

S .B. NO. 1453

JAN 22 2007

A BILL FOR AN ACT

RELATING TO SALARIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. This Act addresses positions whose salaries are
2 statutorily linked to the salaries of department heads or deputy
3 department heads. Act 226, Session Laws of Hawaii 2005, linked
4 the salaries and the pay increases of the following positions to
5 the salary of the director of the department of human resources
6 development: stadium manager and deputy manager, vice director
7 of civil defense, public utilities commissioners, director of
8 the executive office of aging, and the director of the office of
9 veterans services. Act 226 also linked the salaries of the
10 following positions to the salaries of certain other department
11 heads: members of the paroling authority (director of public
12 safety), members of the labor and industrial relations appeals
13 board and of the Hawaii labor relations board (director of labor
14 and industrial relations) and commissioner of financial
15 institutions (director of commerce and consumer affairs).

16 Although not covered by Act 226, Session Laws of Hawaii
17 2005, the salaries of the following positions are directly or

1 indirectly statutorily linked to the salaries of deputy
2 department heads: insurance commissioner, captive insurance
3 administrator, and the executive director of the office of
4 community services.

5 In some cases, the salary resulting from the statutory
6 linkage has made it difficult to attract or retain highly
7 qualified individuals. This Act amends the statutes to "de-
8 link" the salaries of those positions and give authority to
9 appropriate individuals, boards, or commissions to determine the
10 salaries.

11 SECTION 2. Section 89-5, Hawaii Revised Statutes, is
12 amended by amending subsection (d) to read as follows:

13 "(d) The members shall devote full time to their duties as
14 members of the board. Effective July 1, ~~[2005,]~~ 2007, the
15 chairperson of the board shall be paid a salary set ~~[at eighty-~~
16 ~~seven per cent of the salary of the director of labor and~~
17 ~~industrial relations,]~~ by the governor, and the salary of each
18 of the other members shall be ninety-five per cent of the
19 chairperson's salary. No member shall hold any other public
20 office or be in the employment of the State or a county, or any
21 department or agency thereof, or any employee organization
22 during the member's term."

1 SECTION 3. Section 109-2, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§109-2 Stadium authority; powers and duties. The powers
4 and duties of the stadium authority shall be as follows:

- 5 (1) To maintain, operate, and manage the stadium and
6 related facilities, and to provide for the
7 maintenance, operation, management, and promotion of
8 the Kapolei recreational sports complex;
- 9 (2) To prescribe and collect rents, fees, and charges for
10 the use or enjoyment of the stadium or any of its
11 facilities;
- 12 (3) To make and execute contracts and other instruments
13 necessary or convenient to exercise its powers under
14 this chapter and subject to any limitations in this
15 chapter, to exercise all powers necessary, incidental,
16 or convenient to carry out and effectuate the purposes
17 and provisions of this chapter, including entering
18 into contracts under chapter 102 or 103D for the
19 management of the Kapolei recreational sports complex,
20 to include but not be limited to the operation,
21 maintenance, and promotion of the complex in a manner
22 that is beneficial to both the State and the

1 contractor. These contracts may contain revenue
2 sharing incentives based on increased usage of the
3 complex;

4 (4) To adopt, amend, and repeal in accordance with chapter
5 91 rules it may deem necessary to effectuate this
6 chapter and in connection with its projects,
7 operations, and facilities;

8 (5) To appoint a manager and a deputy manager who shall
9 have such qualifications as the authority deems
10 necessary and who shall hold their respective offices
11 at the pleasure of the authority. The manager and
12 deputy manager shall be exempt from the requirements
13 of chapters 76 and 89. Effective July 1, [2005,]
14 2007, the manager shall be paid a salary [~~not to~~
15 ~~exceed eighty seven per cent of the salary of the~~
16 ~~director of human resources development~~] in a range
17 equivalent to the deputy comptroller's range.

18 Effective July 1, [2005,] 2007, the deputy manager
19 shall be paid a salary not to exceed eighty-five per
20 cent of the manager's salary. The manager shall have
21 full power to administer the affairs of the stadium
22 and related facilities, and to provide for a

1 management contract for the Kapolei recreational
2 sports complex, subject to the direction and approval
3 of the authority. The manager shall, subject to the
4 approval of the authority, have power to appoint,
5 suspend, and discharge a secretary who shall be exempt
6 from the requirements of chapters 76 and 89, and such
7 other employees, subordinates, and assistants as may
8 be necessary for the proper conduct of the business of
9 the authority. Except for persons hired on contract
10 or otherwise as provided in section 109-3 and except
11 for the manager, deputy manager, and secretary, all
12 appointments, suspensions, or discharges shall be made
13 in conformity with the applicable provisions of
14 chapter 76; and

15 (6) To plan, promote, and market the stadium, its related
16 facilities, and the Kapolei recreational sports
17 complex."

