and facilities of the agencies and officers. All such agencies and officers shall cooperate with and extend their services, materials, and facilities to the governor as the governor may request;
 - (6) Take possession of, use, manage, control, and reallocate any public property, state or county, real or personal, required by the governor for the purposes of this chapter, including, without limitation, airports, parks, playgrounds, and schools, and other public buildings. Whenever the property is so taken the governor shall have power to make such provision for the temporary accommodation of the government service affected thereby as the governor may deem advisable. Like provisions may be made at any time whenever it is necessary to relocate any government service because of any emergency condition;
 - (7) Utilize all services, materials, and facilities of nongovernmental agencies, relief organizations, community associations, and other civil groups and private agencies that may be made available;
 - (8) Receive, expend, or use contributions or grants in money, property, or services, or loans of property, or special contributions or grants in money, property, or services, or loans of property, for special purposes provided for by this chapter; establish funds in the treasury for the deposit and expenditure of the moneys; procure federal aid as the same may be available, and apply the provisions of chapter 29 in cases of federal aid even though not in the form of money. The contributions or grants are appropriated for the purposes of this chapter, or for the special purposes;

- (9) Provide for the repair and maintenance of public property, whenever adequate provision therefor is not otherwise made; insure the property against any war risk, including without limitation damage or loss resulting from or arising out of an attack or action in resisting or combating an attack or apparent attack; provide for the restoration, renovation, replacement, or reconstruction of insured property in the event of damage or loss, and make temporary restoration of public utilities and other vital facilities in the event of an attack or other disaster;
- (10) Purchase, make, produce, construct, rent, lease, or procure by condemnation or otherwise, transport, store, install, maintain, and insure, repair, renovate, restore, replace, or reconstruct, and distribute, furnish, or otherwise dispose of, with or without charges therefor, materials and facilities for civil defense and other emergency functions; procure federal aid therefor whenever feasible; and take any measures which may, in the governor's opinion, secure, stimulate, or increase similar activities by private or public persons or organizations. Chapter 103D, sections 103-50, 103-50.5, 103-53, 103-55, 105-1 to 105-10, and 464-4 shall not apply to any civil defense or other emergency functions if and to the extent that the governor finds that the provisions, in whole or in part, impede or tend to impede the expeditious discharge of the functions, or that compliance therewith is impracticable due to existing conditions. In cases of extreme urgency during a civil defense emergency period the governor may suspend the penal provisions of sections 46-45 and 103-9, except those provisions that concern falsification;
- (11) Appoint, employ, train, equip, and maintain, with compensation, or on a volunteer basis without compensation and without regard to chapters 76, ~~77, and 79, part II of chapter 88 and section 78-1,~~ 78, and 88, such agencies, officers, and other persons as the governor deems necessary to carry out this chapter; determine to what extent any law prohibiting the holding of more than one office or employment applies to the agencies, officers, and other persons; and subject to section 128-15, provide for and effect the interchange of personnel, by detail, transfer, or otherwise, between the State and any political subdivision, or among any agencies or departments of the State;
- (12) Make charges in such cases and in such amounts as the governor deems advisable, for any property sold, work performed, services rendered, or accommodations or facilities furnished by the government under this chapter; and make charges for licenses or permits to cover administrative expense connected therewith;
- (13) Make such contracts as may be necessary to carry out this chapter;
- (14) Establish special accounting forms and practices whenever necessary; and
- (15) Take any and all steps necessary or appropriate to carry out the purposes of this chapter and to provide for civil defense and other emergency functions.

The powers and authority conferred upon the governor by this chapter are in addition to any other powers or authority conferred upon the governor by the laws of the United States and of the State for the same or a like purpose, and shall not be construed as abrogating, limiting, or modifying any such powers, or authority."

SECTION 16. Section 128-13, Hawaii Revised Statutes, is amended to read as follows:

“**§128-13 Power and authority of local organizations.** Each political subdivision shall have the power and authority:

