

TITLE 1: GOVERNMENT
DIVISION 8: PUBLIC EMPLOYMENT

§ 8131. Civil Service System: Applicability; Exemptions.

(a) Except as provided in this section the Civil Service System shall apply to all employees of and positions in the departments and agencies of the executive branch and in the administrative staffs of the legislative and judicial branches now existing or hereafter established. Unless this part is otherwise specifically made applicable to them, the following persons or positions are exempt from the civil service system:

- (1) Positions filled by election.
- (2) Positions filled by appointment of the Governor and Lieutenant Governor.
- (3) Positions of a temporary nature needed in the public interest where certified by the Director of Personnel and when the need for the same does not exceed 90 days. If a major disaster is declared by the President of the United States or if a disaster is declared by the Governor, the Director of Personnel may extend the 90-day period for a maximum of an additional 180 days for positions engaged in relief, repair, or rehabilitation as a result of such disaster.
- (4) Household and domestic employees at the official residence of the Governor and Lieutenant Governor.
- (5) Election inspectors, election clerks, and other election employees.
- (6) Any position established by law enacted by the Legislature above the level of division director, including the principal executive head, or deputy secretary of departments and the principal executive or head of offices, boards, commissions and councils, and the executive and staff of any Commonwealth liaison office.
- (7) Positions specifically exempted by any other law of the Commonwealth.
- (8) Any position involving intermittent performance which does not require more than 40 hours in any month.
- (9) Positions in the Mayor's offices of Rota, Tinian, Saipan and the Northern Islands.
- (10) Positions and employees of the Commonwealth Utilities Corporation.
- (11) Personnel and staff of positions in the Municipal Council of any Commonwealth municipality; and
- (12) Positions in the Public School System and the Northern Marianas College that are covered by a merit system of employment consistent with the statement of policy set forth in [1 CMC §§ 8102](#) and [8103](#).
- (13) Positions where the appointing authority, with the concurrence of the Director of Personnel, has certified in writing that the service to be performed is special and unique and is essential to the public interest, because of the degree of expertise or special knowledge required and the essential nature of the services to be performed.
- (14) Personnel and staff of the Commonwealth Healthcare Corporation.

TITLE 1: GOVERNMENT
DIVISION 8: PUBLIC EMPLOYMENT

Source: [PL 1-9](#), § 4, modified; subsection (a)(12) added by [PL 4-34](#), § 18(12); subsection (a)(13) added by [PL 7-17](#), § 1, modified; subsections (a)(12) and (b) repealed by [PL 8-18](#), § 17; subsection (a)(13) added by [PL 10-27](#), § 3; subsection (a)(2) amended by [PL 12-38](#), § 1; [PL 12-54](#), §§ 2 and 3; [PL 12-54](#) repealed by [PL 13-1](#), § 2; subsections (a)(2) and (6) repealed and reenacted, and (a)(14), and (15) added by [PL 13-1](#), § 4(d), (e), and (f), respectively, modified; (a)(16) added by [PL 16-51](#) § 6 (Jan. 15, 2010) ; repealed and reenacted by [PL 17-80](#) § 3 (8131) (Aug. 31, 2012) modified; subsection (a)(13) amended by [PL 18-5](#) § 2 (May 24, 2013), modified; (a)(14) enacted by [PL 19-78](#) § 3 (Jan. 14, 2017).

Commission Comment: The Commission inserted “the” before “Civil Service System” in subsection (a). Executive Order 94-3, the “Second Reorganization Plan of 1994” (effective Aug. 23, 1994), reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. According to Executive Order 94-3, § 307(b):

Section 307. Department of Finance.

....

(b) Procurement.

(1) To the extent that any provision of law may be interpreted to authorize the Civil Service Commission or the Personnel Officer to exercise any function relating to the procurement of services from outside contractors, that function is transferred to the Secretary of Finance. The function of deciding whether it is in the public interest for the government to obtain professional services by employing more people to work for the government (either in the classified Civil Service or the Excepted Service as determined by the Personnel Officer) or by procuring such services from the private sector is allocated to the Office of the Governor, the Marianas Public Land Trust, and the various boards and commissions.

