

**ACT 129**

**S.B. NO. 2759-82**

**A Bill for an Act Relating to the Compensation of Public Officers and Employees  
and Making an Appropriation Therefor.**

*Be It Enacted by the Legislature of the State of Hawaii:*

**PART I**

**SECTION 1.** Chapter 26, Hawaii Revised Statutes, is amended as follows:

1. Section 26-51 is amended to read:

**"§26-51 Governor; lieutenant governor.** Effective July 1, [1975,] 1981, the salary of the governor of the State shall be [\$46,000] \$55,000 a year. Effective [January] July 1, [1976,] 1982, the salary of the governor of the State shall be [\$50,000] \$59,400 a year. Effective July 1, [1975,] 1981, the salary of the lieutenant governor shall be [\$41,400] \$49,500 a year. Effective [January] July 1, [1976,] 1982, the salary of the lieutenant governor shall be [\$45,000] \$53,460 a year."

2. Section 26-52 is amended to read:

**"§26-52 Department heads and executive officers.** The salaries of the following state officers [are fixed at the following annual rates:] shall be as follows:

- (1) [The salary of the superintendent of education shall be set by the board of education.] Effective July 1, [1975,] 1981, the salary of the superintendent of education shall be [not more than \$39,100] \$46,750 a year. Effective [January] July 1, [1976,] 1982, the salary shall be [not more than \$42,500] \$50,490 a year.
- (2) [The salary of the president of the University of Hawaii shall be set by the board of regents.] Effective July 1, [1975,] 1981, the salary of the president of the University of Hawaii shall be [not more than \$41,400] \$49,500 a year. Effective [January] July 1, [1976,] 1982, the salary shall be [not more than \$45,000] \$53,460 a year.
- (3) [The] Effective July 1, 1981, the salaries of all department heads or executive officers of the departments of accounting and general services, agriculture, attorney general, budget and finance, Hawaiian home lands, health, labor and industrial relations, land and natural resources, personnel services, planning and economic development, regulatory agencies, social services and housing, taxation, and transportation shall be [set by the appointing authority. Effective July 1, 1975, their salaries shall be not more than \$39,100] \$46,750 a year. Effective [January] July 1, [1976,] 1982, their salaries shall be [not more than \$42,500] \$50,490 a year.
- (4) Effective July 1, [1975,] 1981, the salary of the adjutant general shall be [not more than \$39,100] \$46,750 a year. Effective [January] July 1, [1976,] 1982, the salary shall be [not more than \$42,500] \$50,490 a year. If the [maximum rate] salary is in conflict with the pay and allowance fixed by the tables of the regular army of the United States, the latter shall prevail."

3. Section 26-53 is amended to read:

**"§26-53 Deputies or assistants to department heads.** [The salaries of first and second deputies or first and second assistants to the head of any department of the State shall be set by the director or executive officer concerned.] Effective July 1, [1975,] 1981, the salaries of first deputies or first assistants to the head of any department of the State shall be [not more than \$36,800] \$44,000 a year, and the salaries of second deputies or second assistants shall be [not more than \$34,500] \$41,250 a year. Effective [January] July 1, [1976,] 1982, the salaries of first deputies or first assistants to the head of any department of the State shall be [not more than \$40,000] \$47,520 a year, and the salaries of second deputies or second assistants shall be [not more than \$37,500] \$44,550 a year."

4. Section 26-54 is amended to read:

**"§26-54 Administrative director of the State.** [The salary of the administrative director of the State shall be set by the governor.] Effective July 1, [1975,] 1981, the salary of the administrative director of the State shall be [not more than \$39,100] \$46,750 a year. Effective [January] July 1, [1976,] 1982, the salary of the administrative director of the State shall be [not more than \$42,500] \$50,490 a year."

SECTION 2. Section 29-1, Hawaii Revised Statutes, is amended to read as follows:

**"§29-1 Establishment of office.** There shall be in Washington, District of Columbia, a Hawaii office of federal programs coordinator. The office shall be headed by a coordinator who shall be appointed and removed by the governor, not subject to chapters 76, 77, and 89. [The salary of the federal programs coordinator shall be set by the governor.] Effective July 1, [1975,] 1981, the salary of the federal programs coordinator shall be [not more than \$29,900] \$35,750 a year. Effective [January] July 1, [1976,] 1982, the salary shall be [not more than \$32,500] \$38,610 a year. The coordinator shall appoint necessary staff, within available appropriations, not subject to chapters 76, 77, and 89. [The coordinator and his staff shall be included in any benefit program generally applicable to the officers and employees of the State.]

The office is placed within the department of budget and finance for administrative purposes."