18 SECTION 4. Section 128-3, Hawaii Revised Statutes, is
19 amended by amending subsection (c) to read as follows:

20 "(c) There shall be a vice-director of civil defense who
21 shall be appointed and may be removed by the director. The
22 vice-director shall be the first assistant to the director and

1 shall, in the absence of the director, have all the duties and
2 responsibilities of the director. The vice-director shall be
3 paid a salary [~~not to exceed eighty seven per cent of the salary~~
4 ~~of the director of human resources development.~~] set by the
5 director. Chapter 76 shall not apply to the vice-director."

6 SECTION 5. Section 201H-2, Hawaii Revised Statutes, is
7 amended by amending subsection (b) to read as follows:

8 "(b) The [~~administration~~] corporation shall employ, exempt
9 from chapter 76 and section 26-35(a)(4), an executive director
10 and an executive assistant. The executive director shall be
11 paid a salary [~~not to exceed eighty five per cent of the salary~~
12 ~~of the director of human resources development.~~] set by the
13 board of directors. The executive assistant shall be paid a
14 salary not to exceed ninety per cent of the executive director's
15 salary. The administration may employ, subject to Chapter 76,
16 technical experts and officers, agents, and employees, permanent
17 and temporary, as required. The administration may also employ
18 officers, agents, and employees, prescribe their duties and
19 qualifications, and fix their salaries, not subject to Chapter
20 76, when in the determination of the administration, the
21 services to be performed are unique and essential to the
22 execution of the functions of the administration. The

1 administration may call upon the attorney general for legal
2 services as it may require. The administration may delegate to
3 one or more of its agents or employees its powers and duties as
4 it deems proper."

5 SECTION 6. Section 269-2, Hawaii Revised Statutes, is
6 amended by amending subsection (b) to read as follows:

7 "(b) Effective July 1, [~~2005,~~] 2007, the chairperson of
8 the commission shall be paid a salary set [~~at eighty seven per~~
9 ~~cent of the salary of the director of human resources~~
10 ~~development,~~] by the governor and each of the other
11 commissioners shall be paid a salary equal to ninety-five per
12 cent of the chairperson's salary. The commissioners shall be
13 exempt from chapters 76 and 89 but shall be members of the state
14 employees' retirement system and shall be eligible to receive
15 the benefits of any state or federal employee benefit program
16 generally applicable to officers and employees of the State,
17 including those under chapter 87A. The commission is placed
18 within the department of budget and finance for administrative
19 purposes."

20 SECTION 7. Section 349-2, Hawaii Revised Statutes, is
21 amended by amending subsection (b) to read as follows:

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1 "(b) The head of this office shall be known as the
2 director of the executive office on aging, hereinafter referred
3 to as director. The director shall have professional training
4 in the field of social work, education, public health, and other
5 related fields; extensive direct experience in programs or
6 services related to elders; and recent experience in a
7 supervisory, consultative, or administrative position. The
8 director shall be nominated and appointed by the governor
9 without regard to chapters 76 and 89. Effective July 1, [2005,]
10 2007, the director shall be paid a salary set by the appointing
11 authority [~~that shall not exceed sixty nine per cent of the~~
12 ~~salary of the director of human resources development~~]. The
13 director shall be included in any benefit program generally
14 applicable to the officers and employees of the State."

15 SECTION 8. Section 353-63, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "§353-63 Service of Hawaii paroling authority members;
18 compensation; expenses. The chairperson and the two members of
19 the Hawaii paroling authority shall serve on a full-time basis.
20 [~~The other two members shall serve on a part-time basis.~~]
21 Effective July 1, [2005,] 2007, the chairperson of the Hawaii
22 paroling authority shall be paid a salary set [~~at eighty seven~~

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1 ~~per cent of the salary of the director of public safety.] by the~~
2 governor. The compensation of each of the ~~[part-time]~~ two
3 additional members shall be eighty per cent of the ~~[hourly wage]~~
4 salary paid the chairperson. ~~[For each hour engaged in the~~
5 ~~official duties of the authority, each part time member of the~~
6 ~~authority shall be paid an hourly wage at the percentage rate~~
7 ~~specified in this section based on the hourly wage paid the~~
8 ~~chairperson; provided that compensation shall not exceed eighty~~
9 ~~per cent of the total regular working hours in a month; provided~~
10 ~~further that part time members shall not be entitled to any~~
11 ~~vacation, sick leave, or other benefits except as provided in~~
12 ~~this section.]~~ All paroling authority members shall receive
13 their necessary expenses for travel and incidentals which shall
14 be paid from appropriations provided the authority for such
15 purposes, on vouchers approved by the director of public
16 safety."