- (1) Deputy director’s staff. To provide, for the deputy director of such political subdivision, an assistant or assistants whose appointment shall be approved by the director of civil defense, and such technical, clerical, stenographic, and other personnel, office space, furniture, equipment, supplies, and funds as may be necessary to carry out the purposes of this chapter. Chapter 76 shall apply to the full-time deputy director or the deputy director’s first assistant.
- (2) Appropriations, etc. To make appropriations and authorize expenditures for the purposes of this chapter, including the power to place under the control of the governor, for expenditure as matching funds for federal aid, or for any purpose within the powers of the governor, moneys appropriated by it; to make appropriations and authorize expenditures for the purposes of this chapter out of the normal revenues or fund balances or surpluses of the political subdivision, notwithstanding any legal restrictions upon the purposes for which the funds may be expended, except that pension and retirement funds, funds set aside for the redemption of bonds or the payment of interest thereon, trust funds, loan funds, and funds received from the federal government or from any person for specific purposes shall not be affected.
- (3) Procurement, etc. To purchase, make, produce, construct, rent, lease, or procure by condemnation, or otherwise, transport, store, install, maintain, and insure, repair, renovate, restore, replace or reconstruct, and distribute, furnish or otherwise dispose of, with or without charges, materials and facilities for civil defense; and to procure federal aid therefor whenever feasible. Chapter 103D, sections 103-50, 103-50.5, 103-53, 103-55, 105-1 to 105-10, and 464-4 shall not apply to any civil defense functions of and to the extent that the mayor finds that the provisions, in whole or in part, impede or tend to impede the expeditious discharge of the functions, or that compliance therewith is impracticable due to existing conditions.
- (4) Personnel. To provide for the appointment, employment, training, equipping, and maintaining, with compensation, or on a volunteer basis without compensation and without regard to chapters 76, [77, 79,] 78, and 88 [~~and section 78-1,~~] of such agencies, officers, and other persons as it deems necessary to carry out this chapter; to determine to what extent any law prohibiting the holding of more than one office or employment applies to the agencies, officers, and other persons; and subject to section 128-15, to provide for the interchange of personnel, by detail, transfer or otherwise, between agencies or departments of the political subdivision, or between political subdivisions.
- (5) Contributions. To receive, expend, or use contributions or grants in money, property, or services, or loans of property, or special contributions or grants in money, property, or services, or loans of property, for special purposes provided for by this chapter.
- (6) Charges. To make charges in such cases and in such amounts as it deems advisable, for any property sold, work performed, services rendered, or accommodations or facilities furnished by the political subdivision under this chapter.
- (7) Contracts. To make or authorize such contracts as may be necessary to carry out this chapter.

- (8) Mutual aid plans. To participate in and carry out mutual aid plans and agreements or compacts, sponsored or developed by the state civil defense agency.
- (9) Continuity of government. To insure continuity of government during a civil defense emergency period, the legislative body of a county may by ordinance, unless otherwise provided by law, provide the procedure for the appointment and designation of stand-by officers for the legislative body and the elected chief executive of the county for the emergency period, who shall serve in the event of the unavailability of the officers for whom they stand by.”

SECTION 17. Section 193-23, Hawaii Revised Statutes, is amended to read as follows:

“**§193-23 Personnel laws; applicability.** The provisions of chapters 76 [to 80, 85], 78, and 88[, except the requirements for loyalty oath as contained in section 85-32] and the appropriate collective bargaining agreement, executive order, executive directive, or rule and except provisions of state law relating to the application of the Social Security Act of the United States to the extent that the Act shall be applicable under the federal law establishing the youth programs, shall not apply to persons employed under this part.”

SECTION 18. Section 196D-13, Hawaii Revised Statutes, is amended to read as follows:

“**[§196D-13] Exemptions from certain state laws.** In order to promote the purposes of this chapter, all persons hired by the department to effectuate this chapter are excepted from chapters 76[, 77,] and 89.”

SECTION 19. Section 201B-2, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) The authority may employ persons not subject to chapters 76[, 77,] and 78 to perform and execute the functions of the authority.”

SECTION 20. Section 201B-3, Hawaii Revised Statutes, is amended to read as follows:

“**[§201B-3] Powers.** Except as otherwise limited by this chapter, the board may:

- (1) Sue and be sued;
- (2) Have a seal and alter the same at pleasure;
- (3) Make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter, provided that the authority may enter into contracts and agreements for a period of up to five years;
- (4) Make and alter bylaws for its organization and internal management;
- (5) Adopt rules in accordance with chapter 91 with respect to its projects, operations, properties, and facilities;
- (6) Through its executive director represent the authority in communications with the governor and with the legislature;
- (7) Through its executive director appoint officers, agents, and employees, prescribe their duties and qualifications, and fix their salaries, without regard to chapters 76[, 77,] and 78;

- (8) Through its executive director purchase supplies, equipment, or furniture;
- (9) Through its executive director allocate the space or spaces which are to be occupied by the authority and appropriate staff;
- (10) Engage the services of qualified persons to implement the State's tourism marketing plan or portions thereof as determined by the board;
- (11) Engage the services of consultants on a contractual basis for rendering professional and technical assistance and advice;
- (12) Procure insurance against any loss in connection with its property and other assets and operations in such amounts from such insurers as it deems desirable;
- (13) Contract for, and accept gifts or grants in any form from any public agency or any other source;
- (14) Create a vision and develop a long range plan for tourism in Hawaii, including product development, infrastructure, and diversification issues;
- (15) Develop, coordinate, and implement state policies and directions for tourism and related activities taking into account the economic, social, and physical impacts of tourism on the State;
- (16) Develop and implement the state tourism strategic marketing plan, which shall be updated every three years, to promote and market the State as a desirable visitor destination;
- (17) Have a permanent, strong focus on marketing and promotion;
- (18) Conduct market development-related research as necessary;
- (19) Coordinate all agencies and advise the private sector in the development of tourism-related activities and resources;
- (20) Work to eliminate or reduce barriers to travel in order to provide a positive and competitive business environment, including coordinating with the department of transportation on issues affecting airlines and air route development;
- (21) Market and promote sports-related activities and events;
- (22) Coordinate the development of new products with the public and private sectors, including the development of sports, culture, health, education, business, and eco-tourism;
- (23) Establish a public information and educational program to inform the public of tourism and tourism-related problems;
- (24) Encourage the development of tourism educational, training, and career counseling programs;
- (25) Establish a program to monitor, investigate, and respond to complaints about problems resulting directly or indirectly from the tourism industry and taking appropriate action as necessary; and
- (26) Do any and all things necessary to carry out its purposes and exercise the powers given and granted in this chapter."