SECTION 3. Section 89-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

**"(a)** There is created a Hawaii public employment relations board composed of three members of which (1) one member shall be representative of management, (2) one member shall be representative of labor, and (3) the third member, the chairman, shall be representative of the public. All members shall be appointed by the governor for terms of six years each, except that the terms of members first appointed shall be for four, five, and six years respectively as designated by the governor at the time of appointments. Public employers and employee organizations representing public employees may submit to the governor for consideration names of persons representing their interests to serve as members of the board and the governor shall first consider these persons in selecting the members of the board to represent management and labor. Each member shall hold office until his successor is appointed and qualified. Because cumulative experience and continuity in office are essential to the proper administration of this chapter, it is declared to be in the public interest to continue board members in office as long as efficiency is demonstrated, notwithstanding the provision of section 26-34, which limits the appointment of a member of a board or commission to two terms.

The members shall devote full time to their duties as members of the board. [The] Effective July 1, 1981, the<sup>1</sup> salary of the chairman of the board shall be [the same as the salary of a circuit court judge. Each] \$46,750 a year, and the salary of each of the other members shall be [paid a salary at a rate of ninety-five per cent of the chairman's salary.] \$44,413 a year. Effective July 1, 1982, the salary of the chairman of the board shall be \$47,520 a year, and the salary of each of the other

members shall be \$44,550 a year. No member shall hold any other public office or be in the employment of the State or a county, or any department or agency thereof, or any employee organization during his term.

Any action taken by the board shall be by a simple majority of the members of the board. All decisions of the board shall be reduced to writing and shall state separately its finding of fact and conclusions. Three members of the board, consisting of the chairman, at least one member representative of management, and at least one member representative of labor, shall constitute a quorum. Any vacancy in the board, shall not impair the authority of the remaining members to exercise all the powers of the board. The governor may appoint an acting member of the board during the temporary absence from the State or the illness of any regular member. An acting member, during his term of service, shall have the same powers and duties as the regular member.

The chairman of the board shall be responsible for the administrative functions of the board. The board may appoint an executive officer, mediators, members of fact-finding boards, arbitrators, and hearing officers, and employ other assistants as it may deem necessary in the performance of its functions, prescribe their duties, and fix their compensation and provide for reimbursement of actual and necessary expenses incurred by them in the performance of their duties within the amounts made available by appropriations therefor. The provisions of section 103-3 notwithstanding, an attorney employed by the board as a full-time staff member may represent the board in litigation, draft legal documents for the board, and provide other necessary legal services to the board and shall not be deemed to be a deputy attorney general.

The board shall be within the department of labor and industrial relations for budgetary and administrative purposes only. The members of the board and employees other than clerical and stenographic employees shall be exempt from chapters 76 and 77. Clerical and stenographic employees shall be appointed in accordance with chapters 76 and 77.

At the close of each fiscal year, the board shall make a written report to the governor of such facts as it may deem essential to describe its activities, including the cases and their dispositions, and the names, duties, and salaries of its officers and employees. Copies of the report shall be transmitted to the legislative bodies and to the public management committee."

SECTION 4. Section 89A-1, Hawaii Revised Statutes, is amended to read as follows:

**"§89A-1 Office of collective bargaining in the state government established.**

There shall be established an office of collective bargaining in the office of the governor to assist the governor in negotiating with and entering into written agreements between the public employers and the exclusive representatives on matters of wages, hours, and other negotiable terms and conditions of employment.

The position of chief negotiator for the State is hereby established to head the office. The chief negotiator shall be experienced in labor relations. The governor shall appoint and remove the chief negotiator, deputy negotiators, and researcher, who shall not be subject to chapters 76 and 77. [The] Effective July 1, 1981, the salary of the chief negotiator shall be [set by the governor and shall not exceed the salaries of department heads as prescribed in section 26-52(3).] \$46,750 a year.

Effective July 1, 1982, the salary of the chief negotiator shall be \$47,520 a year. The chief negotiator, deputy negotiators, and researcher shall be included in any benefit program generally applicable to the officers and employees of the State. All other employees shall be appointed in accordance with chapters 76 and 77. The chief negotiator shall serve as one of the governor's designated representatives as set forth in section 89-6(b)."

SECTION 5. Section 109-2, Hawaii Revised Statutes, is amended to read as follows:

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

- (1) To maintain, operate, and manage the stadium and related facilities.
- (2) To prescribe and collect rents, fees, and charges for the use or enjoyment of the stadium or any of its facilities.
- (3) To make and execute contracts and other instruments necessary or convenient to exercise its powers under this chapter and subject to any limitations in this chapter, to exercise all powers necessary, incidental, or convenient to carry out and effectuate the purposes and provisions of this chapter.
- (4) To make, amend, and repeal in accordance with chapter 91 such rules [and regulations] as it may deem necessary.
- (5) To appoint a manager and a deputy manager who shall have such qualifications as the authority deems necessary and who shall hold their respective offices at the pleasure of the authority. The manager and deputy manager shall be exempt from the requirements of chapters 76 and 77 [and shall receive such salary as the authority may provide; except that the manager's salary shall not exceed the maximum salary provided for department heads of the State and the deputy manager's salary shall not be more than ninety per cent of the manager's salary]. Effective July 1, 1981, the salary of the manager shall be \$46,750 a year and, effective July 1, 1982, the salary of the manager shall be \$47,520 a year. Effective July 1, 1981, the salary of the deputy manager shall be \$42,075 a year and, effective July 1, 1982, the salary of the deputy manager shall be \$44,550 a year. The manager shall have full power to administer the affairs of the stadium and related facilities, subject to the direction and approval of the authority. The manager shall, subject to the approval of the authority, have power to appoint, suspend, and discharge such other employees, subordinates, and assistants as may be necessary for the proper conduct of the business of the authority. Except for persons hired on contract or otherwise as provided in section 109-3 and except for the manager and deputy manager, all appointments, suspensions, or discharges shall be made in conformity with the applicable provisions of chapters 76 and 77."

SECTION 6. Section 121-8, Hawaii Revised Statutes, is amended to read as follows:

**"§121-8 Adjutant general; rank, [compensation.] salary.** The adjutant general shall have the grade of a general officer. [There shall be paid monthly by the

State to] The<sup>1A</sup> salary of the adjutant general[, the pay and allowances as fixed by federal law for a member of the armed forces of the United States of like grade and length of service.] shall be subject to section 26-52."

SECTION 6A. Section 164-1, Hawaii Revised Statutes, is amended to read as follows:

**"§164-1 Establishment of the governor's agriculture coordinating committee.** There is established, in the governor's office for administrative purposes, the governor's agriculture coordinating committee, whose membership shall include the special assistant for agriculture, office of the governor, who shall be the chairperson, the director of planning and economic development, the chairperson of the board of land and natural resources, the chairperson of the board of agriculture, the director of transportation, the chairperson of the Hawaiian Homes Commission, the dean of the college of tropical agriculture[,] and human resources, and three farmers, one of whom shall be a representative of a recognized nonprofit association of farmers. All members of the committee shall serve without pay but shall be entitled to reimbursement for necessary expenses while attending meetings and while in the discharge of the duties and responsibilities of the committee. Effective July 1, 1981, the salary of the special assistant to the governor for agriculture shall be \$26,466. Effective July 1, 1982, the salary of the special assistant to the governor for agriculture shall be \$28,584."

SECTION 7. Section 218-2, Hawaii Revised Statutes, is amended to read as follows:

**"§218-2 Establishment of marine affairs coordinator.** The position of marine affairs coordinator is established in the department of planning and economic development for administrative purposes. The governor shall appoint and remove the coordinator, who shall not be subject to chapters 76, 77, and 89. [The salary of the coordinator shall be set by the governor. Effective July 1, 1975, the salary shall be not more than \$29,900 a year. Effective January 1, 1976, the salary shall be not more than \$32,500 a year. The coordinator shall be included in any benefit program generally applicable to the officers and employees of the State.]"

SECTION 8. Section 269-2, Hawaii Revised Statutes, is amended to read as follows:

**"§269-2 Public utilities commission; number, appointment of commissioners, qualifications; compensation; persons having interest in public utilities.** There shall be a public utilities commission of three members, to be called commissioners, and who shall be appointed in the manner prescribed in section 26-34, except as otherwise provided in this section. All members shall be appointed for terms of six years each, except that the terms of the members first appointed shall be for two, four, and six years, respectively, as designated by the governor at the time of appointment. The governor shall designate a member to be chairman of the commission. Each member shall hold office until his successor is appointed and qualified. Section 26-34 shall not be applicable insofar as it relates to the number of terms and consecutive number of years a member can serve on the commission; provided that no member shall serve more than twelve consecutive years.

In appointing commissioners, the governor shall select persons who have had experience in accounting, business, engineering, government, finance, law, or other

similar fields. The commissioners shall devote full time to their duties as members of the commission and no commissioner shall hold any other public office or other employment during his term of office. No person owning any stock or bonds of any public utility corporation, or having any interest in, or deriving any remuneration from, any public utility shall be appointed a commissioner.

[The] Effective July 1, 1981, the chairman of the commission shall be paid a salary [the same as the salary of circuit court judges. Each] of \$46,750 a year, and each of the other commissioners shall be paid a salary [at the rate of ninety-five per cent of the chairman's salary.] of \$44,413 a year. Effective July 1, 1982, the chairman shall be paid a salary of \$47,520 a year, and each of the other commissioners shall be paid a salary of \$44,550 a year. The commissioners shall be exempt from chapters 76 and 77 but shall be members of the state employees retirement system and shall be eligible to receive the benefits of any state or federal employee benefit program generally applicable to officers and employees of the State, including those under chapter 87.

The commission is placed within the department of budget and finance for administrative purposes."