(2) In order to implement any transfer or allocation made by paragraph (1) of this subsection, existing law is affected, for clarification purposes only, to interpret [1 CMC § 8131\(a\)\(2\)](#) henceforth to apply to government employees and not to outside contractors.

(3) In order to further implement any transfer or allocation made by paragraph (1) of this subsection, existing law is affected by changing the definition of “employee” in [1 CMC § 8243](#) to exclude, rather than include, independent service contractors, consultants, and professional services contractors.

See also the comment to [1 CMC § 8116](#).

[PL 13-1](#) took effect February 13, 2002. Contained in [PL 13-1](#) were the following findings and purpose, repealer, reenactment, transfer, and severability clauses:

Section 1. Findings and Purpose. The Legislature finds that staff positions under the Office of the Governor, Office of the Lieutenant

TITLE 1: GOVERNMENT
DIVISION 8: PUBLIC EMPLOYMENT

Governor, Office of the Resident Representative to the United States, and the Municipal Councils for each Senatorial District rightfully should be exempt from the civil service. For obvious policy reasons, each administration should be allowed the discretion and flexibility to determine its own staffing requirements to more efficiently and effectively meet its goals and objectives. Along with this, the term “executive position” should be defined to clarify the positions that are intended to be exempt from civil service under [1 CMC 8131\(a\)\(6\)](#). The Legislature finds that the Office of Personnel Management should be returned to the control of the Office of the Governor for purposes of administrative efficiency.

Section 2. Repealer. [PL 12-54](#) is hereby repealed in its [sic] entirety.

Section 3. Re-enactment. Executive Order 94-3, Section 214 is hereby reinstated in its entirety.

...

Section 5. Transition. Any Commonwealth government employee who loses civil service status as a result of this Act shall, for a period of three years, have reemployment rights for any civil service position for which he or she is qualified, and shall be entitled to transfer into such employment pursuant to applicable rules, regulations and procedure.

Section 6. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

[PL 18-5](#) § 2 contained, in addition to savings and severability clauses, the following:

Section 1. Findings and Purpose. The Legislature recognizes that [Public Law 17-80](#) repealed and re-enacted the Civil Service Act on August 31, 2012. [PL 17-80](#) also repealed the regulations pertaining to excepted service employees codified under NMIAC Section 10-10 *et seq.* and 10-120 *et seq.* The Legislature also finds that past abuses of employment under excepted service is curtailed by the passage of [PL 17-80](#). However, the interpretation of the mechanics of [PL 17-80](#) posed great difficulty in processing some employment contracts after [PL 17-80](#) took effect. Additionally, the Legislature foresees challenges in recruiting personnel with unique skills, special knowledge, and expertise necessary and essential to the public interest. Therefore, the purpose of the Act is to provide flexibility to accommodate special and unique skills.

Further, because of ambiguity surrounding [PL 17-80](#), many excepted service contracts for positions requiring special and unique skills were entered into after [PL 17-80](#) became law. Therefore, this Act is intended to make the exemption for positions requiring special and unique skills applicable to excepted service contracts entered into on or after August 31, 2012. This purpose of doing so is to ratify those contracts for

TITLE 1: GOVERNMENT
DIVISION 8: PUBLIC EMPLOYMENT

positions requiring special and unique skills that were entered into after [PL 17-80](#) became law.

It is not the intent of this Act to authorize salary increase or renegotiations of new contracts or contract renewals. The intent of this Act is to ratify those excepted service contracts that were executed by employees and their respective employer but due to the exclusion of the authority to hire personnel with special and unique skills, degree of expertise or special knowledge requirements, such contracts are not valid or have not been certified by the Office of Personnel Management.

Section 2. Amendment. 1 CMC § 8131(a) as amended by Public Law 17-80 is amended by adding a new subsection (a)(13) as follows:

“(a)(13) Positions where the appointing authority, with the concurrence ~~and certification of by~~ the Director of Personnel, has certified in writing that the service to be performed is special and unique and is essential to the public interest, ~~and that~~, because of the degree of expertise or special knowledge required and the essential nature of the services to be performed, ~~it would not be practical to obtain personnel, including attorney positions, to perform such service through normal public service recruitment procedures.”~~

Section 5. Effective Date. This Act shall take effect upon its approval be the Governor or becoming law without such approval. This Act shall be applicable to excepted service contracts entered into on or after August 31, 2012.