
Study of the Civil Service Exemption Process

A Report to the
Governor
and the
Legislature of
the State of
Hawai'i

Report No. 14-09
October 2014



THE AUDITOR
STATE OF HAWAI'I

Office of the Auditor

The missions of the Office of the Auditor are assigned by the Hawai'i State Constitution (Article VII, Section 10). The primary mission is to conduct post audits of the transactions, accounts, programs, and performance of public agencies. A supplemental mission is to conduct such other investigations and prepare such additional reports as may be directed by the Legislature.

Under its assigned missions, the office conducts the following types of examinations:

1. Financial audits attest to the fairness of the financial statements of agencies. They examine the adequacy of the financial records and accounting and internal controls, and they determine the legality and propriety of expenditures.
2. Management audits, which are also referred to as performance audits, examine the effectiveness of programs or the efficiency of agencies or both. These audits are also called program audits, when they focus on whether programs are attaining the objectives and results expected of them, and operations audits, when they examine how well agencies are organized and managed and how efficiently they acquire and utilize resources.
3. Sunset evaluations evaluate new professional and occupational licensing programs to determine whether the programs should be terminated, continued, or modified. These evaluations are conducted in accordance with criteria established by statute.
4. Sunrise analyses are similar to sunset evaluations, but they apply to proposed rather than existing regulatory programs. Before a new professional and occupational licensing program can be enacted, the statutes require that the measure be analyzed by the Office of the Auditor as to its probable effects.
5. Health insurance analyses examine bills that propose to mandate certain health insurance benefits. Such bills cannot be enacted unless they are referred to the Office of the Auditor for an assessment of the social and financial impact of the proposed measure.
6. Analyses of proposed special funds and existing trust and revolving funds determine if proposals to establish these funds are existing funds meet legislative criteria.
7. Procurement compliance audits and other procurement-related monitoring assist the Legislature in overseeing government procurement practices.
8. Fiscal accountability reports analyze expenditures by the state Department of Education in various areas.
9. Special studies respond to requests from both houses of the Legislature. The studies usually address specific problems for which the Legislature is seeking solutions.

Hawai'i's laws provide the Auditor with broad powers to examine all books, records, files, papers, and documents and all financial affairs of every agency. The Auditor also has the authority to summon persons to produce records and to question persons under oath. However, the Office of the Auditor exercises no control function, and its authority is limited to reviewing, evaluating, and reporting on its findings and recommendations to the Legislature and the Governor.



THE AUDITOR

STATE OF HAWAII

Kekuanao'a Building
465 S. King Street, Room 500
Honolulu, Hawai'i 96813

Study of the Civil Service Exemption Process

A Report to the
Governor
and the
Legislature of
the State of
Hawai'i

Submitted by

THE AUDITOR
STATE OF HAWAI'I

Report No. 14-09
October 2014



Office of the Auditor
465 S. King Street
Rm. 500
Honolulu, HI 96813
Ph. (808) 587-0800

Jan K. Yamane
Acting State Auditor
State of Hawai'i

Of the 6,714 exempt positions, 4,047 are casual exempt positions, which include Stadium Authority hires, student helpers, and work experience positions.

Recommendations

Response

Prior Audits

For the full text of this and other reports, visit our website:
<http://auditor.hawaii.gov/>

Study of the Civil Service Exemption Process

Report No. 14-09, October 2014

DHRD appropriately guides departmental processes for exempt positions and job descriptions

This study of the civil service exemption process is pursuant to Act 199, Session Laws of Hawai'i 2014. As requested by the Legislature, we reviewed the Department of Human Resources Development's (DHRD) current civil service exemption and position description processes. The *Civil Service Law*, Chapter 76, Hawai'i Revised Statutes, establishes a system of personnel administration in the State and each of the counties that is based on the merit principle. Hiring by merit helps government create a career service that is free from coercive political influences; however, state law has always recognized civil service exempt positions and employees and specifically provides exceptions. Although seemingly at odds with the merit principle, exempt positions are either mandated or permitted by law and provide a wide range of services in state government. They include Hawai'i National Guard personnel, contract and legislative positions, department heads, deputies, deputy attorneys general, Office of the Governor employees, and others.

As of July 1, 2014, DHRD's jurisdiction consisted of 21,783 positions, of which 15,069 were civil service and 6,714 exempt. Of the 6,714 exempt positions, approximately two-thirds were vacant (4,512). In addition, DHRD has identified approximately 500 exempt positions for conversion to civil service positions over the next biennium. We found that new exempt positions are being established as existing ones are converted. But the number of these new exempt positions created annually has generally decreased over the last five years.

DHRD's process to convert civil service exempt positions is appropriately applied by executive departments

We found that DHRD has delegated authority to departments to establish most exempt positions, as well as to assign exempt positions to a civil service class. Departments convert exempt positions to civil service positions as appropriate and permitted by law. DHRD provides guidance on these processes via policies and procedures, including procedures to appoint exempt employees to replacement civil service positions.

Executive departments create and update position descriptions using DHRD's guidance

Executive departments are responsible for preparing and updating position descriptions as necessary for every authorized position. A new position description must be drafted when establishing a new position and updated when significant changes in work occur. A position description is the official written record of the major duties and responsibilities assigned to a position. We found that DHRD provides departments with guidance and tools to write position descriptions, as well as a position description template. Departmental staff we interviewed provide their divisions and programs with DHRD's workbook to use when creating position descriptions.

Prior to recruiting and hiring staff, departments create and update position descriptions, as appropriate, and prepare the necessary documents. Department directors are delegated the authority to approve positions for hire except for excluded managerial compensation plan and general professional class positions. The departments we interviewed told us they update position descriptions for new hires and do not use old position descriptions.

Agency responses

On September 26, 2014, we transmitted a draft of this report to the Department of Human Resources Development. In its response, the department agreed with our report, including our recommendation, and did not provide any comments.

Foreword

This is a report on our study of the civil service exemption process pursuant to Act 199, Session Laws of Hawai‘i 2014. As requested by the Legislature, we reviewed the Department of Human Resources Development’s current civil service exemption and position descriptions processes.

We wish to express our appreciation for the cooperation and assistance extended by the officials and staff of the Department of Human Resources Development, the Department of Business, Economic Development and Tourism, the Department of Budget and Finance, and the Department of Commerce and Consumer Affairs, and other organizations and individuals we contacted during the course of our project.

Jan K. Yamane
Acting State Auditor

Table of Contents

Chapter 1 Introduction

Background.....	1
Prior Reports.....	6
Objectives of the Study.....	6
Scope and Methodology	7

Chapter 2 DHRD Appropriately Guides Departmental Processes for Exempt Positions and Job Descriptions

Summary of Findings	9
DHRD's Process to Convert Civil Service Exempt Position Is Appropriately Applied by the Executive Departments in Its Jurisdiction.....	9
Executive Departments Create and Update Position Descriptions Using DHRD's Guidance	20
Conclusion.....	23
Recommendations.....	23

List of Appendices

Appendix A Legislative Requests and DHRD Reports	25
--	----

Response of the Affected Agency.....	27
--------------------------------------	----

List of Exhibits

Exhibit 1.1 Department of Human Resources Development Organization Chart.....	4
Exhibit 1.2 DHRD's Process to Establish an Exempt Position.....	5
Exhibit 2.1 Breakdown by Type of Exempt Positions in DHRD's Jurisdiction as of July 1, 2014.....	11
Exhibit 2.2 Number of Filled and Vacant Exempt Positions.....	11
Exhibit 2.3 Status of 500 Permissive Exempt Position Conversions as of July 1, 2014	12

Exhibit 2.4	Number of Mandatory and Permissive Exempt Positions After Conversion of Approximately 500 Permissive Exempt Positions	13
Exhibit 2.5	New Exempt Positions Established, FY2010–FY2014	14
Exhibit 2.6	HRD-1 Form (Position Action Form)	16
Exhibit 2.7	HRD 280 Form (Appointment of Exempt Employee to Replacement Civil Service Position Employee Election Form)	17
Exhibit 2.8	Flowchart of the Conversion Process for Delegated and Non-Delegated Authority	19
Exhibit 2.9	Delegated and Non-Delegated Process for Creating New Civil Service Position Descriptions	22

Chapter 1

Introduction

Act 199, Session Laws of Hawai‘i (SLH) 2014, requires the State Auditor to review the current civil service exemption process and recommend procedures, guidelines, and criteria to ensure that it is used appropriately and only in extraordinary circumstances. The act requests that the Auditor (1) determine the reasons state and county departments and agencies have used the civil service exemption process; and (2) recommend modifications to streamline and update the process for modernizing and reconciling position descriptions within state and county departments and agencies to accurately reflect the duties that employees are expected to perform.