17 SECTION 9. Section 356D-2, Hawaii Revised Statutes, is
18 amended by amending subsection (b) to read as follows:

19 "(b) The authority shall employ, exempt from chapter 76
20 and section 26-35(a)(4), an executive director and an executive
21 assistant. The executive director shall be paid a salary ~~[not~~
22 ~~to exceed eighty five per cent of the salary of the director of~~

1 ~~human resources development.]~~ set by the authority. The
2 executive assistant shall be paid a salary not to exceed ninety
3 per cent of the executive director's salary. The authority may
4 employ, subject to chapter 76, technical experts and officers,
5 agents, and employees, permanent or temporary, as required. The
6 authority may also employ officers, agents, and employees;
7 prescribe their duties and qualifications; and fix their
8 salaries, not subject to chapter 76, when in the determination
9 of the authority, the services to be performed are unique and
10 essential to the execution of the functions of the authority;
11 provided that if the authority hires an officer, agent, or
12 employee in a capacity not subject to chapter 76, the authority
13 shall include in an annual report to the legislature, to be
14 submitted not later than twenty days prior to the convening of
15 each regular session, the position descriptions and reasons for
16 hiring the personnel in a civil service exempt capacity. The
17 authority may call upon the attorney general for legal services
18 as it may require. The authority may delegate to one or more of
19 its agents or employees the powers and duties it deems proper."

20 SECTION 10. Section 363-2, Hawaii Revised Statutes, is
21 amended by amending subsection (b) to read as follows:

1 "(b) The head of the office shall be known as the director
2 of the office of veterans' services. The director shall be
3 nominated and appointed by the governor without regard to
4 chapters 76 and 89. Effective July 1, [2005,] 2007, the
5 director shall be paid a salary set by the appointing authority
6 [~~that shall not exceed sixty nine per cent of the salary of the~~
7 ~~director of human resources development~~]. The director shall be
8 included in any benefit program generally applicable to the
9 officers and employees of the State."

10 SECTION 11. Section 371-4, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) There is created a labor and industrial relations
13 appeals board composed of three members nominated and, by and
14 with the advice and consent of the senate, appointed by the
15 governor for terms of ten years each, except that the terms of
16 members first appointed shall be for six, eight, and ten years
17 respectively as designated by the governor at the time of
18 appointments. The governor shall designate the chairperson of
19 the board, who shall be an attorney at law licensed to practice
20 in all of the courts of this State. Each member shall hold
21 office until the member's successor is appointed and qualified.
22 Because cumulative experience and continuity in office are

1 essential to the proper handling of appeals under workers'
2 compensation law and other labor laws, it is hereby declared to
3 be in the public interest to continue board members in office as
4 long as efficiency is demonstrated. The members shall devote
5 full time to their duties as members of the board. Effective
6 July 1, [~~2005,~~] 2007, the chairperson of the board shall be paid
7 a salary set [~~at eighty seven per cent of the salary of the~~
8 ~~director of labor and industrial relations,~~] by the governor,
9 and the salary of each of the other members shall be ninety-five
10 per cent of the chairperson's salary."

11 SECTION 12. Section 371K-2, Hawaii Revised Statutes, is
12 amended by amending subsection (b) to read as follows:

13 "(b) The head of the office shall be known as the
14 executive director of the office of community services,
15 hereinafter referred to as executive director. The executive
16 director shall have: training and experience in the field of
17 social work, education, public health, or related fields; direct
18 experience in programs and services related to disadvantaged
19 persons, refugees, or immigrants; and experience in a
20 supervisory, consultative, or administrative capacity. The
21 executive director shall be appointed by the governor without
22 regard to chapter 76, and shall be compensated at a salary level

1 ~~[no less than that of a second deputy.]~~ set by the governor.

2 The executive director shall be included in any benefit program
3 generally applicable to the officers and employees of the
4 State."