SECTION 21. Section 201G-474, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The executive director of the corporation shall appoint a state homeless section administrator to carry out the purposes of this subpart and coordinate all programs and responses of state agencies relating to the problem of homelessness. The administrator, with approval of the executive director, may contract with private services to carry out the duties and responsibilities of the program.

Notwithstanding any other law to the contrary, any contracts entered into by the administrator with a private sector entity pursuant to this subsection shall not be subject to chapters 76[~~77~~] and 89. This subsection shall apply to contracts entered

into by the state homeless programs coordinator with private sector entities pursuant to Act 279, Session Laws of Hawaii 1992, section 3, before July 14, 1998.”

SECTION 22. Section 232E-1, Hawaii Revised Statutes, is amended to read as follows:

“~~[E]~~~~§232E-1~~ **Establishment of the commission.** There shall be a tax review commission, hereinafter called the commission. The commission shall consist of seven members who shall be appointed by the governor with the advice and consent of the senate and shall be in the department of taxation for administrative purposes. The commission shall elect its chairperson from one of its members. The members shall receive no compensation for their services, but shall be reimbursed for actual expenses incurred in the performance of their duties.

The commission may enter into contracts with consultants and engage employees necessary to perform its duties without regard to chapter 76 ~~[or 77]~~. Departments of the state government shall make available to the commission such data and facilities as are necessary for it to perform its duties.”

SECTION 23. Section 268-4, Hawaii Revised Statutes, is amended to read as follows:

“**§268-4 Appropriation; personnel.** There is appropriated from the general revenues of the State the sum of \$150,000 or so much thereof as may be necessary, to defray the cost of any examination, investigation, survey, or reconnaissance and all other expenses necessary for the issuance of any bonds and the implementation of the ferry system; provided that upon the sale of the revenue bonds authorized herein, that portion of the \$150,000 which is expended for planning, designing, or preparation of plans and specifications for the construction or improvement of the ferry vessel or terminal facilities needed for the operation of the ferry system shall be repaid by the department of transportation to the State.

The department may hire personnel to perform the services noted above and to implement the ferry system. The personnel, however, shall be hired by contract and be exempt from ~~[chapters]~~ chapter 76 and ~~[77, and sections 79-1 and 79-8.]~~ the appropriate collective bargaining agreement, executive order, executive directive, or rule.”

SECTION 24. Section 269-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Effective January 1, 1989, and January 1, 1990, the chairperson of the commission shall be paid a salary set by the governor within the range of \$69,748 to \$74,608 and \$72,886 to \$77,966 a year, respectively, and each of the other commissioners shall be paid a salary equal to ninety-five per cent of the chairperson’s salary. The commissioners shall be exempt from chapters 76~~[, 77,]~~ and 89 but shall be members of the state employees retirement system and shall be eligible to receive the benefits of any state or federal employee benefit program generally applicable to officers and employees of the State, including those under chapter 87.

The commission is placed within the department of budget and finance for administrative purposes.”

SECTION 25. Section 302A-636, Hawaii Revised Statutes, is amended to read as follows:

“~~[E]~~~~§302A-636~~ **Cafeteria managers.** All cafeteria managers employed in the department shall be employed ~~[under]~~ and have their salaries fixed in accordance

~~with chapter 76 and [shall have their salaries fixed in accordance with chapter 77,] the appropriate collective bargaining agreement, executive order, executive directive, or rule, and the monthly rates of basic compensation so determined shall be payable over a twelve-month period without proration or deduction for periods when school is not in session. Cafeteria managers shall have the same vacation and sick leave allowances as school teachers and principals.”~~

SECTION 26. Section 302A-637, Hawaii Revised Statutes, is amended to read as follows:

“~~[§302A-637]~~ **Cafeteria workers.** All cafeteria workers employed in the department shall be employed ~~[under] and have their compensation adjusted in accordance with chapter 76 and [shall have their compensation fixed in accordance with chapter 77,]~~ the appropriate collective bargaining agreement, executive order, executive directive, or rule, and the monthly rates of basic compensation so determined shall be payable for employment over a twelve-month period. All cafeteria workers shall be employed on a full-time basis, except that a limited number of part-time workers may be employed by the department. No cafeteria worker employed on a part-time basis shall work less than twenty hours per week. The department shall establish a schedule, based on factors that determine the need for part-time workers, fixing the number of part-time workers that may be employed by the department.”

SECTION 27. Section 302A-639, Hawaii Revised Statutes, is amended to read as follows:

“~~[§302A-639]~~ **Houseparents; statewide center for students with hearing and visual impairments.** All houseparents at the statewide center for students with hearing and visual impairments employed in the department shall be employed ~~[under chapter 76 and shall have their compensation fixed in accordance with chapter 77,]~~ and have their compensation adjusted according to chapter 76 and the appropriate collective bargaining agreement, executive order, executive directive, or rule, and the monthly rates of basic compensation so determined shall be payable for employment over a twelve-month period. All houseparents shall be employed for twelve months on a full-time basis.”