Background

The *Civil Service Law*, Chapter 76, Hawai‘i Revised Statutes (HRS), establishes a system of personnel administration in the State and each of the counties that is based on the merit principle. The *merit principle* is the selection of persons according to their fitness and ability for public employment and the retention of employees based on their demonstrated appropriate conduct and productive performance. Hiring by merit helps government create a career service that is free from coercive political influences, enabling it to provide impartial service to the public at all times.

The civil service law covers all State and county agency employees except those exempted by Section 76-16, HRS (*Civil service and exemptions*), which includes administrative and instructional staff at the Department of Education and the University of Hawai‘i. Also, Sections 46-33 (*Exemption of certain county positions*) and 76-77 (*Civil service and exemptions*), HRS, specify certain civil service exemptions for public service positions in each county.

State legislative actions

Act 253, SLH 2000 (effective July 1, 2002), affirmed the State’s policy that its positions and personal services should be covered by civil service unless specifically exempted. The act also sought to determine the composition of the exempt service and directed the Department of Human Resources Development (DHRD) to submit a yearly report of positions that were permanently exempted from the civil service prior to July 2002. The Legislature reiterated its request for such a report in House Concurrent Resolution 94, House Draft 1, Regular Session of 2003, and again in Act 128, SLH 2004. Act 128 also allowed exempt employees with at least six consecutive years of satisfactory service to

apply for civil service positions through internal recruitments; however, the act was later repealed on July 1, 2006.

Also in 2006, Act 300 (SLH 2006) placed restrictions on creating civil service exempt positions and required such positions to be reviewed annually to determine whether they should remain exempt or be converted to civil service status. The act also directed DHRD and the Hawai'i Government Employees Association (HGEA) to work collaboratively to establish a logical, workable, and fair process for converting exempt positions to civil service positions. HGEA represents state and county employees who belong to collective bargaining units. Act 300 also granted rights to certain exempt employees to remain exempt from civil service or be appointed without competition to a replacement civil service position.

Civil service exemption

Section 76-16(b), HRS, identifies 27 categories of positions that are exempt from civil service. They include Hawai'i National Guard personnel, contract and legislative positions, department heads, deputies, first assistants, deputy attorneys general, Department of Education certificated personnel, Office of the Governor employees, and others.

DHRD has delegated to all executive department directors the authority to establish and approve exempt positions for 23 of the 27 exemption categories. Excluded from delegation are positions filled by persons employed by contract; positions needed to comply with an existing court order or decree; and employees who engage in special, research, or demonstration projects approved by the governor.

State personnel systems in the executive branch

The executive branch has four independent personnel systems:

1. The personnel system administered by DHRD, which includes executive branch employees in both civil service and exempt positions;
2. The Department of Education (DOE) system, which includes civil service and exempt employees, employees who provide support services in classrooms (for example, educational assistants, speech pathologists, etc.), and teachers and educational officers;
3. The University of Hawai'i (UH) system, administered by the Board of Regents, which includes faculty; graduate assistants; lecturers; administrative, professional, and technical staff; and executive/managerial employees. UH's civil service employees are included in

the UH personnel data system but are employed pursuant to DHRD policies, procedures, and oversight; and

4. The personnel system administered by the Hawai'i Health Systems Corporation (HHSC), which includes employees in civil service and exempt positions.

As of June 30, 2013, there were 49,746 civil service and exempt employees within all four executive branch personnel systems. DHRD's personnel system included 14,254 employees, of which 1,919 were exempt employees.

Department of Human Resources Development

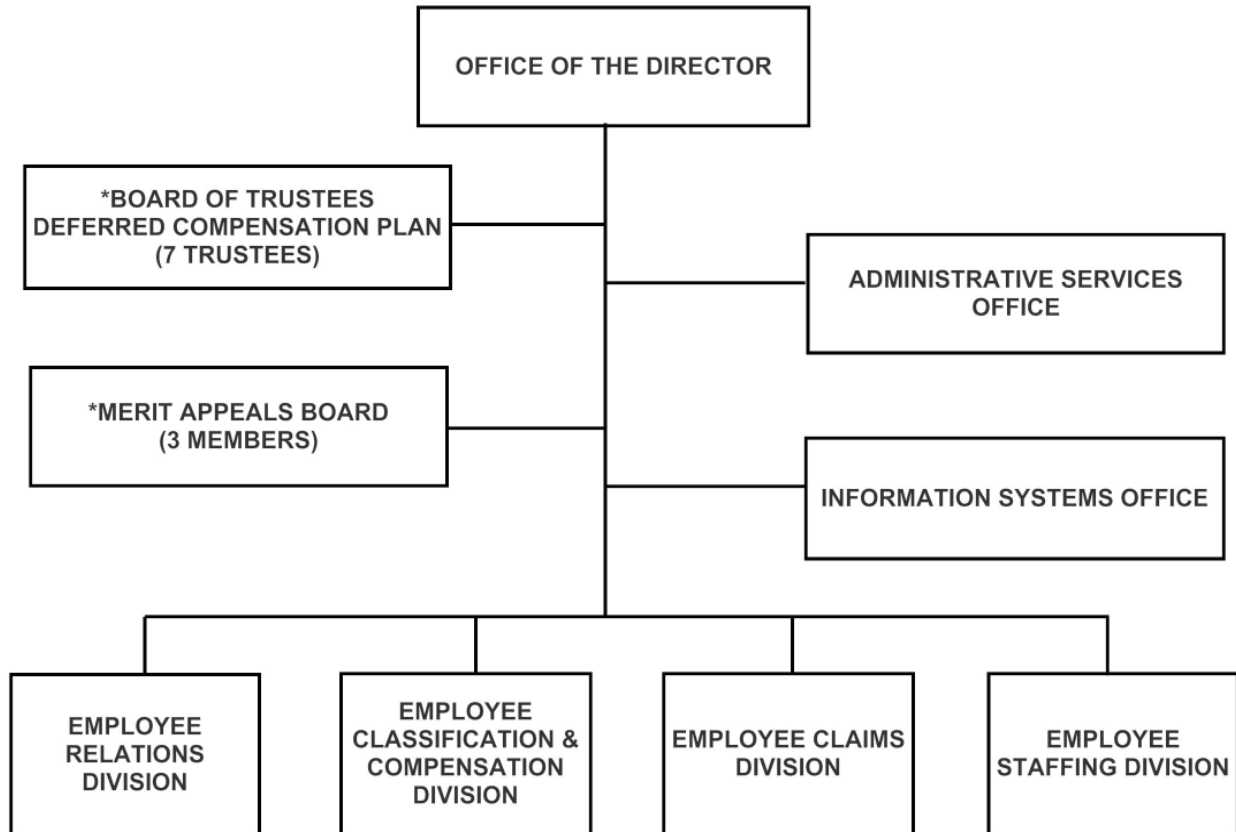
As the State's central human resources agency, DHRD administers the human resources program for all executive branch employees (except for the Department of Education, University of Hawai'i, and Hawai'i Health Systems Corporation). DHRD is headed by the director of human resources development.

The department comprises four divisions: (1) Employee Classification and Compensation Division, (2) Employee Staffing Division, (3) Employee Claims Division, and (4) Employee Relations Division. DHRD also has two offices that provide support services (Administrative Services Office and Information Systems Office) and two administratively attached agencies (Merit Appeals Board and the Board of Trustees Deferred Compensation Plan). Exhibit 1.1 displays the Department of Human Resources Development organizational structure.

The Employee Classification and Compensation Division (ECCD) develops and administers classification and compensation systems for civil service positions, including establishing and maintaining classes of work and their experience and training requirements. In addition, the division prices classes and assigns positions to classes, bargaining units, and other administrative units. *Class* refers to a group of positions that reflect sufficiently similar duties and responsibilities so the same title and pay range may apply to each position allocated to the class. The division also develops and administers statewide human resource programs for the exempt service positions and employees excluded from collective bargaining.

