

§76-77 Civil service and exemptions. The civil service to which this part applies comprises all positions in the public service of each county, now existing or hereafter established, and embraces all personal services performed for each county, except the following:

- (1) Positions in the office of the mayor; provided that the positions shall be included in the classification systems;
- (2) Positions of officers elected by public vote, positions of heads of departments, and positions of one first deputy or first assistant of heads of departments;
- (3) Positions of deputy county attorneys, deputy corporation counsel, deputy prosecuting attorneys, and law clerks;
- (4) Positions of members of any board, commission, or agency;
- (5) Positions filled by students; positions filled through federally funded programs which provide temporary public service employment such as the federal Comprehensive Employment and Training Act of 1973; and employees engaged in special research or demonstration projects approved by the mayor, for which projects federal funds are available;
- (6) Positions of district judges, jurors, and witnesses;
- (7) Positions filled by persons employed by contract where the personnel director has certified that the service is special or unique, is essential to the public interest, and that because of the circumstances surrounding its fulfillment, personnel to perform the service cannot be recruited through normal civil service procedures; provided that no contract pursuant to this paragraph shall be for any period exceeding one year;
- (8) Positions of a temporary nature needed in the public interest where the need does not exceed ninety days; provided that before any person may be employed to render temporary service pursuant to this paragraph, the director shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable; and provided further that the employment of any person pursuant to this paragraph may be extended for good cause for an additional period not to exceed ninety days upon similar certification by the director;
- (9) Positions of temporary election clerks in the office of the county clerk employed during election periods;
- (10) Positions specifically exempted from this part by any other state statutes;
- (11) Positions of one private secretary for each department head; provided that the positions shall be included in the classification systems;
- (12) 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, if any, and whose duties require only a portion of their time, where it is impracticable to ascertain or anticipate the portion of time devoted to the service of the county and that fact is certified by the director;
- (13) Positions filled by persons with a severe disability who are certified by the state vocational rehabilitation office as able to safely perform the duties of the positions;
- (14) Positions of the housing and community development office or department of each county; provided that this exemption shall not preclude each county from establishing these positions as civil service positions;
- (15) The following positions in the office of the prosecuting attorney: private secretary to the prosecuting attorney, secretary to the first deputy prosecuting attorney, and administrative or executive assistants to the prosecuting attorney; provided that the positions shall be included in the classification systems; and
- (16) Positions or contracts for personal services with private persons or entities for services lasting no more than one year and at a cost of no more than \$750,000; provided that the exemption under this paragraph shall apply to contracts for building, custodial, and grounds maintenance services with qualified community rehabilitation programs, as defined in section 103D-1001, lasting for no more than a year and at a cost of no more than \$850,000.

The director shall determine the applicability of this section to specific positions and shall determine whether or not positions exempted by paragraphs (7) and (8) shall be included in the classification

systems.

Nothing in this section shall be deemed to affect the civil service status of any incumbent private secretary of a department head who held that position on May 7, 1977. [L 1955, c 274, pt of §1; RL 1955, §3-61; am L 1957, c 42, §1, c 156, §1(3), and c 207, §1(g), (h); am L 1967, c 160, §3; HRS §76-77; am L 1970, c 188, §39; am L 1977, c 61, pt of §1; am L 1980, c 111, §3; am L 1987, c 371, §1; am L 1990, c 219, §3 and c 233, §2; am L 1991, c 192, §1; am L 1992, c 33, §2; am L 2000, c 253, §35; am L 2007, c 191, §1; am L 2008, c 213, §1]

Attorney General Opinions

Provisions of civil service laws construed in light of Konno v. County of Hawaii decision for purposes of privatization. Att. Gen. Op. 97-6.

Case Notes

Provisions of the Maui Charter in conflict with this section are invalid. 59 H. 65, 576 P.2d 1029.

Civil service, as defined by this section, encompasses those services that have been customarily and historically provided by civil servants. 85 H. 61, 937 P.2d 397.

Landfill worker positions were within civil service where position not specifically exempted by another statute as provided by paragraph (10) and §46-85 mentions nothing about civil service nor does it include a specific exemption. 85 H. 61, 937 P.2d 397.

Where, under this section, landfill worker positions were within civil service, and thus governed by merit principles under article XVI, §1 of Hawaii constitution, county violated Hawaii constitution and civil service statutes when it privatized new landfill operation. 85 H. 61, 937 P.2d 397.

[Previous](#)

[Vol02_Ch0046-0115](#)

[Next](#)