SECTION 28. Section 302A-1105, Hawaii Revised Statutes, is amended to read as follows:

“~~[§302A-1105]~~ **Compensation; expenses.** Board of education members shall be allowed:

- (1) Compensation at the rate of \$100 per day for each day’s actual attendance at meetings;
- (2) Transportation fares between islands and abroad; and
- (3) Personal expenses at the rates specified by ~~[section 78-15,]~~ the board while attending board meetings or while on official business as authorized by the chairperson, when the board meetings or official business require a board member to leave the island upon which the board member resides.”

SECTION 29. Section 304-4.3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The board of regents may appoint or retain by contract one or more attorneys who are independent of the attorney general, to provide legal services for the university, including:

- (1) Representation for the university in civil actions to which the university is a party, either directly or through the acts or omissions of its officers or employees;
- (2) Advice and assistance to ensure the lawful and efficient administration and operation of the university;
- (3) Review and approval of documents relating to the acquisition of land or interest in land by the university; and
- (4) Other legal service specified by the board of regents.

The board of regents may fix the compensation of the attorneys appointed pursuant to this section. Attorneys appointed or retained by contract shall be exempt from chapters 76[,-77,] and 89.”

SECTION 30. Section 304-10.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Management and other support services provided by the research corporation pursuant to this section may include:

- (1) The procurement of goods and services;
- (2) Employment of personnel; and
- (3) The provision of advance funding for research and training contracts and grants.

These services may be provided by the corporation to the university without regard to chapter 76, [77,] 78, 89, or 103D.”

SECTION 31. Section 304-13, Hawaii Revised Statutes, is amended to read as follows:

“**§304-13 Classification schedule.** The board of regents shall classify all members of the faculty of the university including research workers, extension agents, and all personnel engaged in instructional work as defined in section 76-16 and adopt a classification schedule [~~conforming, as nearly as may be practical, to the schedules set forth in chapter 77. The department of human resources development of the State shall, upon the request of the board of regents, render such assistance as may be practicable in connection with such classification. The adjustments of compensation to conform with the classification shall be made in general accordance, so far as may be practical, with chapter 77, relating to state employees.] and compensation plan for these employees.~~

Annual increases of compensation shall be allowable[~~, and shall be allowed, in general accordance, so far as may be practical, with chapter 77, providing for the allowance of annual increases to state employees]~~ for efficient service, and the board of regents shall adopt a fair and reasonable plan for rating the efficiency of individual employees affected by this section.”

SECTION 32. Section 307-4, Hawaii Revised Statutes, is amended to read as follows:

“**§307-4 Research corporation excepted from certain state laws.** In order to carry out the purposes and objectives of the research corporation, including the conduct of research and training projects, the research corporation shall be granted flexibility in hiring its personnel and in handling and disbursing moneys by being excepted from the following state laws:

- (1) Sections 36-27 and 36-30, relating to special fund reimbursements to the state general fund;

- (2) Chapter 103D and section 103-42, relating to advertising for bids and purchases to be made in Hawaii whenever public moneys are expended;
- (3) Chapter 76, relating to civil service; and
- ~~[(4) Chapter 77, relating to compensation; and~~
- ~~(5)]~~ (4) Section 78-1, relating to public employment.”

SECTION 33. Section 307-5, Hawaii Revised Statutes, is amended to read as follows:

“§307-5 Officers and employees of the research corporation. The president of the University of Hawaii shall be the president of the corporation. The board of directors may also appoint such other officers and employees as may be necessary in administering the affairs of the research corporation. It shall set the employees’ duties, responsibilities, salaries, holidays, vacations, leaves, hours of work, and working conditions. It may grant such other benefits to its employees as it deems necessary. Employees of the research corporation shall not be entitled to any benefits conferred under chapter 76 relating to civil service, ~~[chapter 77 relating to compensation, chapters]~~ chapter 78 ~~[to 83]~~ relating to public ~~[employment, and]~~ service, chapter 88 relating to pension and retirement system~~[-], and the appropriate collective bargaining agreement, executive order, executive directive, or rule.~~”

SECTION 34. Section 312-3, Hawaii Revised Statutes, is amended to read as follows:

“§312-3 Exchange of librarians. The board of education may contract for the exchange of librarians with librarians of any state, country, or territory in accordance with this section, except as otherwise provided in section ~~[76-37-]~~ 78-27. Local librarians so exchanged shall be paid their regular salaries out of the funds appropriated for personal services in the library budget for the library concerned. The qualifications of all librarians from any such state, country, or territory so exchanged shall be equal to those of the local librarians exchanged. In the selection of local librarians for exchange, preference shall be given to persons born in the State. The requirements of citizenship shall not apply to any librarian coming to the State from any foreign state, country, or territory under any such contract of exchange. All librarians so exchanged shall furnish their own transportation to and from the state, country, or territory with which exchanged.

No compensation shall be paid by the State to visiting exchange librarians; provided that in any case where the local exchanged librarian becomes incapacitated or, for any reason, leaves the exchanged position permanently, the library concerned may pay the visiting exchange librarian an amount not to exceed the salary rating of the local exchanged librarian, such an arrangement to continue until the end of the period of exchange or until such time as some satisfactory adjustment has been made.”