Exhibit 1.1

Department of Human Resources Development Organization Chart



*Administratively attached

Source: Department of Human Resources Development

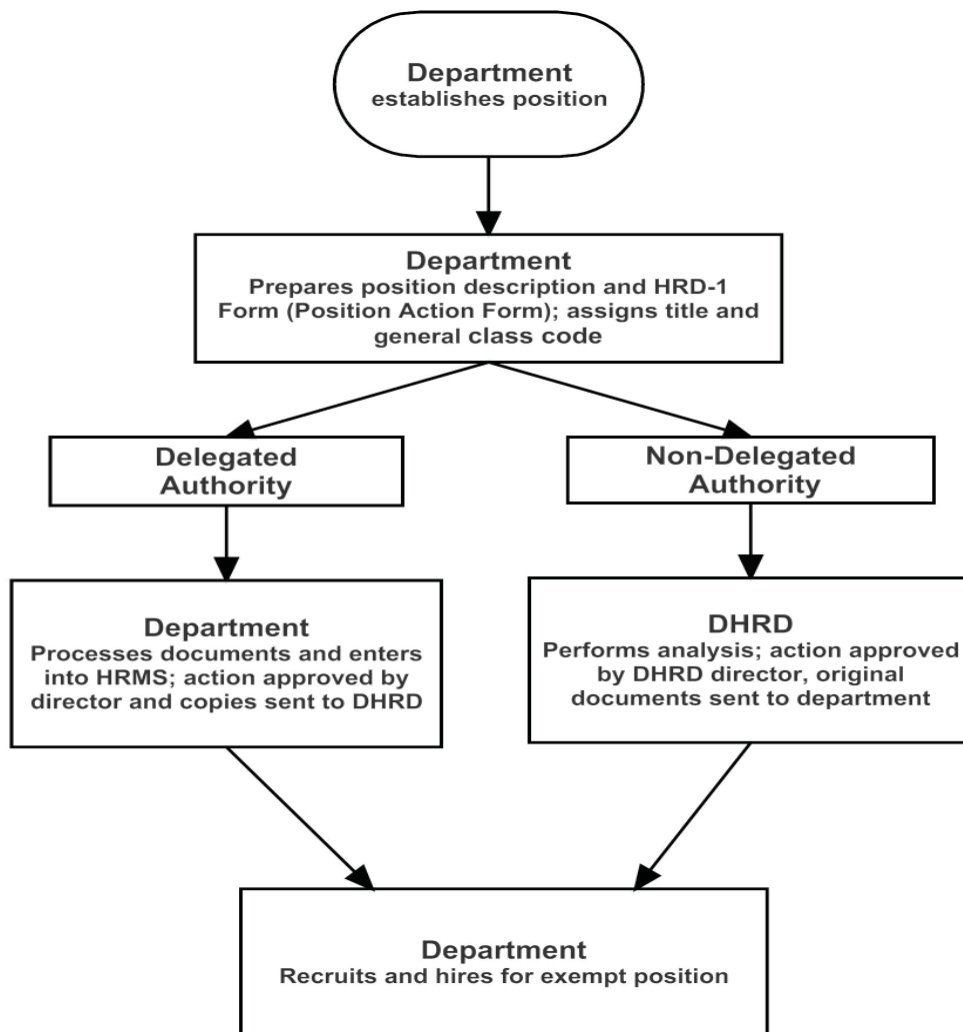
The Employee Staffing Division develops and administers statewide recruitment and examination programs. The Employee Claims Division plans and administers the statewide workers' compensation program, claims management, return-to-work program, and safety program. The Employee Relations Division establishes statewide policies, procedures, programs, and services that provide guidance and support to executive branch departments with regard to employment issues.

Establishing an exempt position

Most exempt positions are established by executive departments. To establish an exempt position, an executive branch department prepares a position description and HRD-1 Form (Position Action Form) and assigns a title and general class code. If the department has been delegated authority by DHRD to establish the exempt position, the department processes the documents, enters the information into the HRMS (Human Resource Management System), and the position is approved by the department's director. The department forwards copies

of the documents to DHRD to file then recruits and hires for the exempt position. If the department lacks delegated authority, DHRD analyzes the position, seeks approval from the DHRD director, then forwards the documents to the department to recruit and hire staff. Exhibit 1.2 shows DHRD's process to establish an exempt position.

Exhibit 1.2
DHRD's Process to Establish an Exempt Position



Source: Office of the Auditor based on information from the Department of Human Resources Development

Preparing and updating position descriptions

Departments are responsible for preparing and updating position descriptions for every authorized position, but DHRD provides departments with a position description template. For new exempt positions, departments create a position description, prepare an HRD-1 Form, establish a position number, and forward copies of the documents to DHRD for its files. For most civil service positions, departments

prepare the same documents for DHRD's review. DHRD evaluates and takes action as requested, then returns copies of the documents to the department. DHRD performs random post-audits on civil service position descriptions.

DHRD reports on exempt positions and exempt employees

Through various legislative actions from 2000–2006, the Legislature required DHRD to report on exempt positions. DHRD reported that between 2005–2013, 350 exempt positions were converted to civil service. As of November 2013, there were 6,935 exempt positions remaining within all executive departments under DHRD's jurisdiction.

DHRD is also required to provide the Legislature a workforce demographic profile report, which includes data on the entire executive branch workforce, including both civil service employees and exempt employees. As of June 30, 2013, there were 1,919 exempt employees within DHRD's personnel system.

Prior Reports

This is our first study of the civil service exemption process. However, in our 1994 Report No. 94-23, *Audit of the Process of Staffing State Programs*, we described DHRD's staffing process and the roles and responsibilities of line agencies, DHRD, and the Department of Budget and Finance. We also outlined the two basic processes for establishing and filling positions—the civil service process and exempt process.

In our 2005 Report No. 05-12, *Audit of Selected Hiring Policies and Practices of the Executive Branch of Government*, we focused on the executive branch's hiring practices for positions under Section 76-16(b)(12), HRS (special, research, and demonstration projects). We found that the executive branch had not managed or monitored the use of exempt, deployed, or unauthorized positions. We also found that criteria were lacking regarding the executive branch's hiring policies and practices.

Objectives of the Study

1. Determine whether the Department of Human Resources Development's process to convert civil service exempt positions is appropriately applied as provided by law to exempt employees in public service in its jurisdiction.
2. Describe departmental implementation of DHRD's job position description process.
3. Make recommendations as appropriate.

Scope and Methodology

Act 199, SLH 2014, includes a broad request to review state and county governments consisting of the executive departments under DHRD's jurisdiction, Department of Education, University of Hawai'i, Hawai'i Health Systems Corporation, Judiciary, legislative branch, and the four counties (Honolulu, Hawai'i, Kaua'i, and Maui).

After completing our preliminary work, we focused our study on DHRD and the executive departments under DHRD's jurisdiction. Our reasoning was that DHRD administers the state personnel program and is responsible for proper application of the State's civil service law. Also, DHRD develops and adopts policies and procedures, rules, standards, guidelines, and procedures applicable to state service. DHRD also works with diverse exempt positions within the departments under its jurisdiction. Finally, DHRD compiles and reports its own information, making its data reliable. However, in its reports of other jurisdictions' information, DHRD neither monitors nor verifies information. Given these factors, we focused on DHRD's current processes for establishing and converting exempt positions to civil service and creating and updating position descriptions.

We selected three executive branch departments to interview regarding their application of DHRD's exempt conversion process and implementation of DHRD's job position description process: the Department of Budget and Finance; the Department of Business, Economic Development and Tourism; and the Department of Commerce and Consumer Affairs. These departments were selected based on their ratio of exempt to civil service employees. Most of their exempt employees were exempted either by Section 76-16(b)(12), HRS (positions engaged in special projects approved by the governor), or Section 76-16(b)(17), HRS (positions exempted by other law).

We reviewed policies, documents, reports, and information from DHRD and applicable sections of Hawai'i law and rules. We conducted interviews with department personnel and other parties as appropriate. We also conducted interviews with other executive departments' personnel to determine their application of DHRD's process.

Since our study of the civil service exemption process is a non-audit service, it was not conducted according to generally accepted government auditing standards (GAGAS). GAGAS does recommend, however, that audit organizations communicate with requestors and those charged with governance to clarify that the work does not constitute an audit in accordance with GAGAS, which we have done. Our study was performed between May 2014 and August 2014 according to the Office of the Auditor's *Manual of Guides*.

This page is intentionally left blank.

Chapter 2

DHRD Appropriately Guides Departmental Processes for Exempt Positions and Job Descriptions

Hawai‘i’s long-standing policy requires the State and counties to establish and maintain civil service systems based on the merit principle; however, state law has always recognized exempt positions and employees, and over the years, the types of exemptions have expanded. In the past, legislative concern about inappropriate use of exempt positions spurred a request to the Auditor to describe the hiring policies and practices of the State’s executive branch. At present, Act 199 (Session Laws of Hawai‘i 2014) asks that we study why departments have used the civil service exemption process and recommend modifications to the position description process.