SECTION 9. Section 297-31.5, Hawaii Revised Statutes, is amended to read as follows:

"**[§297-31.5] Salary[:]; assistant superintendents, district superintendents, deputy district superintendents.** The salaries of assistant superintendents, district superintendents, and deputy district superintendents shall be set by the board. Effective July 1, [1975,] 1981, the salaries of assistant superintendents and district superintendents shall be not more than [\$34,500] \$41,250 a year and the salaries of deputy district superintendents shall be not more than [\$32,200] \$38,500 a year. Effective [January] July 1, [1976,] 1982, the salaries of assistant superintendents and district superintendents shall be not more than [\$37,500] \$44,550 a year, and the salaries of deputy district superintendents shall be not more than [\$35,000] \$41,580 a year."

SECTION 10. Section 312-2.1, Hawaii Revised Statutes, is amended to read as follows:

"**§312-2.1 Appointment of state librarian; duties; salary.** The state librarian shall be appointed by the board of education, shall be under the direction of the board, and shall be responsible for the operation, planning, programming, and budgeting of all community/school and public libraries within the State. Notwithstanding any other law to the contrary, the salary of the state librarian shall be set by the board of education [and shall be the same as that of an assistant superintendent of education]. Effective July 1, 1981, the salary shall not exceed \$41,250 a year. Effective July 1, 1982, the salary shall not exceed \$44,550 a year."

SECTION 11. Section 314-10, Hawaii Revised Statutes, is amended to read as follows:

"**§314-10 Executive director and staff.** The board shall appoint an executive director subject to the approval of the governor who shall not be subject to chapters 76, 77, and 89. [The board shall determine the salary of the executive director which, effective] Effective July 1, [1975,] 1981, the salary of the executive director shall [not] be [more than \$29,900] \$35,750 a year [and effective January]. Effective

July 1, [1976,] 1982, the salary of the executive director shall [not] be [more than \$32,500] \$38,610 a year."

SECTION 12. Section 349-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The head of this office shall be known as the director of the executive office on aging, hereinafter referred to as director. The director shall have professional training in the field of social work, education, public health, and other related fields; extensive direct experience in programs or services related to the elderly; and recent experience in a supervisory, consultative, or administrative position. The director shall be nominated and appointed by the governor without regard to chapters 76 and 77. [The] Effective July 1, 1981, the salary of the director shall be [\$32,500] \$41,250 annually[, effective]. Effective July 1, [1976, and \$37,500] 1982, the salary of the director shall be \$44,550 annually[, effective January 1, 1977]. The director shall be included in any benefit program generally applicable to the officers and employees of the State."

SECTION 13. Section 353-63, Hawaii Revised Statutes, is amended to read as follows:

**"§353-63 Service of Hawaii paroling authority members compensation; expenses.** The chairman of the Hawaii paroling authority shall serve on a full-time basis. The other two members shall serve on a part-time basis. [The] Effective July 1, 1981, the annual salary of the chairman shall be [\$37,500.] \$41,250. The compensation of each of the members shall be eighty per cent of the hourly wage paid the chairman. Effective July 1, 1982, the annual salary of the chairman shall be \$44,550. For each hour engaged in the official duties of the authority from July 1, 1981 to June 30, 1982, each member of the authority other than the chairman shall be paid an hourly wage at the percentage rate specified in this section based on the hourly wage paid the chairman effective July 1, 1981. Effective July 1, 1982, each member other than the chairman shall be paid at the percentage rate specified in this section based on the hourly wage paid the chairman effective July 1, 1982, for each hour in which the member is engaged in official duties. All paroling authority members shall receive their necessary expenses for travel and incidentals which shall be paid from appropriations provided the authority for such purposes, on vouchers approved by the director of social services."

SECTION 14. Section 356-5, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) The authority shall employ, not subject to chapters 76 and 77 and section 26-35(4), an executive director. Effective July 1, 1981, the salary of the executive director shall be \$44,000 a year. Effective July 1, 1982, the salary of the executive director shall be \$47,520 a year. The authority may employ, subject to chapters 76 and 77, technical experts and officers, agents, and employees, permanent and temporary, as required. When, in the determination of the authority, services to be performed are unique and essential to the execution of the functions of the authority, it may hire persons on a contractual basis not subject to chapters 76, 77, and 78; provided that no individual contract shall be for a period longer than two years per term. The authority may call upon the attorney general for such legal services as it may require or may employ its own counsel and legal staff. The



authority may delegate to one or more of its agents or employees such powers or duties as it deems proper."