SECTION 35. Section 321-5, Hawaii Revised Statutes, is amended to read as follows:

“§321-5 Contract for exchange of Hawaii personnel. The department of health may contract with any state, or the health department of any state having the power to so contract, for the exchange of Hawaii personnel for personnel of the health department of any such state. Any such exchange shall be made under rules and regulations prescribed by the department, in no case shall be for a period exceeding one year, and in all cases shall be subject to the following provisions:

- (1) That each person exchanged by the health department of any state shall possess qualifications equal to the qualifications of the person exchanged for him from Hawaii;
- (2) That the person exchanged from Hawaii shall have served for not less than three years prior to beginning of the exchange period in the Hawaii personnel;
- (3) That in the selection of Hawaii personnel for exchange, preference shall be given to persons born in the State;
- (4) That each person exchanged by the health department of any state shall hold in the health department of such state a position the same as or equivalent to the position held by the person exchanged for him from Hawaii;
- (5) That the person exchanged from Hawaii shall be paid his regular salary out of the funds appropriated therefor, but nothing in addition thereto;
- (6) That the State shall not pay any traveling or other expenses of the Hawaii personnel or of the personnel of the health department of any state coming to Hawaii under any contract of exchange. This prohibition shall be construed to include all travel, transportation, board, lodging, or other expenses incidental to or arising out of any exchange;
- (7) That the State shall not pay any compensation to the person coming to Hawaii under any contract of exchange; provided that in any case where the person so exchanged from Hawaii becomes incapacitated, or, for any reason, leaves the exchange position permanently, the department may pay the visiting exchange person an amount not to exceed the salary rating of the person so exchanged from Hawaii, such an arrangement to continue until the end of the period of exchange or until such time as some adjustment satisfactory to the department is made;
- (8) That any provision of law to the contrary notwithstanding, the state requirements in respect to civil service, citizenship, or residence shall not apply to any person coming to Hawaii under any such contract of exchange;
- (9) That [section 78-15] the appropriate collective bargaining agreement, executive order, executive directive, or rule regarding traveling expenses for state officials shall not apply to Hawaii personnel exchanged under this section.

The department may make such rules and regulations as it may deem necessary concerning the powers, rights, functions, conduct, duties, and liabilities of, exercised by or imposed upon any person coming to Hawaii under any contract of exchange.

As used in this section, unless the text clearly otherwise indicates, "Hawaii personnel" means public health nurses, sanitary officers, and medical officers; "state" means any state or territory of the United States, or county or municipality of any such state or territory; and "health department" means the board of health, department of health, president of the board of health, or other public authority authorized by law to administer or administering the public health laws of any state."

SECTION 36. Section 321-245, Hawaii Revised Statutes, is amended to read as follows:

“[§321-245] School health aides. All full-time school health aides employed in the department of health shall be employed [under] and have their compensation fixed in accordance with chapter 76 [and shall have their compensation fixed in accordance with chapter 77;] and the appropriate collective bargaining

agreement, executive order, executive directive, or rule; provided that their compensation shall be based on a six and one-half hour work day and provided further that:

- (1) The monthly rate of compensation for all school health aides employed less than full-time shall be based on the number of hours they actually work;
- (2) The monthly rate of compensation for full-time health aides so determined shall be multiplied by ten and then divided by twelve and the resulting amount shall be the employee's monthly salary payable over a twelve-month period;
- (3) The health aides shall have the same working schedule and leave allowance of school teachers in the department of education."

SECTION 37. Section 323F-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Notwithstanding any other law to the contrary, the corporation shall have and exercise the following duties and powers:

- (1) Developing its own policies, procedures, and rules necessary or appropriate to plan, operate, manage, and control the system of public health facilities and services without regard to chapter 91;
- (2) Evaluating the need for health facilities and services;
- (3) Entering into and performing any contracts, leases, cooperative agreements, or other transactions whatsoever that may be necessary or appropriate in the performance of its purposes and responsibilities, and on terms it may deem appropriate, with either:
 - (A) Any agency or instrumentality of the United States, or with any state, territory, or possession, or with any subdivision thereof; or
 - (B) Any person, firm, association, or corporation, whether operated on a for-profit or not-for-profit basis;
 provided that the transaction furthers the public interest;
- (4) Conducting activities and entering into business relationships as the corporation board deems necessary or appropriate, including but not limited to:
 - (A) Creating nonprofit corporations, including but not limited to charitable fund-raising foundations, to be controlled wholly by the corporation or jointly with others;
 - (B) Establishing, subscribing to, and owning stock in business corporations individually or jointly with others; and
 - (C) Entering into partnerships and other joint venture arrangements, or participating in alliances, purchasing consortia, health insurance pools, or other cooperative arrangements, with any public or private entity; provided that any corporation, venture, or relationship entered into under this section furthers the public interest; provided further that this paragraph shall not be construed to authorize the corporation to abrogate any responsibility or obligation under paragraph (15);
- (5) Participating in and developing prepaid health care service and insurance programs and other alternative health care delivery programs, including programs involving the acceptance of capitated payments or premiums that include the assumption of financial and actuarial risk;
- (6) Executing, in accordance with all applicable bylaws, rules, and laws, all instruments necessary or appropriate in the exercise of any of the corporation's powers;
- (7) Preparing and executing all corporation budgets, policies, and procedures;