Summary of Findings

1. The Department of Human Resource Development’s (DHRD) process to convert civil service exempt positions is appropriately applied by the executive departments in its jurisdiction.
2. Executive departments create and update position descriptions using DHRD’s guidance.

DHRD’s Process to Convert Civil Service Exempt Positions Is Appropriately Applied by the Executive Departments in Its Jurisdiction

Through our work with DHRD and selected executive branch departments, we determined that responsibility for exempt positions rests largely with departments. DHRD has delegated authority to departments to establish most exempt positions, as well as to assign exempt positions to a civil service class. Departments convert exempt positions as appropriate and permitted by law. DHRD provides guidance on these processes via policies and procedures, including procedures to appoint exempt employees to replacement civil service positions.

As exempt positions are converted to civil service, new exempt positions are being established

As of July 1, 2014, DHRD's jurisdiction consisted of 21,783 positions, of which 15,069 were civil service and 6,714 exempt. Of the 6,714 exempt positions, however, approximately two-thirds were vacant (4,512). Moreover, DHRD has identified approximately 500 exempt positions for conversion to civil service positions over the next biennium. As a result, the number of exempt positions should be decreasing; however, we found that new exempt positions are being established as existing ones are converted. But we also found the number of new exempt positions created annually has generally decreased over the last five years.

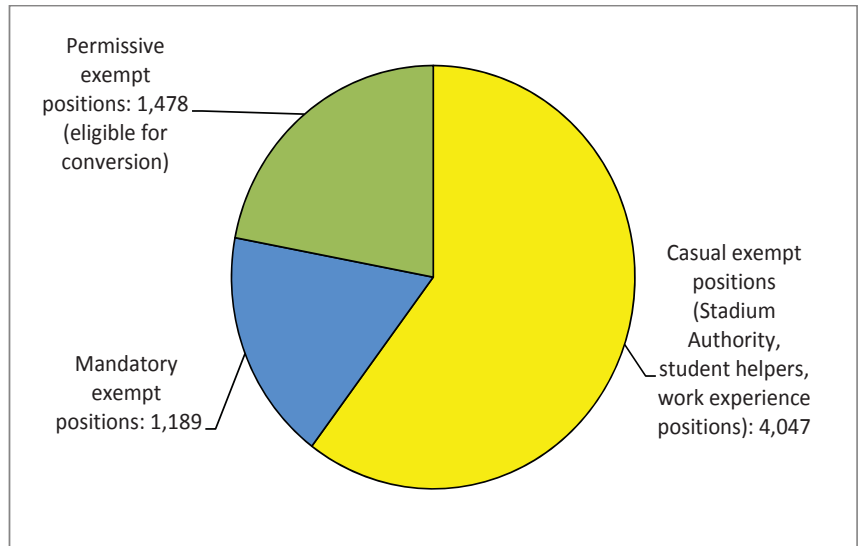
Of 6,714 exempt positions, approximately two-thirds are vacant and 500 will be converted over the next biennium

Exempt positions include both regular and casual positions. A *casual* position is typically one where incidental workers provide services intermittently and irregularly, such as event staff at the Aloha Stadium. *Mandatory* exempt positions are created by law and cannot be converted because of a statutory mandate for exemption; *permissive* exempt positions are created at the discretion of executive departments and may be converted to civil service. There are 2,667 regular exempt positions, including 1,189 mandatory exempt positions and 1,478 permissive exempt positions.

Casual exempt positions—which total 4,047 positions—include Stadium Authority, student helpers, and work experience positions. As casual hires, these positions are not suitable for conversion to civil service. Thus, of the total 6,714 exempt positions, only 1,478 permissive exempt positions (22 percent) may be considered for conversion. Exhibit 2.1 shows a breakdown of exempt positions in DHRD's jurisdiction.

Exhibit 2.1

Breakdown by Type of Exempt Positions in DHRD's Jurisdiction as of July 1, 2014

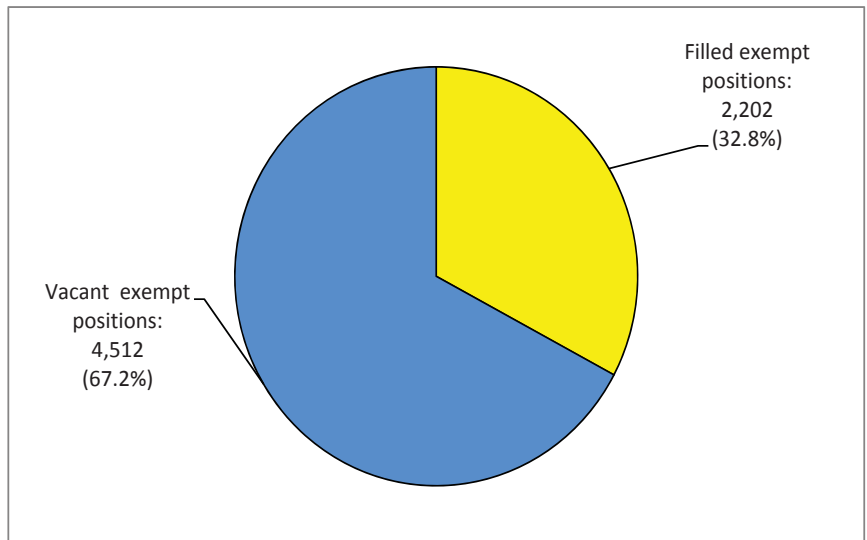


Source: Department of Human Resources Development

Of the 6,714 regular and casual exempt positions, 2,202 (32.8 percent) exempt positions are filled. The remaining 4,512 exempt positions (67.2 percent) are vacant, as shown in Exhibit 2.2. Thus, DHRD has 2,202 exempt employees in its jurisdiction.

Exhibit 2.2

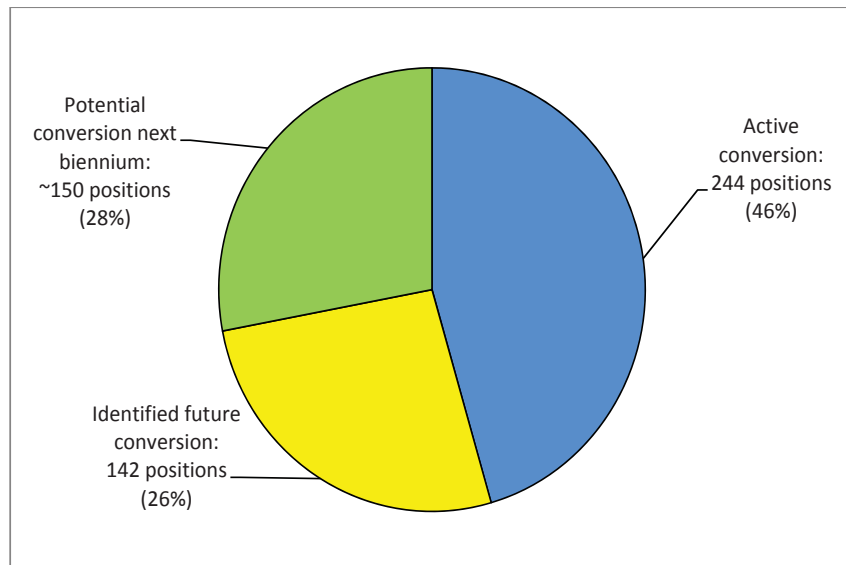
Number of Filled and Vacant Exempt Positions



Source: Office of the Auditor based on Department of Human Resources Development information

Active conversions means an agency is in the process of reorganization involving an identified position. *Future conversions* involve identified positions that require an agency reorganization or other process that has not yet officially begun. *Potential conversions* in the next biennium will affect identified positions in the Department of Hawaiian Home Lands and Hawai'i Public Housing Authority. Exhibit 2.3 shows the status of the 500 exempt position conversions as of July 1, 2014. Approximately 500 permissive exempt positions are in various stages of conversion. Of these, 244 (46 percent) positions are actively being converted, 142 (26 percent) have been identified for future conversion, and as many as 150 (about 28 percent) have been identified as potential conversions in the next biennium.