SECTION 15. Section 371-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There is created a labor and industrial relations appeals board composed of three members nominated and, by and with the advice and consent of the senate, appointed by the governor for terms of ten years each, except that the terms of members first appointed shall be for six, eight, and ten years respectively as designated by the governor at the time of appointments. The governor shall designate the chairman of the board who shall be an attorney at law licensed to practice in all of the courts of this State. Each member shall hold office until his successor is appointed and qualified. Because cumulative experience and continuity in office are essential to the proper handling of appeals under workers' compensation law and other labor laws, it is hereby declared to be in the public interest to continue board members in office as long as efficiency is demonstrated. The members shall devote full time to their duties as members of the board. [The] Effective July 1, 1981, the salary of the chairman of the board shall be [the same as the salary of a circuit court judge. Each] \$46,750 a year, and the salary of each of the other members shall be [paid a salary at the rate of ninety-five per cent of the chairman's salary.] \$44,413 a year. Effective July 1, 1982, the salary of the chairman shall be \$47,520 a year, and the salary of each of the other members shall be \$44,550 a year."

SECTION 16. Section 410-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The powers and duties of the commissioner shall include, but not be limited to:

- (1) Enforcing the provisions of this chapter and other laws relating to credit unions;
- (2) Conferring with the credit union review board on matters affecting credit unions incorporated under this chapter;
- (3) Appointing a deputy not subject to chapters 76, 77, and 89 who shall receive a salary, effective July 1, [1975,] 1981, of [not more than \$29,500] \$35,750 a year[,] and, effective [January] July 1, [1976,] 1982, of [not more than \$32,500] \$38,610 a year. He shall possess all powers and perform all duties attached to the office of the commissioner of credit unions during a vacancy or during the absence or inability of the commissioner; and
- (4) Employing examiners and clerks pursuant to chapters 76 and 77 to assist him and his deputy in the discharge of the duties of the office.

The commissioner, his deputy, and the employees of the office shall be subject to the same requirements and penalties of the members of the board as provided in section 410-3(c)."

SECTION 17. Section 431-33, Hawaii Revised Statutes, is amended to read as follows:

"**§431-33 Salary.** The insurance commissioner shall not receive any salary in addition to his salary as director of regulatory agencies. [The salary of the assistant insurance commissioner shall be not more than \$37,500, to be set by the director of

regulatory agencies.] Effective July 1, 1981, the salary of the assistant insurance commissioner shall be \$41,250 a year. Effective July 1, 1982, the salary of the assistant insurance commissioner shall be \$44,550 a year."

SECTION 18. Section 487-4, Hawaii Revised Statutes, is amended to read as follows:

**"§487-4 Salaries; benefits.** [The salary of the director of the office of consumer protection shall be set by the governor.] Effective July 1, [1975,] 1981, the salary of the director of the office of consumer protection<sup>1B</sup> shall be [not more than \$34,500] \$41,250 a year. Effective [January] July 1, [1976,] 1982, the salary of the director<sup>2</sup> shall be [not more than \$37,500] \$44,550 a year. The director and attorney staff members shall be entitled to participate in any employee benefit plan."

SECTION 18A. Section 581-1, Hawaii Revised Statutes, is amended to read as follows:

**"(b)** The director of the office shall be known as the director of the office of children and youth, hereinafter referred to as director. The director shall have training and/or experience in the field of social work, education, public health, or other related fields; direct experience in programs and services related to children and youth; and experience in a supervisory, consultative, or administrative position. The director shall be appointed by the governor without regard to chapters 76 and 77. [The salary of the director shall be set by the governor.] Effective July 1, 1981, the salary of the director shall be \$41,250. Effective July 1, 1982, the salary of the director shall be \$44,550. The director shall be included in any benefit program generally applicable to the officers and employees of the State."

SECTION 19. Section 802-11, Hawaii Revised Statutes, is amended to read as follows:

**"§802-11 Appointment of state public defender.** The state public defender shall be appointed by the defender council without regard to chapters 76, 77, and 89. His appointment shall be for a term of four years except as otherwise provided herein, and until his successor is appointed and qualified. He shall be qualified to practice law before the supreme court of this State. [The annual salary of the state public defender shall be set by the defender council.] Effective July 1, [1975,] 1981, the salary of the state public defender shall be [not more than \$34,500] \$41,250 a year. Effective [January] July 1, [1976,] 1982, the salary of the state public defender shall be [not more than \$37,500] \$44,550 a year. [The first state public defender appointed pursuant to this section shall be appointed for a term commencing July 1, 1971, and expiring December 31, 1975.] The state public defender shall devote full time to the performance of his duties and shall not engage in the general practice of law."

SECTION 20. Act 1, First Special Session Laws of Hawaii 1981, part III, section 14, is amended to read as follows:

**"SECTION 14.** Provided, that of the general fund appropriation for the General Support for Economic Development (PED 142), \$37,500 for [each] the fiscal year [of the fiscal biennium 1981-83] 1981-82 is for a second deputy director."

SECTION 21. There is appropriated out of the general revenues of the State of Hawaii to Program Planning, Analysis, and Budgeting (BUF 101) in the oper-

ating cost category the sum of \$329,467 for fiscal year 1981-1982 and \$621,092 for fiscal year 1982-1983, or so much thereof as may be necessary to provide salary increases and retroactive salary payments for executive branch officers of the State whose salaries are increased under this Act.

