

JAN 17 2020

A BILL FOR AN ACT

RELATING TO PUBLIC EMPLOYEE COMPENSATION.

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

SECTION 1. Chapter 76, Hawaii Revised Statutes, is amended by adding two new sections to part I to be appropriately designated and to read as follows:

"§76-A Public employees' compensation appeals board; established; repricing. (a) There is established within the department of accounting and general services for administrative purposes a public employees' compensation appeals board to hear appeals on the repricing of classes. The public employees' compensation appeals board shall be composed of:

(1) One member from each jurisdiction nominated by the head of the respective jurisdiction; and

(2) One member nominated by the head of each employee organization representing public employees in the State; provided that the executive representative of bargaining units (2), (3), (4), (6), (8), (9), (13), and (14), and the exclusive representative for



1 bargaining units (1) and (10) shall each nominate two
2 members.

3 The appointment, tenure, and removal of the members and the
4 filling of vacancies on the public employees' compensation
5 appeals board shall be as provided in section 26-34.

6 (b) The members of the public employees' compensation
7 appeals board shall serve without compensation but shall be
8 reimbursed for expenses, including travel expenses, necessary
9 for the performance of their duties.

10 (c) The public employees' compensation appeals board may:

11 (1) Appoint a qualified hearings officer and invest the
12 hearings officer with power to hear the appeals and
13 report thereon to the board; and

14 (2) Appoint other employees that it deems necessary.

15 If appointed, the qualified hearings officer and the other
16 employees shall not subject to chapters 76 and 78. The public
17 employees' compensation appeals board shall adopt policies and
18 standards relative to compensation of any appointed qualified
19 hearings officer and other employees.

20 (d) The public employees' compensation appeals board shall
21 adopt rules pursuant to chapter 91 regarding deadlines and



1 procedures for the filing of appeals and for the conduct of
2 appeal hearings. The public employees' compensation appeals
3 board may adopt other rules pursuant to chapter 91 to carry out
4 its purpose. Nine members shall constitute a quorum at any
5 board meeting. Decisions on the repricing of classes shall
6 require at least the affirmative vote of the majority of a
7 quorum to be valid.

8 (e) Neither the public employees' compensation appeals
9 board nor any of its members or staff shall consult with any
10 public employer on any matter pending before the board except on
11 notice and opportunity for the petitioner to participate.

12 **§76-B Public employees' compensation appeals process;**
13 **repricing.** (a) All petitions for appeals from affected persons
14 on the repricing of a class shall be filed with the public
15 employees' compensation appeals board.

16 (b) Each appeal shall be filed within thirty days of the
17 ratification, agreement, or issuance of the applicable
18 collective bargaining agreement, supplemental agreement, or
19 agreement reached through arbitration decision; provided that if
20 a class is not repriced for a period of three years, an appeal



1 may be filed at any time after the three-year period has
2 expired.

3 (c) Upon receipt of a petition filed pursuant to this
4 section, the public employees' compensation appeals board shall
5 give public notice of the time and place of the hearing. The
6 public notice shall be given at least thirty days prior to the
7 hearing. The hearing shall take place within one year of the
8 filing of the petition and in the county in which the appeal is
9 filed, unless otherwise agreed upon by the petitioner.

10 (d) If the public employees' compensation appeals board
11 determines that a class should not be repriced, the petition
12 shall be closed, and the petitioner shall be precluded from
13 filing a subsequent appeal for that class for two years from the
14 date of the board's determination.

15 (e) If the public employees' compensation appeals board
16 determines that a class should be repriced, the public
17 employees' compensation appeals board shall make adjustments to
18 the affected class or classes where the appeals have been filed
19 in the compensation plan that are necessary. The decision of
20 the public employees' compensation appeals board shall be in



1 writing, accompanied by separate findings, and binding on all
2 jurisdictions.

3 (f) Following the final adjustments, each director shall
4 submit to the state legislature, through the office of the
5 governor, a report setting forth the compensation plan and the
6 cost thereof for its information and approval. The approved
7 compensation plan shall be effective as of July 1 of each even-
8 numbered year.

9 (g) The director shall assign new classes to salary ranges
10 on the basis of the policies and standards established pursuant
11 to this section. The assignments shall be effective immediately
12 if the availability of funds is certified to by the respective
13 fiscal officers and shall be in effect until adoption of the
14 next compensation plan.

15 (h) All decisions of the board under this section in favor
16 of the person appealing and granting a higher compensation shall
17 be retroactive to the date of the filed petition."