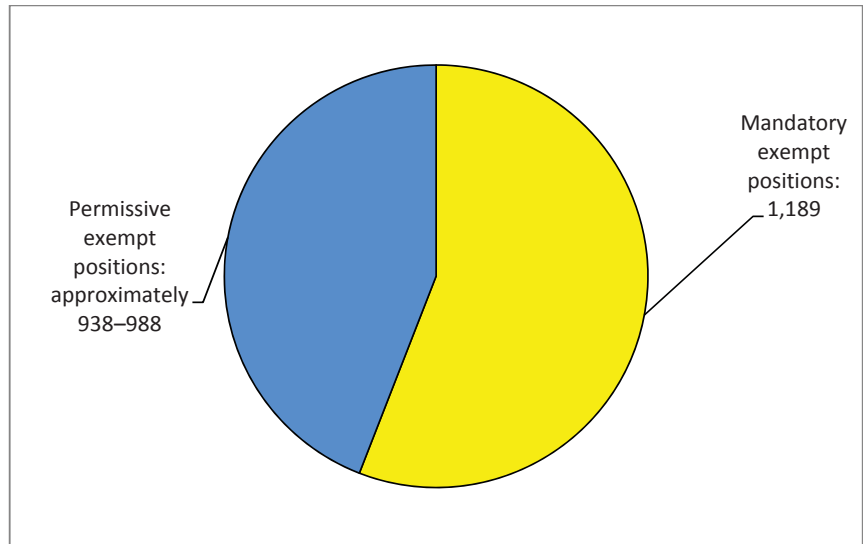
Exhibit 2.3
Status of 500 Permissive Exempt Position Conversions as of July 1, 2014



Note: All percentages are approximate.

Source: Department of Human Resources Development

Upon conversion of the approximately 500 permissive exempt positions, the total number of such positions will be reduced from 1,478 to between 938–988 positions, as shown in Exhibit 2.4. The number of mandatory exempt positions will remain at 1,189 unless new ones are established by law.

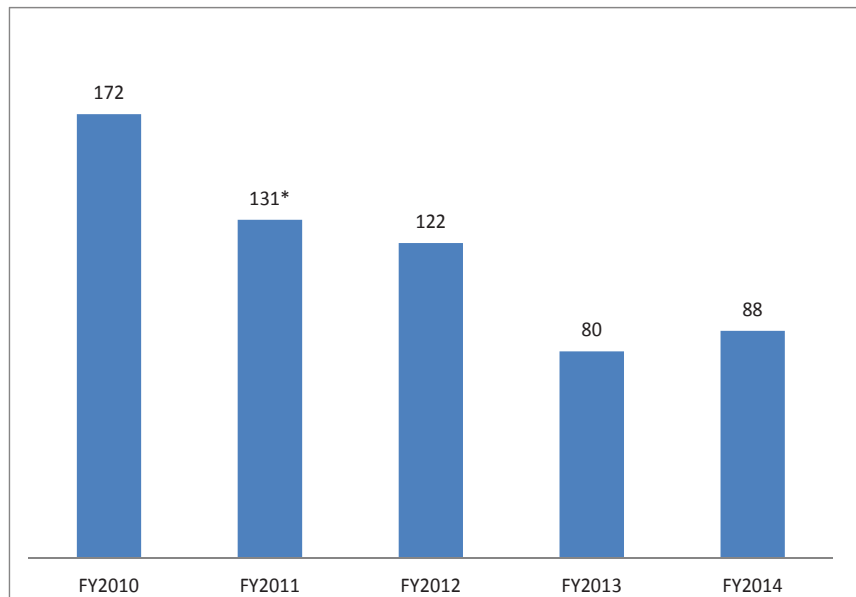
Exhibit 2.4**Number of Mandatory and Permissive Exempt Positions After Conversion of Approximately 500 Permissive Exempt Positions**

Source: Department of Human Resources Development

Since January 2004, DHRD has submitted an annual report to the Legislature on the number of exempt positions converted to civil service over the previous 12 months. Appendix A provides a list of legislative requests and DHRD reports.

The number of new exempt positions created annually has generally decreased over the last five years

During FY2010–FY2014, there were 1,093 exempt regular and casual positions established, as shown in Exhibit 2.5. (We omitted from the exhibit 500 work experience positions created in FY2011 for the Federal Summer Hire Program since these positions reflected casual summer hires.) The number of new exempt positions established has generally declined over the five-year period.

Exhibit 2.5**New Exempt Positions Established, FY2010–FY2014**

*Excludes 500 work experience positions created for Federal Summer Hire Program.

Source: Department of Human Resources Development

State policy provides for exempt positions

State policy requires that all positions in civil service systems of the respective jurisdictions be filled through civil service recruitment procedures based on merit. Moreover, each civil service system must include all positions in its respective jurisdiction, whether permanent or temporary, and embrace all personal services performed for the jurisdiction. However, state policy also specifically provides exceptions for employees or positions exempted under Section 76-16(b), HRS, and identifies 27 categories of exemptions. These include personnel of the Hawai‘i National Guard, positions filled by contract, legislative positions, department heads, deputies, first assistants, deputy attorneys general, certificated personnel of the Department of Education, and employees in the Office of the Governor, among others.

DHRD delegates authority to establish most but not all exempt positions

DHRD has delegated to executive department directors the authority to establish all Section 76-16(b) exempt positions, except for subsection (2) and (15) positions relating to contracting of services; subsection (3) positions to comply with existing court orders or consent decrees; and subsection (12) positions engaging in special, research, or demonstration projects approved by the governor.

When we requested documentation of this delegation, however, DHRD could not provide evidence of its current delegation. In the past,

DHRD issued memoranda explicitly delegating authority to department directors. At present, DHRD could only identify a footnote in a 2014 memorandum describing the delegated authority, as follows:

Department Heads have delegated authority to approve the establishment, extension, redescription (change in duties and responsibilities), and change of characteristics (FTE, funding, location, organization, etc.) for positions exempted under the provisions of §76-16(b), Hawaii Revised Statutes (HRS), except for positions pursuant to subsections (2) and (15) which remain non-delegated, unless previously delegated to departments on specific requests. Non-delegated actions include requests for approval of new projects, project extensions, new positions, and position redescrptions pursuant to §76-16(b)(12), HRS. Departments do not have delegated authority to establish, extend or redescribe positions exempted under the provisions of §76-16(b)(3), if the applicable court order or decree is no longer in effect.

For clarity, we recommend that DHRD formalize its delegation of authority to departments in a memorandum specifically addressing what is and is not delegated.

DHRD has two processes to convert exempt positions to civil service—delegated and non-delegated

In 2003, the state personnel director delegated authority to all executive departments to approve certain kinds of position classification actions, as well as initial allocation and reallocation of civil service positions to existing classes. The process of converting an exempt position to a civil service position (that is, assigning an exempt position to a civil service class) involves a position *classification action*. *Initial allocation* means the placement of a new position in its proper class; *reallocation* is the change in placement of an existing position from one class to another based on significant changes in assigned work. Together, these actions make up the *delegated* process, which is carried out by executive departments. DHRD's policies and procedures provide departments with guidance on appointment of exempt employees to replacement civil service positions.

In contrast to the delegated process, conversion of excluded managerial compensation plan (EMCP) and general professional class positions has not been delegated to departments. Both DHRD and executive departments share responsibility for this non-delegated process.

Delegated process is carried out by executive departments

When an exempt position is identified for conversion, a department prepares a position description and HRD-1 form (Position Action Form). The HRD-1 form, as shown in Exhibit 2.6, is used to request classification actions and other position management actions.