- (8) Setting rates and charges for all services provided by the corporation without regard to chapter 91;
- (9) Developing a corporation-wide hospital personnel system that is subject to chapters 76[~~77~~] and 89;
- (10) Developing the corporation's capital and strategic plans;
- (11) Suing and being sued; provided that the corporation shall enjoy the same sovereign immunity available to the State;
- (12) Making and altering corporation board bylaws for its organization and management without regard to chapter 91;
- (13) Adopting rules, without regard to chapter 91, governing the exercise of its powers and the fulfillment of its purpose under this chapter;
- (14) Entering into any contract or agreement whatsoever, not inconsistent with this chapter or the laws of this State, and authorizing the corporation chief executive officer to enter into all contracts, execute all instruments, and do all things necessary or appropriate in the exercise of the powers granted in this chapter, including securing the payment of bonds;
- (15) Issuing revenue bonds subject to the approval of the legislature; provided that all revenue bonds shall be issued pursuant to part III, chapter 39;
- (16) Reimbursing the state general fund for debt service on general obligation bonds or reimbursable general obligation bonds issued by the State for the purposes of the corporation;
- (17) Pledging or assigning all or any part of the receipts and revenues of the corporation for purposes of meeting bond or health systems liabilities;
- (18) Owning, purchasing, leasing, exchanging, or otherwise acquiring property, whether real, personal or mixed, tangible or intangible, and of any interest therein, in the name of the corporation, which property is not owned or controlled by the State but is owned or controlled by the corporation;
- (19) Maintaining, improving, pledging, mortgaging, selling, or otherwise holding or disposing of property, whether real, personal or mixed, tangible or intangible, and of any interest therein, at any time and manner, in furtherance of the purposes and mission of the corporation; provided that the corporation legally holds or controls the property in its own name; and provided further that the corporation shall not sell, assign, lease, hypothecate, mortgage, pledge, give, or dispose of all or substantially all of its property;
- (20) Purchasing insurance and creating captive insurers in any arrangement deemed in the best interest of the corporation, including but not limited to funding and payment of deductibles and purchase of reinsurance;
- (21) Acquiring by condemnation, pursuant to chapter 101, any real property required by the corporation to carry out the powers granted by this chapter;
- (22) Depositing any moneys of the corporation in any banking institution within or without the State, and appointing, for the purpose of making deposits, one or more persons to act as custodians of the moneys of the corporation;
- (23) Contracting for and accepting any gifts, grants, and loans of funds, property, or any other aid in any form from the federal government, the State, any state agency, or any other source, or any combination thereof, and complying, subject to this chapter, with the terms and conditions thereof;

- (24) Providing health and medical services for the public directly or by agreement or lease with any person, firm, or private or public corporation or association through or in the health facilities of the corporation or otherwise;
- (25) Approving medical staff bylaws, rules, and medical staff appointments and reappointments for all public health facilities, including without limitation, determining the conditions under which a health professional may be extended the privilege of practicing within a health facility, and adopting and implementing reasonable rules, without regard to chapter 91, for the credentialing and peer review of all persons and health professionals within the facility;
- (26) (A) Investing any funds not required for immediate disbursement in property or in securities that meet the standard for investments established in chapter 88 as provided by the corporation board; provided the investment assists the corporation in carrying out its public purposes; selling from time to time securities thus purchased and held, and depositing any securities in any bank or financial institution within or without the State. Any funds deposited in a banking institution or in any depository authorized in this section shall be secured in a manner and subject to terms and conditions as the corporation board may determine, with or without payment of any interest on the deposit, including, without limitation, time deposits evidenced by certificates of deposit. Any bank or financial institution incorporated under the laws of this State may act as depository of any funds of the corporation and may issue indemnity bonds or may pledge securities as may be required by the corporation board.
(B) Notwithstanding subparagraph (A), contracting with the holders of any of its notes or bonds as to the custody, collection, securing, investment, and payment of any moneys of the corporation and of any moneys held in trust or otherwise for the payment of notes or bonds and carrying out the contract. Moneys held in trust or otherwise for the payment of notes or bonds or in any way to secure notes or bonds, and deposits of such moneys, may be secured in the same manner as moneys of the corporation, and all banks and trust companies are authorized to give security for the deposits;
- (27) Entering into any agreement with the State including but not limited to contracts for the provision of goods, services, and facilities in support of the corporation's programs, and contracting for the provision of services to or on behalf of the State;
- (28) Having a seal and altering the same at pleasure;
- (29) Waiving, by means that the corporation deems appropriate, the exemption from federal income taxation of interest on the corporation's bonds, notes, or other obligations provided by the Internal Revenue Code of 1986, as amended, or any other federal statute providing a similar exemption;
- (30) Developing internal policies and procedures for the procurement of goods and services, consistent with the goals of public accountability and public procurement practices, but not subject to chapter 103D. However, where possible, the corporation is encouraged to use the provisions of chapter 103D; provided that the use of one or more provisions of chapter 103D shall not constitute a waiver of the exemp-

tion from chapter 103D and shall not subject the corporation to any other provision of chapter 103D;

- (31) Authorizing and establishing positions;
- (32) Calling upon the attorney general for such legal services as the corporation may require; and
- (33) Having and exercising all rights and powers necessary or incidental to or implied from the specific powers granted in this chapter, which specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this chapter.”