5 SECTION 13. Section 412:2-100, Hawaii Revised Statutes, is
6 amended by amending subsection (b) to read as follows:

7 "(b) The salary of the commissioner shall be set by the
8 director of commerce and consumer affairs ~~[but shall not be more
9 than the maximum salary of first deputy to the director of
10 commerce and consumer affairs]."~~

11 SECTION 14. Section 431:2-103, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§431:2-103 Salary. The salary of the commissioner shall
14 be set by the director of commerce and consumer affairs ~~[but
15 shall not be more than the maximum salary of first deputies to
16 department heads]."~~

17 SECTION 15. Section 431:19-101.6, Hawaii Revised Statutes,
18 is amended to read as follows:

19 "[+]§431:19-101.6[+] Salary. The salary of the
20 administrator shall be set by the director of commerce and
21 consumer affairs ~~[, but shall not be more than ninety five per
22 cent of the maximum salary of the commissioner]."~~

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1 SECTION 16. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 17. This Act shall take effect on July 1, 2007.

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INTRODUCED BY: _____

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BY REQUEST

JUSTIFICATION SHEET

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DEPARTMENT: Human Resources Development

TITLE: A BILL FOR AN ACT RELATING TO SALARIES.

PURPOSE: To eliminate statutory linkages between the salaries of specific department heads and deputy department heads and specified non-civil service positions.

MEANS: Amend sections 89-5(d), 109-2, 128-3(c), 201H-2(b), 269-2(b), 349-2(b), 353-63, 356D-2(b), 363-2(b), 371-4(a), 371K-2(b), 412:2-100(b), 431:2-103, and 431:19-101.6, Hawaii Revised Statutes.

JUSTIFICATION: Prior to 2004, department heads were paid the same salaries and deputy department heads were paid within a specified salary range. In 2004, the Executive Salary Commission recommended to the legislature that four tiers, with differing salaries, be implemented, with deputy department heads being compensated within salary ranges tied to the compensation of their department heads.

Act 226, Session Laws of Hawaii (SLH) 2005, linked the salaries of various positions to the salary of the Director of the Department Human Resources Development (DHRD).

Act 226 also set the salaries of certain positions to the salaries of certain other department heads, such as members of the Hawaii paroling authority (Department of Public Safety Director), members of Hawaii labor relations board and the labor appeals board (Department of Labor and Industrial Relations Director), and the commissioner of financial institutions (Department of Commerce and Consumer Affairs Director).

Because of the low salaries that are set by Act 226, it is difficult to attract or

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retain highly qualified individuals. The salaries of many of the above-referenced positions are specified as a set percentage of the salary of the department head. The current salaries of these positions are lower than the maximum rates applicable to civil service division chiefs, and many of the division chiefs are compensated at the higher end of the applicable salary ranges. In particular, the salaries that are set as a percentage of the Director of DHRD are especially low because the Director of DHRD's pay is in the lowest category of pay for department heads and is lower than the maximum rates applicable to civil service division chiefs.

In addition, the 2004 pay increase recommendations of the Executive Salary Committee from 2004 that are currently in effect cover an eight-year period. These department head pay increase recommendations provide for annual pay increases of two percent. Such increases have been lower than the percentage increases granted to civil service employees, and it is likely that this will continue to be the case during the remainder of the eight-year period. Therefore, the compensation of many of the incumbents of the above-mentioned is currently lower than that of civil service division chiefs, and the pay disparity is likely to continue increasing.

The positions covered by Act 226, SLH 2005, are comparable to civil service division chiefs. The proper solution for the state to attract and retain qualified personnel for these key positions is to amend the statutes establishing the pay for certain positions to "de-link" salaries of those positions and allow competent state authorities to utilize their judgment in determining the appropriate compensation for each of the positions.

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In addition to the positions covered by Act 226, SLH 2005, the salaries of the executive directors and executive assistants for the Hawaii Public Housing Authority and the Hawaii Housing Finance and Development Corporation are linked to the salary of the Director of Human Resources Development. The situation and problems applicable to the Act 226, SLH 2005, positions are also applicable to these positions.

Impact on the public: If the salaries of the affected positions remain linked to specific department heads or deputy department heads, it may not be possible to attract and retain the caliber of employees needed to properly serve the public.

Impact on the department and other agencies: The proposed legislation will not impact the Department of Human Resources Development, but will impact the agencies that the positions are assigned to by giving them the flexibility to compensate the incumbents of the positions sufficiently to attract and retain the caliber of employees needed to properly serve the public interest.

GENERAL FUND: Unknown.
OTHER FUNDS: Unknown.
PPBS PROGRAM DESIGNATION: None.
OTHER AFFECTED AGENCIES: Various.
EFFECTIVE DATE: July 1, 2007.