Exhibit 2.6

HRD-1 Form (Position Action Form)

HRD-1 (Rev. 10/1/13)		POSITION ACTION FORM	
Present	1. Department/Division/Branch/Section/Unit		2. Position No.
	3. Auth Job Code	4. Authorized Class Title, Pay Range, Pay Rate (Exempt Positions Only), BU, BU Exclusion Code(s) (if applicable)	
	5. Pseudo No.		
	6. Curr Job Code	7. Current Class Title	8. Legal Authority
9. Requested Job Code, Class Title, Pay Range, Pay Rate (Exempt Positions Only), BU, BU Exclusion Code(s) (if applicable)			
10. "I certify that I have reviewed the duties and responsibilities assigned to this position."		11. "I certify that the attached is a complete and accurate description of the duties and responsibilities of this position."	
Signature of Incumbent _____ Date _____		Signature of Supervisor _____ Date _____	
Name of Incumbent _____		Supervisor's Position No. _____	
		Signature of Division Chief _____ Date _____	
12. Type of Action		13. Position Characteristics	
a. <input type="checkbox"/> New <input type="checkbox"/> Redesign <input type="checkbox"/> Conversion Violating for: Replaced Pos. No. _____ <input type="checkbox"/> Exempt to CS <input type="checkbox"/> CS to Exempt <input type="checkbox"/> Reclass - EE Qualifications (REE) b. <input type="checkbox"/> Reallocation for Recruitment (RFR) <input type="checkbox"/> Temporary Reallocation <input type="checkbox"/> Start <input type="checkbox"/> Ext. <input type="checkbox"/> Term Eff Date _____ NTE Date _____ c. <input type="checkbox"/> Extension of Position Eff Date _____ NTE Date _____ d. <input type="checkbox"/> Abolish Abolish COB Dt _____ HRMS Eff Date _____ e. <input type="checkbox"/> Change Characteristics (List them below) _____		a. Type of Position <input type="checkbox"/> Civil Service <input type="checkbox"/> Exempt Basis for Exemption From HRS, 76-18 () () To HRS, 76-18 () () Supporting Legal Authority _____ Project Title _____ Exemption NTE Date _____ b. Duration <input type="checkbox"/> Permanent <input type="checkbox"/> Temporary Initial NTE Date _____ c. Budgeted <input type="checkbox"/> Yes <input type="checkbox"/> No d. Authorized FTE From _____ To _____ e. Current FTE From _____ To _____ f. Employment Status <input type="checkbox"/> Filled <input type="checkbox"/> Vacant g. FLSA Status <input type="checkbox"/> FLSA Exempt <input type="checkbox"/> FLSA Non-Exempt <input type="checkbox"/> FLSA Excluded Eff Date _____	
		14. Location/Other Characteristics	
		a. Org Code _____ b. Geographic Location Code _____ c. Island _____ d. <input type="checkbox"/> Shift e. <input type="checkbox"/> FTE Share, w/Pos. No. _____ f. <input type="checkbox"/> Shortage & Group g. <input type="checkbox"/> Selective Certification h. <input type="checkbox"/> Consent Decree/Mandated Action (Please specify) _____ 15. Date Recvd in Personnel Office _____	
16. Appropriation			
Prgr Bud ID	MOF	UAC	% Funded Effective Date
17. Recommended Job Code, Class Title, Pay Range, Pay Rate (Exempt Positions Only), BU, BU Exclusion Code(s) (if applicable) (for PERS use only)			
Approved (for PERS use only)	18. Department/Division/Branch/Section/Unit		19. Effective Date
	20. Auth Job Code	21. Authorized Class Title, Pay Range, Pay Rate (Exempt Positions Only), BU, BU Exclusion Code(s) (if applicable)	
	22. Effective Date		
	23. Curr Job Code	24. Current Class Title, Pay Range, Pay Rate (Exempt Positions Only), BU, BU Exclusion Code(s) (if applicable)	25. Effective Date
26. Employing Department Action <input type="checkbox"/> Approved <input type="checkbox"/> Disapproved			
Signature of Department Head _____ Date _____			
27. Human Resources Development Action <input type="checkbox"/> Approved <input type="checkbox"/> Disapproved			
Director of Human Resources Development _____ Date _____			

Source: Department of Human Resources Development

Using the HRD-1 form, a department assigns an exempt position to a civil service class and notifies its employee of the conversion. The employee is provided information on the conversion via an HRD 280 form (Appointment of Exempt Employee to Replacement Civil Service Position Employee Election Form). As shown in Exhibit 2.7, the form identifies the employee's existing exempt position and the replacement civil service position, including the position number, job title, pay grade, and bargaining unit. The employee elects whether to be appointed to the replacement civil service position or remain exempt from civil service.

Exhibit 2.7

HRD 280 Form (Appointment of Exempt Employee to Replacement Civil Service Position Employee Election Form)

HRD 280

**APPOINTMENT OF EXEMPT EMPLOYEE TO REPLACEMENT CIVIL SERVICE POSITION
EMPLOYEE ELECTION FORM**

DEPARTMENT: _____ DATE: _____

The exempt position that you occupy has been identified for replacement with a civil service position.

Exempt Pos. No. _____ Job Title _____
 Pay Grade _____ BU _____
 HRS citation (for Act 300 positions only) _____

If you elect to be converted to civil service, the following will apply to your new appointment.

Replacement Civil Service
 Position No. _____ Job Title _____
 Pay Grade _____ BU _____

.....

SECTION 1 - Employee Endorsement (Applies to all employees)
 I have read and understand the information provided to me regarding the replacement of my exempt position with a civil service position, and I have indicated my elections below.

Employee Name: _____
Print Last Name, First Name, Middle Initial

Employee Signature: _____ Date: _____

.....

SECTION 2 - Election of Civil Service/Exempt Status (Applies to all employees)
 Pursuant to DHRD Policy and Procedure 1000.002, you are entitled to make a one-time election to remain exempt, or to be appointed to the replacement civil service position without competition.

I understand the Policy and Procedure, and elect to (please select one and initial):

☐ Be appointed to the replacement civil service position.

☐ Remain exempt from civil service (as long as there is a legal basis for the position to remain exempt).

(DPO: Submit 1 copy to DHRD/ECDD; retain original in employee's official personnel file.)

1/6/2012

Source: Department of Human Resources Development

If the employee elects to be appointed to the replacement civil service position, the department takes classification action and provides copies of the forms to DHRD. If the employee elects to remain exempt from civil service, no action is taken by the department. The position remains exempt and cannot be converted to civil service until after the employee vacates the position.

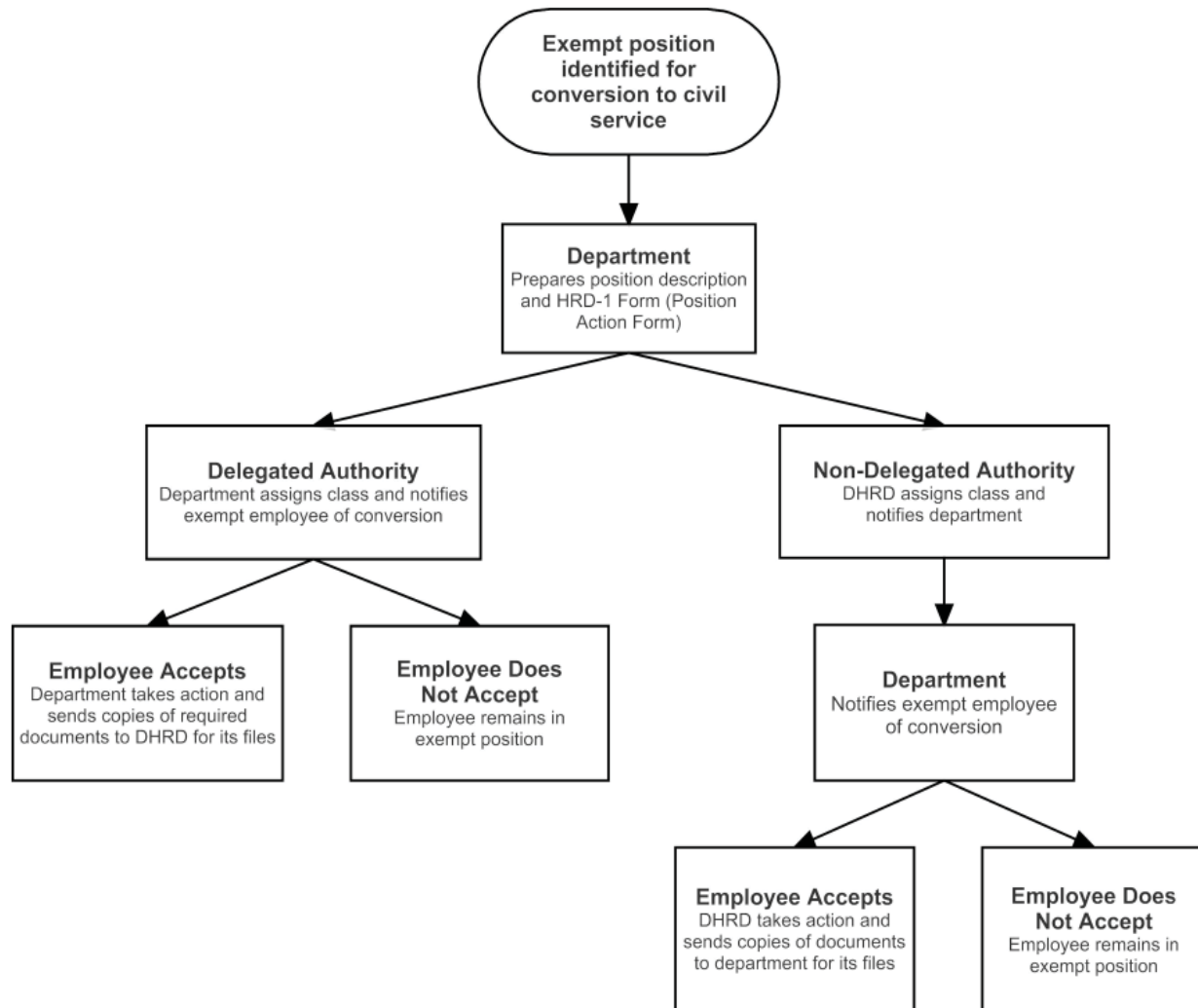
DHRD and executive departments share responsibility for the non-delegated process