SECTION 38. Section 323F-8, Hawaii Revised Statutes, is amended to read as follows:

“**§323F-8 Chief executive officer; exempt positions.** (a) The corporation board may appoint, exempt from [chapters] chapter 76 [and 77] and section 26-35(4), a chief executive officer of the corporation whose salary shall be set by the corporation board. The chief executive officer may also appoint up to eighteen other personnel, exempt from chapters 76[, 77,] and 89, to work directly for the chief executive officer and the corporate board.

(b) The corporation board or its designee may discharge its exempt personnel with or without cause; provided that removal without cause shall not prejudice any contract rights of personnel.

(c) The corporation’s chief executive officer or the chief executive officer’s designee may appoint, exempt from chapters 76[, 77,] and 89, hospital administrators, assistant administrators, directors of nursing, medical directors, and staff physicians, to facilitate the management of facilities within the corporation; provided that directors of nursing appointed before July 1, 1998, may maintain their civil service status as provided in [chapters] chapter 76 [and 77,] by so communicating in writing to the chief executive officer by October 31, 1998. Hospital administrators and assistant administrators appointed before July 1, 1983, may maintain their permanent civil service status as provided in [chapters] chapter 76 [and 77].”

SECTION 39. Section 349-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(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 elders; 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[, 77,] and 89. Effective January 1, 1989, and January 1, 1990, the salary of the director shall be \$56,505 and \$59,048 a year, respectively. The director shall be included in any benefit program generally applicable to the officers and employees of the State.”

SECTION 40. Section 363-2, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) The head of the office shall be known as the director of the office of veterans’ services. The director shall be nominated and appointed by the governor without regard to chapters 76[, 77,] and 89. Effective July 1, 1990, the salary of the director shall be \$59,048 a year. The director shall be included in any benefit program generally applicable to the officers and employees of the State.

(c) The director shall have the following principal functions, duties, and powers:

- (1) Serve as the principal official in state government responsible for the performance, development, and control of programs, policies, and activities under this chapter;
- (2) Oversee, supervise, and direct the performance by the director's subordinates of activities in such areas as planning, evaluation, and coordination of veterans programs and development of a statewide service delivery network;
- (3) Assess the policies and practices of other agencies with respect to delivery of services and benefits to veterans;
- (4) Administer funds allocated for the office, and apply for, receive, and disburse grants and donations from all sources for veterans programs and services provided under this chapter;
- (5) Establish a clearinghouse for complaints of persons regarding services to veterans, or operations of state and county agencies affecting veterans, investigate such complaints, and refer the complaints and the director's findings to the appropriate agency for corrective action;
- (6) Adopt, amend, and repeal rules pursuant to chapter 91 for the purposes of this chapter;
- (7) Employ and retain such staff as may be necessary for the purposes of this chapter, in conformance with chapters 76, ~~{77, and}~~ 89, and the appropriate collective bargaining agreements, executive orders, executive directives, or rules, except for the position of coordinator and executive secretary to the director, who shall be hired without regard to chapters 76~~{, 77,}~~ and 89; ~~[and]~~
- (8) Contract for or grant such services as may be necessary for the purposes of this chapter, including a master contract with other state agencies receiving federal and state funds for programs and services for veterans, and purchase of service agreements with appropriate agencies; and
- (9) Oversee the development, establishment, and operation of a state veterans cemetery on Oahu; develop and administer the policies and procedures of the state veterans cemetery in accordance with the United States Veterans Administration and existing state guidelines; oversee the maintenance of state veterans cemeteries on all islands."

SECTION 41. Section 371-4, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

"(f) The chairperson of the appeal board shall be responsible for the administrative functions of the appeal board. The appeal board may:

- (1) Appoint an executive officer and employ other employees as it deems necessary in the performance of its functions;
- (2) Set the duties and compensation of the executive officer and employees; and
- (3) Provide for the reimbursement of actual and necessary expenses incurred by the executive officer and employees in the performance of their duties, within the amounts made available by appropriations therefor.

Members of the appeal board and employees other than clerical and stenographic employees shall be exempt from chapters 76~~{, 77,}~~ and 89. Clerical and stenographic employees shall be employed in accordance with ~~[e]hapters~~ chapter 76 ~~[and 77].~~"

SECTION 42. Section 377-3, Hawaii Revised Statutes, is amended to read as follows:

“§377-3 Conciliator. In the event the board receives information that a labor dispute exists and determines that the dispute is within its jurisdiction and that the possibility of settlement and termination of the dispute may be increased by conciliation, the board shall so notify the governor.

Upon receipt of the notice, the governor shall appoint, as conciliator with respect to the dispute, a person who is well known in the community as being impartial to both labor and industry, and shall so notify the board. The position of conciliator shall not be subject to ~~[chapter]~~ chapters 76~~[, but the compensation thereof shall be determined pursuant to chapter 77.]~~ and 89.