Special and federal funds shall be used to the maximum extent before state funds are utilized. Any unexpended or unencumbered balance of any appropriations made by this Act as of the close of business on June 30, 1983, shall lapse into the general fund.

The sum appropriated shall be expended by the department of budget and finance for the purposes of this part.

## PART II

SECTION 22. Section 76-16, Hawaii Revised Statutes, is amended to read as follows:

**"§76-16 Civil service and exemptions.** The civil service to which this part applies comprises all positions in the state service now existing or hereafter established and embraces all personal services performed for the State, except the following:

- (1) Commissioned and enlisted personnel of the Hawaii national guard as such, and positions in the Hawaii national guard which are required by state or federal laws or regulations, or orders of the national guard, to be filled from such commissioned or enlisted personnel;
- (2) Positions filled by persons employed by contract where the director of personnel services has certified that the service is special or unique, is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform such service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (3) Positions of a temporary nature needed in the public interest where the need for the same does not exceed one year, but before any person may be employed to render such temporary service the director shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable;
- (4) Positions filled by the legislature or by either house or any committee thereof;
- (5) Employees in the office of the governor and household employees at Washington Place and eight employees in the office of the lieutenant governor;
- (6) Positions filled by popular vote;
- (7) Department heads, officers, and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;
- (8) Judges, referees, receivers, masters, jurors, jury commissioners, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;
- (9) One secretary or clerk for each justice of the supreme court, each judge

of the intermediate appellate court, and each judge of the circuit court; three law clerks for the chief justice of the supreme court, two law clerks for each associate justice of the supreme court, and one law clerk for each judge of the intermediate appellate court and of the circuit court (provided that the law clerk for a judge of the circuit court shall be employed in lieu of and shall have the powers and duties of a court officer and bailiff under section 606-14); sheriff, first deputy sheriff, and second deputy sheriff; and one private secretary for each department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant defined in paragraph (16);

- (10) Assistant and deputy attorneys general and law clerks;
- (11) Teachers, principals, vice-principals, district superintendents, chief deputy superintendents, other certificated personnel, and not more than twenty non-certificated administrative, professional, and technical personnel not engaged in instructional work in the department of education, and members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work and administrative, professional, and technical personnel of the university;
- (12) Employees engaged in special, research, or demonstration projects approved by the governor, for which projects federal funds are available;
- (13) Positions filled by inmates, kokuas, and patients of state institutions, and persons with severe physical or mental handicaps participating on the Work Experience Training Programs, students, and positions filled through federally funded programs which provide temporary public service employment such as the federal Comprehensive Employment and Training Act of 1973;
- (14) A custodian or guide at Iolani Palace, Royal Mausoleum, and Hulihee Palace;
- (15) Positions filled by persons employed on a fee, contract, or piecework basis who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;
- (16) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, article V, of the State Constitution; three additional deputies or assistants either in charge of the highways, harbors, and airports divisions or such other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; one additional deputy to administer all hospitals within the jurisdiction of the department of health; one additional deputy in the department of health to administer all environmental health programs within the jurisdiction of the department; one additional deputy in the department of social services and housing either in charge of welfare or such other

- functions within the department as may be assigned by the director of social services; one additional deputy in the department of health in charge of administration or such other functions within the department as may be assigned by the director of health with the approval of the governor; one additional deputy in the department of planning and economic development to perform the duties assigned by the director of planning and economic development and approved by the governor; and an administrative assistant to the superintendent of education;
- (17) Positions specifically exempted from this part by any other law; provided that all of the positions defined by paragraph (9) shall be included in the position classification plan;
  - (18) Positions in the state foster grandparent program and positions for temporary employment of senior citizens in occupations in which there is a severe manpower shortage or in special projects;
  - (19) Household employees at the official residence of the president of the University of Hawaii;
  - (20) Employees in the department of education engaged in the supervision of students during lunch periods and in the cleaning of classrooms after school hours on a less than half-time basis;
  - (21) Employees hired under the tenant hire program of the Hawaii housing authority; provided that no more than twenty-six per cent of the authority's work force in any housing project maintained or operated by the authority shall be hired under the tenant hire program;
  - (22) Positions of the federally funded expanded food and nutrition program of the University of Hawaii which require hiring of nutrition program assistants who live in the areas they serve; and
  - (23) Positions filled by the severely handicapped persons who are certified by the state vocational rehabilitation office that they are able to safely perform the duties of the positions.

The director shall determine the applicability of this section to specific positions.

Nothing in this section shall be deemed to affect the civil service status of any incumbent as it existed on July 1, 1955."