To convert positions with non-delegated authority (that is, EMCP and general professional class positions), departments prepare a position description and HRD-1 form and forward them to DHRD for review. DHRD assigns the exempt position to a civil service class and notifies the department. The department then notifies the exempt employee via the election form. If the employee elects to be appointed to the replacement civil service position, the department notifies DHRD of the decision. DHRD takes classification action and provides copies of the forms to the department. If the employee elects to remain exempt from civil service, no action is taken by the department or DHRD. The position remains exempt and cannot be converted to civil service until after the employee vacates the position.

DHRD has internal procedures for processing non-delegated classification requests. Other DHRD processes also may apply, such as establishing a new class; determining whether selective certification is required; conducting bargaining unit action; and amending a civil service class. DHRD has internal procedures for these processes.

The Classification Branch chief told us that EMCP positions can be processed more quickly than general professional class requests because EMCP positions are mostly branch and division chief positions. As such, they fit within an existing class. In any case, DHRD receives few EMCP classification requests. On the other hand, general professional class requests may take longer to process—from three weeks to upwards of six months—depending on whether a new class needs to be established.

Exhibit 2.8 outlines the process for delegated and non-delegated authority for the conversion of exempt positions to civil service.

Exhibit 2.8**Flowchart of the Conversion Process for Delegated and Non-Delegated Authority**

Source: Department of Human Resources Development and the Office of the Auditor

DHRD provides guidance to executive departments on exempt service and appointment of exempt employees to replacement civil service positions

We found that DHRD provides departments with guidance on exempt service and appointment of exempt employees to replacement civil service positions. Certain exempt employees are eligible to be appointed to replacement civil service positions without competition while others are not.

Exempt employees who meet all applicable requirements, minimum qualifications, and who have at least one year of continuous creditable service can be appointed to a replacement civil service position without competition. In other words, such exempt employees do not have to compete with other applicants for their replacement civil service position and are automatically appointed. Such employees are given a one-time

election to remain exempt from civil service. If they elect to remain exempt, their positions remain exempt until they vacate their positions.

By contrast, exempt employees who have less than one year of continuous service in their exempt positions are not eligible to be appointed without competition. They may, however, apply for their positions through an open competitive recruitment, if one is conducted.

The departments we interviewed told us that they use DHRD's policies and procedures and forms when converting exempt positions to civil service.

Executive Departments Create and Update Position Descriptions Using DHRD's Guidance

Executive departments are responsible for preparing and updating position descriptions as necessary for every authorized position. A new position description must be drafted when establishing a new position. Further, position descriptions must be updated when significant changes in work occur. A *position description* is the official written record of the major duties and responsibilities assigned to a position. It includes major duties and responsibilities, organizational relationships and knowledge, and skills and abilities required of a position. We found that DHRD provides departments with guidance and tools to write position descriptions, as well as a position description template.

DHRD provides departments with tools to write position descriptions

DHRD provides departments with a workbook, *How to Write a PD*, which includes step-by-step instructions and samples for preparing position descriptions. The purpose of the workbook is to help supervisors and managers (1) write position descriptions more easily and quickly, (2) prepare position descriptions that can be classified quickly, and (3) understand what a position description is and how it may be used. Departmental staff we interviewed provide their divisions and programs with DHRD's workbook to use when creating position descriptions. One department told us that this workbook is very useful.

DHRD also provides departments with a position description template. The template covers eight areas: (1) identifying information—class title, position number, department, division, branch, geographic location; (2) introduction—function of organization and purpose of position; (3) major duties and responsibilities; (4) controls exercised over the work; (5) required licenses, certificates, etc.; (6) recommended qualifications—knowledge, skills/abilities, education, and experience; (7) tools, equipment, and machines required for their job; and (8) working conditions. Departmental staff we interviewed told us they use the position description template. One department said it has revised the template to fit its needs.

Departments prepare position descriptions, then recruit and hire staff

Before recruiting and hiring staff, departments create and update position descriptions, as appropriate, and prepare the necessary documents. Department directors are delegated the authority to approve positions for hire except for EMCP and general professional class positions.

Departments create position descriptions for both delegated and non-delegated exempt and civil service positions

To establish an exempt position, a department creates a position description; prepares an HRD-1 form (Position Action Form); and establishes a position number and assigns a job title, with approval from its director. This process does not apply to special projects exempt positions. Copies of the documents are sent to DHRD for its files, then the department recruits and hires for the position.

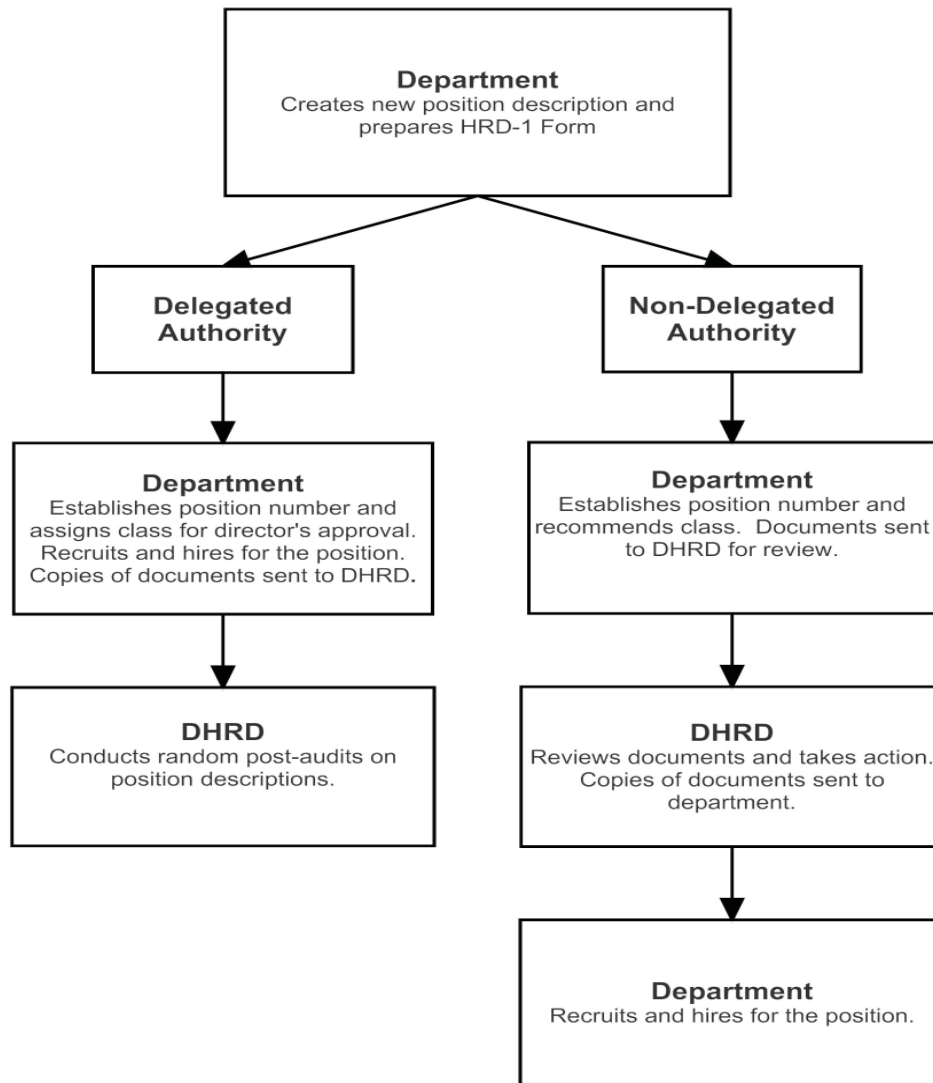
For civil service positions, a division or program prepares a position description for its departmental personnel office to review. With delegated authority, the department prepares the HRD-1 form, establishes a position number, and assigns a class for its director's approval. Copies of the documents are sent to DHRD for record keeping. The department then recruits and hires for the position. Later, DHRD conducts random post-audits on departmental actions.