18 SECTION 2. Section 76-1, Hawaii Revised Statutes, is
19 amended to read as follows:

20 **"§76-1 Purposes; merit principle.** It is the purpose of
21 this chapter to require each jurisdiction to establish and



1 maintain a separately administered civil service system based on
2 the merit principle. The merit principle is the selection of
3 persons based on their fitness and ability for public employment
4 and the retention of employees based on their demonstrated
5 appropriate conduct and productive performance. It is also the
6 purpose of this chapter to build a career service in government,
7 free from coercive political influences, to render impartial
8 service to the public at all times, according to the dictates of
9 ethics and morality and in compliance with all laws.

10 In order to achieve these purposes, it is the declared
11 policy of the State that the human resource program within each
12 jurisdiction be administered in accordance with the following:

- 13 (1) Equal opportunity for all in compliance with all laws
14 prohibiting discrimination. No person shall be
15 discriminated against in examination, appointment,
16 reinstatement, reemployment, promotion, transfer,
17 demotion, or removal, with respect to any position
18 when the work may be efficiently performed by the
19 person without hazard or danger to the health and
20 safety of the person or others;



1 (2) Impartial selection of individuals for public service
2 by means of competitive tests which are fair,
3 objective, and practical;

4 (3) Incentives for competent employees within the service,
5 whether financial or promotional opportunities and
6 other performance based group and individual awards
7 that encourage continuous improvement to achieve
8 superior performance;

9 (4) Reasonable job security for competent employees and
10 discharge of unnecessary or inefficient employees with
11 the right to grieve and appeal personnel actions
12 through the:

13 (A) Contractual grievance procedure for employees
14 covered by chapter 89; or

15 (B) Internal complaint procedures and the merit
16 appeals board for employees excluded from
17 coverage under chapter 89;

18 (5) Equal pay for equal work shall apply between classes
19 in the same bargaining unit among jurisdictions for
20 those classes determined to be equal through
21 systematic classification of positions based on



1 objective criteria and adequate job evaluation, unless
2 [~~it has been agreed in accordance with chapter 89 to~~
3 ~~negotiate~~] agreed or determined in accordance with
4 this chapter or chapter 89 for the repricing of
5 classes; and

6 (6) Harmonious and cooperative relations between
7 government and its employees, including employee
8 organizations representing them, to develop and
9 maintain a well-trained, efficient, and productive
10 work force that utilizes advanced technology to ensure
11 effective government operations and delivery of public
12 services."

13 SECTION 3. Section 89-9, Hawaii Revised Statutes, is
14 amended by amending subsection (f) to read as follows:

15 "(f) The repricing of classes within an appropriate
16 bargaining unit may be negotiated or determined as follows:

17 (1) At the request of the exclusive representative and at
18 times allowed under the collective bargaining
19 agreement, the employer shall negotiate the repricing
20 of classes within the bargaining unit. The negotiated



1 repricing actions that constitute cost items shall be
2 subject to the requirements in section 89-10; [~~and~~]

3 (2) If repricing has not been negotiated under paragraph
4 (1), the employer of each jurisdiction shall ensure
5 establishment of procedures to periodically review, at
6 least once in five years, unless otherwise agreed to
7 by the parties, the repricing of classes within the
8 bargaining unit. The repricing of classes based on
9 the results of the periodic review shall be at the
10 discretion of the employer. Any appropriations
11 required to implement the repricing actions that are
12 made at the employer's discretion shall not be
13 construed as cost items[~~-~~]; or

14 (3) By the public employees' compensation appeals board
15 pursuant to section 76-B."

16 SECTION 4. There is appropriated out of the general
17 revenues of the State of Hawaii the sum of \$ or so
18 much thereof as may be necessary for fiscal year 2020-2021 for
19 establishment of the public employees' compensation appeals
20 board.



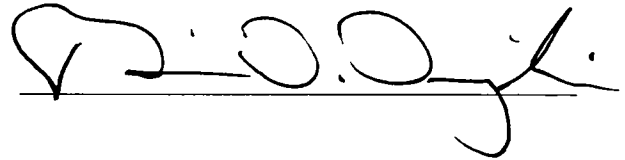
1 The sum appropriated shall be expended by the department of
2 accounting and general services for the purposes of this Act.

3 SECTION 5. In codifying the new sections added by section
4 1 of this Act, the revisor of statutes shall substitute
5 appropriate section numbers for the letters used in designating
6 the new sections in this Act.

7 SECTION 6. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 7. This Act shall take effect upon its approval;
10 provided that section 4 shall take effect on July 1, 2020.

11
INTRODUCED BY:

A handwritten signature in black ink, appearing to read "V. D. O. J. K.", is written over a horizontal line.

S.B. NO. 2250

Report Title:

Public Employees' Compensation Appeals Board; Collective Bargaining; Classes; Repricing; Appropriation

Description:

Establishes the public employees' compensation appeals board to hear appeals requesting the repricing of a class. Appropriates funds.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