SECTION 23. Section 571-8.2, Hawaii Revised Statutes, is amended to read as follows:

"**§571-8.2 Salary of district family judges.** Effective July 1, [1975, the compensation] 1981, the salary of each district family court [judges] judge of the various district family courts of the State shall be [\$36,800] \$44,000 a year. Effective [January] July 1, [1976, the compensation] 1982, the<sup>3</sup> salary of each district family court [judges] judge of the various district family courts of the State shall be [\$40,000] \$47,520 a year."

SECTION 24. Chapter 601, Hawaii Revised Statutes, is amended as follows:

1. Section 601-3 is amended to read:

"**§601-3 Administrative director.** The chief justice,<sup>4</sup> with the approval of the supreme court, shall appoint an administrative director of the courts to assist him in directing the administration of the judiciary. The administrative director shall be a

resident of the State for a continuous period of three years prior to his appointment, and shall be appointed without regard to chapters 76 and 77 and shall serve at the pleasure of the chief justice. He shall hold no other office or employment. Effective July 1, [1975, he] 1981, the administrative director shall receive a salary of [not more than \$36,800] \$46,750 a year. Effective [January] July 1, [1976, he] 1982, the administrative director shall receive a salary of [not more than \$40,000] \$50,490 a year. He shall, subject to the direction of the chief justice, perform the following functions:

- (1) Examine the administrative methods of the courts and make recommendations to the chief justice for their improvement;
- (2) Examine the state of the dockets of the courts, secure information as to their needs of assistance, if any, prepare statistical data and reports of the business of the courts and advise the chief justice to the end that proper action may be taken;
- (3) Examine the estimates of the courts for appropriations and present to the chief justice his recommendations concerning them;
- (4) Examine the statistical systems of the courts and make recommendations to the chief justice for a uniform system of judicial statistics;
- (5) Collect, analyze, and report to the chief justice statistical and other data concerning the business of the courts;
- (6) Assist the chief justice in the preparation of the budget, the six-year program and financial plan, the variance report and any other reports requested by the legislature;
- (7) Carry out all duties and responsibilities that are specified in title 7 as it pertains to employees of the judiciary; and
- (8) Attend to such other matters as may be assigned by the chief justice.

The administrative director shall, with the approval of the chief justice, appoint a deputy administrative director of the courts subject to chapter 76 but not subject to chapter 77 and such assistants as may be necessary. Such assistants shall be appointed subject to chapters 76 and 77. [The] Effective July 1, 1981, the salary of the deputy administrative director shall be [ninety-five per cent of the administrative director's salary.] \$44,000 a year. Effective July 1, 1982, the salary of the deputy administrative director shall be \$47,520 a year. The administrative director shall be provided with necessary office facilities.

The judges, clerks, officers, and employees of the courts shall comply with all requests of the administrative director for information and statistical data relating to the business of the courts and expenditures of public funds for their maintenance and operation."

2. Section 601-32 is amended to read:

"**[§601-32] Appointment.** The chief justice shall appoint and commission and,<sup>5</sup> at his pleasure, remove, without regard to [chapters] chapter 76 [and 77], the sheriff and deputy sheriffs."

3. Section 601-36 is amended to read:

"**§601-36 [Salaries.] Compensation classification, fees.** [The salary of the sheriff shall be set by the chief justice.] Effective July 1, [1975,] 1981, the sheriff's salary shall be [not more than \$16,100] \$19,250 a year. [Effective January 1, 1976, the sheriff's salary shall be not more than \$17,500 a year.] Effective July 1, [1975,]

1981, the salary of the first deputy sheriff and second deputy sheriff shall be [set by the chief justice and shall not be more than \$13,800] \$16,500 a year. [Effective January 1, 1976, the salary of the first deputy sheriff and second deputy sheriff shall be set by the chief justice and shall not be more than \$15,000 a year.] Effective July 1, 1982, the positions of sheriff, first deputy sheriff, and second deputy sheriff shall be exempt from chapter 76, but shall be included in the compensation plan without loss of pay or benefits.

The sheriff's deputies, other than the first deputy and second deputy, shall receive in full payment of their services only such fees as are prescribed by law; provided that the legally prescribed fees for such service of summons, subpoena, attachment, execution, or other civil process as provided by sections 607-4 and 607-8, shall belong to the sheriff, deputy sheriff, or other officer making such services."

SECTION 25. Chapter 602, Hawaii Revised Statutes, is amended as follows:

1. Section 602-2 is amended to read:

"§602-2 Salary, supreme court justices. Effective July 1, [1975, the compensation] 1981, the salary of the chief justice of the supreme court shall be [\$45,125] \$52,250 a year and the [compensation] salary of [the] each associate [justices] justice of the supreme court shall be [\$41,400] \$49,500 a year. Effective [January] July 1, [1976, the compensation] 1982, the salary of the chief justice of the supreme court shall be [\$47,500] \$56,430 a year and the [compensation] salary of [the] each associate [justices] justice of the supreme court shall be [\$45,000] \$53,460 a year."