For non-delegated actions that include EMCP and general professional class positions, a division or program prepares a position description for its departmental personnel office's review. The personnel office then prepares the HRD-1 form, establishes a position number, and recommends a class. Documents are sent to DHRD for review. DHRD reviews the documents and takes action. Copies of the documents are sent to the department for its files, and the department recruits and hires for the position.

Exhibit 2.9 outlines the process for creating new position descriptions for delegated and non-delegated civil service positions.

Exhibit 2.9

Delegated and Non-Delegated Process for Creating New Civil Service Position Descriptions



Source: Department of Human Resources Development and the Office of the Auditor

Departments update position descriptions as needed before hiring and reorganizing staff

Departments are responsible for updating position descriptions when a position's major duties and responsibilities change significantly. Major duties are that occupy 10 percent or more of an employee's work time or are critical to identifying the type of qualifications required for the position. Significant changes include adding a new major duty, deleting an existing major duty, and decreasing the percentage of time spent on a specific major duty below 10 percent, among others. The process to update position descriptions is the same as to create position descriptions. The Classification Branch chief told us it is up to departments to update

position descriptions as needed. Position descriptions should be updated before hiring and when reorganization takes place.

The departments we interviewed told us they update position descriptions for new hires and do not use old position descriptions.

Conclusion

Exempt positions have been included in state law for as long as there has been a civil service system. Although seemingly at odds with the merit principle, exempt positions are either mandated or permitted by law and provide a wide range of services in state government. DHRD and executive departments continue to convert exempt positions to civil service and notify affected employees of conversions. Some employees can elect to be appointed to their replacement civil service position, some are not eligible for appointment, and others may opt to remain exempt. Even with conversions, however, the total number of exempt positions might not decline over time, since new exempt positions are established and counterbalance the number of conversions. DHRD will continue to report to the Legislature on the status of exempt position conversions.

Recommendations

1. The Department of Human Resources Development should formalize its delegation of authority to executive departments for establishing exempt positions.
2. Executive departments should continue to convert exempt positions as appropriate.

This page is intentionally left blank.

Appendix A

Legislative Requests and DHRD Reports

Date	Legislative Request/DHRD Report
June 2000	Act 253 (SLH 2000) required DHRD to submit a report to each Legislature, beginning with the 2001 regular session, of positions that have been permanently exempted from the civil service prior to July 1, 2000.
March 2003	DHRD provided preliminary report on exempt employees to the Senate Committee on Labor.
May 2003	HCR 94, HD 1 (Regular Session of 2003) reiterated the Legislature's request for a review of exempt employees as required by Act 253, SLH 2000.
January 2004	<i>Annual Report to the 2004 Legislature on Positions Exempted from the Civil Service</i> , as required by Act 253, SLH 2000 (DHRD)
June 2004	Act 128 (SLH 2004) required DHRD to complete its review of all positions exempted from civil service in accordance with HCR 94, Regular Session of 2003, and submit a report of its findings and recommendations to the Legislature prior to convening of the regular session of 2005.
December 2004	<i>Report to the 2005 Legislature on Positions Exempted from Civil Service</i> , as required by HCR 94, HD 1 and Act 128, SLH 2004 (DHRD)
May 2005	HCR 270, HD1 (Regular Session of 2005) required DHRD, the Judiciary, Department of Education, University of Hawai'i, and Hawai'i Health Systems Corporation to submit reports on their exempt positions to the 2006 Legislature.
December 2005	<i>Report to the 2006 Legislature on Positions Exempted from the Civil Service</i> , as required by HCR 270, HD 1, Regular Session 2005 (DHRD)
July 2006	Act 300 (SLH 2006) requires DHRD to submit each regular session, beginning with the 2007 regular session, a report of the number of exempt positions that were converted to civil service positions during the previous 12 months.
February 2007	<i>Report to the 2007 Legislature on the Number of Exempt Positions Converted to Civil Service Positions During the Previous Twelve Months</i> , as required by Act 300, SLH 2006 (DHRD)
December 2007	<i>Report to the 2008 Legislature on the Number of Exempt Positions Converted to Civil Service Positions During the Previous Twelve Months</i> , as required by Act 300, SLH 2006 (DHRD)
December 2008	<i>Report to the 2009 Legislature on the Number of Exempt Positions Converted to Civil Service Positions During the Previous Twelve Months</i> , as required by Act 300, SLH 2006 (DHRD)
December 2009	<i>Report to the 2010 Legislature on the Number of Exempt Positions Converted to Civil Service Positions During the Previous Twelve Months</i> , as required by Act 300, SLH 2006 (DHRD)
December 2010	<i>Report to the 2011 Legislature on the Number of Exempt Positions Converted to Civil Service Positions During the Previous Twelve Months</i> , as required by Act 300, SLH 2006 (DHRD)
December 2011	<i>Report to the 2012 Legislature on the Number of Exempt Positions Converted to Civil Service Positions During the Previous Twelve Months</i> , as required by Act 300, SLH 2006 (DHRD)
December 2012	<i>Report to the 2013 Legislature on Positions Exempted From the Civil Service</i> , as required by Act 300, SLH 2006 (DHRD)
December 2013	<i>Report to the 2014 Legislature on Positions Exempted from the Civil Service</i> , as required by Act 300 SLH 2006 (DHRD)

This page is intentionally left blank.

Response of the Affected Agency

Comments on Agency Response

We transmitted a draft of this report on September 26, 2014, to the Department of Human Resources Development. A copy of the transmittal letter to the department is included as Attachment 1. The department's response, received on October 1, 2014, is included as Attachment 2.

In its response, the department agreed with our report, including our recommendation, and did not provide any comments.

STATE OF HAWAII
OFFICE OF THE AUDITOR
465 S. King Street, Room 500
Honolulu, Hawai'i 96813-2917



JAN K. YAMANE
Acting State Auditor

(808) 587-0800
FAX: (808) 587-0830

September 26, 2014

COPY

The Honorable Barbara A. Krieg
Director
Department of Human Resources Development
235 S. Beretania Street, Suite 1400
Honolulu, Hawai'i 96813

Dear Ms. Krieg:

Enclosed for your information are three copies, numbered 6 to 8, of our confidential draft report, *Study of the Civil Service Exemption Process*. We ask that you telephone us by Wednesday, October 1, 2014, on whether or not you intend to comment on our recommendations. If you wish your comments to be included in the report, please submit your hard copy response to our office no later than 4:30 p.m., Monday, October 6, 2014.

The Governor and presiding officers of the two houses of the Legislature have also been provided copies of this confidential draft report.

Since this report is not in final form and changes may be made to it, access to the report should be restricted to those assisting you in preparing your response. Public release of the report will be made solely by our office and only after the report is published in its final form.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Jan K. Yamane', is written over a horizontal line.

for Jan K. Yamane
Acting State Auditor

Enclosures

NEIL ABERCROMBIE
GOVERNOR



BARBARA A. KRIEG
DIRECTOR

LEILA A. KAGAWA
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
HONOLULU, HAWAII 96813-2437

September 30, 2014

RECEIVED

2014 OCT -1 PM 2:43

OFF. OF THE AUDITOR
STATE OF HAWAII

Jan Yamane,
Acting State Auditor
Office of the Auditor
465 S. King Street, Room 500
Honolulu, Hawaii 96813-2917

Aloha Ms. Yamane,

The Department of Human Resources Development ("DHRD") has received and reviewed the confidential draft report, *Study of the Civil Service Exemption Process*. We agree with the contents of the report, including its recommendation, and do not intend to provide any official comments.

We would also like to take this opportunity to express our appreciation to you and your staff for your professionalism and diligence throughout the course of the study. We commend, in particular, Ms. Jayna Oshiro for her analysis and presentation of the key focus areas for the study. DHRD was kept informed at all stages of the study and given the opportunity to provide all relevant information. The report reflects an accurate understanding of the complex civil service employment system and presents an understandable overview of the civil service exemptions.

Mahalo nui loa,


Barbara A. Krieg

c: DHRD/Employee Classification and
Compensation Division