Upon receipt of notice of the appointment of a conciliator, the board shall forthwith refer the dispute to the conciliator. The conciliator shall use the conciliator's best efforts to terminate the dispute by conciliation within the ten days immediately succeeding the reference of the dispute to the conciliator or within such additional time, not to exceed ten days, as is agreed upon by all parties to the dispute. If, within the ten days, or the additional time, if any, the conciliator succeeds in terminating the dispute by conciliation, the conciliator shall immediately certify such fact to the board and the conciliator's appointment shall then end. If, within the ten days, or the additional time, if any, the conciliator fails to terminate the dispute by conciliation, the conciliator shall immediately certify such fact to the board and the conciliator's appointment shall then end. Upon the termination of the appointment of the conciliator, the board shall so notify the governor.”

SECTION 43. Section 608-1, Hawaii Revised Statutes, is amended to read as follows:

“§608-1 Personnel and expenses of circuit courts. The State shall pay the expenses of the several circuit courts and the salaries of such officers and employees as may be required by such courts, including without prejudice to the generality of the foregoing, expenses of the family courts and agencies thereof. The judge or judges of the several circuit courts shall appoint such officers and employees as may be required by the courts and for which appropriations have been made by the legislature; provided that the officers and employees of the family court of the first circuit, including without prejudice to the generality of the foregoing probation officers, truant officers, and personnel of the detention home, shall be appointed by the judge of the family court under whose supervision the appropriations for the division shall be expended. Except as otherwise provided, the officers and employees shall be members of the civil service system of the State and shall be ~~[chosen in conformity with part II of chapter 76, and the compensation for and classification of the positions held by such persons shall be in accordance with part I of chapter 77.]~~ subject to chapter 76 and the appropriate collective bargaining agreement, executive order, executive directive, or rule.”

SECTION 44. Section 608-2, Hawaii Revised Statutes, is amended to read as follows:

“§608-2 District court, salaries, expenses, etc. The salaries of the district judges, clerks, and other assistants and the expenses of the district judges shall be paid by the State. The judges shall have power to appoint such additional officers or employees as may be required by the courts and for which appropriations have been made by the legislature. Except as otherwise provided, such officers and employees

shall be subject to ~~[part II of]~~ chapter 76 and ~~[part I of chapter 77.]~~ the appropriate collective bargaining agreement, executive order, executive directive, or rule.”

SECTION 45. Section 612-51, Hawaii Revised Statutes, is amended to read as follows:

“**§612-51 Grand jury counsel; appointment and removal.** The chief justice of the state supreme court shall appoint one or more grand jury counsel for the four judicial circuits of the State, without regard to chapters 76~~[, 77,]~~ and 89. Right to removal shall rest with the chief justice.”

SECTION 46. Section 802-11, Hawaii Revised Statutes, is amended to read as follows:

“**§802-11 Appointment of state public defender.** The state public defender shall be appointed by the defender council without regard to chapters 76~~[, 77,]~~ and 89. The state public defender’s appointment shall be for a term of four years except as otherwise provided herein, and until the state public defender’s successor is appointed and qualified. The state public defender shall be qualified to practice law before the supreme court of this State. Effective January 1, 1989, and January 1, 1990, the salary of the state public defender shall be set by the governor within the range from \$69,748 to \$74,608 and \$72,886 to \$77,966 a year, respectively. The state public defender shall devote full time to the performance of the state public defender’s duties and shall not engage in the general practice of law.”

SECTION 47. Section 846-21, Hawaii Revised Statutes, is amended to read as follows:

“**§846-21 Authority of attorney general.** The attorney general shall carry out this part. In conformity with chapter 76, the attorney general may appoint such subordinates, at such compensation, within the limits of available appropriations therefor ~~[and in conformity with chapter 77]~~, or without compensation, as may be necessary or proper to carry out this part, and, the attorney general may delegate to such subordinates such of the attorney general’s powers and duties as may be necessary for the efficient administration of this part.”

SECTION 48. Section 202 of the Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (b) to read as follows:

“(b) The provisions of section 76-16, Hawaii Revised Statutes, shall apply to the positions of first deputy and private secretary to the chairman of the commission. The department may hire temporary staff on a contractual basis not subject to chapters 76~~[, 77,]~~ and 78, Hawaii Revised Statutes, when the services to be performed will assist in carrying out the purposes of the Act. These positions may be funded through appropriations for capital improvement program projects and by the administration account, operating fund, or native Hawaiian rehabilitation fund. No contract shall be for a period longer than two years, but individuals hired under contract may be employed for a maximum of six years; provided that the six-year limitation shall not apply if the department, with the approval of the governor, determines that such contract individuals are needed to provide critical services for the efficient functioning of the department. All other positions in the department shall be subject to ~~[chapters]~~ chapter 76 ~~[and 77]~~, Hawaii Revised Statutes.

All ~~[vacancies]~~ vacant and new civil service positions ~~[which are]~~ covered by ~~[chapters]~~ chapter 76 ~~[and 77]~~, Hawaii Revised Statutes, shall be filled in accordance with ~~[sections 76-23 and 76-31,]~~ section 76-22.5, Hawaii Revised Statutes~~;~~ pro-

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vided that the provisions of these sections shall be applicable first to qualified persons of Hawaiian extraction.”

SECTION 49. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 50. This Act shall take effect on July 1, 2002.

(Approved June 7, 2002.)