2. Section 602-52 is amended to read:

"[§602-52] Salary. [The compensation] Effective July 1, 1981, the salary of the chief judge of the intermediate appellate court shall be [\$45,000] \$49,500 a year and the [compensation] salary of [the] each associate [judges] judge shall be [\$43,750] \$48,125 a year. Effective July 1, 1982, the salary of the chief judge shall be \$53,460 a year and the salary of each associate judge shall be \$51,975 a year."

SECTION 26. Section 603-5, Hawaii Revised Statutes, is amended to read as follows:

"§603-5 Salary of circuit court judges. Effective July 1, [1975, the compensation of the] 1981, the salary of each circuit court [judges] judge of the various circuit courts of the State shall be [\$39,100] \$46,750 a year. Effective [January] July 1, [1976, the compensation of the] 1982, the salary of each circuit court [judges] judge of the various circuit courts of the State shall be [\$42,500] \$50,490 a year."

SECTION 27. Section 604-2.5, Hawaii Revised Statutes, is amended to read as follows:

"§604-2.5 Salary of district judges. Effective July 1, [1975, the compensation of the] 1981, the salary of each district court [judges] judge of the various district courts of the State shall be [\$36,800] \$44,000 a year. Effective [January] July 1, [1976, the compensation] 1982, the salary of [the] each district court [judges] judge of the various district courts of the State shall be [\$40,000] \$47,520 a year."

SECTION 28. There is appropriated out of the general revenues of the State of Hawaii the sum of \$242,750 for fiscal year 1981-1982 and \$443,480 for fiscal year 1982-1983, or so much thereof as may be necessary to provide salary increases and retroactive salary payments for justices, judges, and judicial branch officers and employees, whose salaries are increased under this part.

The sum appropriated shall be expended by the judiciary for the purposes of this part.

### PART III

SECTION 29. Chapter 23, Hawaii Revised Statutes, is amended as follows:

1. Section 23-3 is amended to read:

**"§23-3 Salary of the auditor and appropriations.** The salary of the auditor shall be fixed by the legislature and shall not be diminished during the auditor's term of office. [The salary shall be the same as the salary of circuit court judges. Any adjustment in the annual salary of the circuit court judges as fixed by the legislature shall be applicable to the salary of the auditor.] Effective July 1, 1981, the salary of the auditor shall be \$46,750 a year. Effective July 1, 1982, the salary of the auditor shall be \$50,490 a year.

The funds for the support of the auditor's office shall be provided for in the act providing for the expenses of the legislature."

2. Section 23-8 is amended to read:

**"§23-8 Assistance and staff.** In the performance of his duties, the auditor may employ the services of one or more certified public accountants or accounting firms, and such other assistants and clerical workers as may be necessary, provided the cost thereof shall not exceed such sums as may be available out of the appropriation provided by law for the conduct of his office and provided further, that such accountants, firms, and assistants are entirely independent of the departments, offices, and agencies of the State and its political subdivisions whose affairs are subject to audit by the auditor. All employees shall be hired by the auditor subject to the approval of the president of the senate and the speaker of the house of representatives and shall serve at his pleasure; provided[,] that in the establishment of the salary of each employee the auditor shall consult with the department of personnel services and shall follow as closely as possible the recommendations of the department; and provided further[,] that, effective July 1, 1981, the salary of the first assistant or first deputy shall [not exceed a sum equal to ninety-five per cent of the salary of the auditor.] be \$44,000 a year and, effective July 1, 1982, the salary of the first assistant or first deputy shall be \$47,520 a year. The auditor and his full-time staff shall be entitled to participate in any employee benefit program privileges."

SECTION 30. Chapter 23G, Hawaii Revised Statutes, is amended as follows:

1. Section 23G-1 is amended to read:

**"§23G-1 Legislative reference bureau; director, appointment, tenure, removal, compensation, vacancy.** The office of the legislative reference bureau is established. The legislature, by a majority vote of each house in joint session, shall appoint a director for the bureau who shall serve for a period of six years and thereafter until a successor shall have been appointed. The legislature, by two-thirds vote of the members in joint session, may remove or suspend the director from office, but only for neglect of duty, misconduct, or disability.

If the director dies, resigns, becomes ineligible to serve, or is removed or suspended from office, the first assistant to the director shall become the acting



director until a new director is appointed.

[The] Effective July 1, 1981, the salary of the director shall be [the same as the salary of the circuit court judges. Any adjustment in the annual salary of the circuit court judges as fixed by the legislature shall be applicable to the salary of the director.] \$46,750 a year. Effective July 1, 1982, the salary of the director shall be \$50,490 a year. The [compensation] salary of the director shall not be diminished during his term of office, unless by general law applying to all salaried officers of the State."

2. Section 23G-2 is amended to read:

"**[[§23G-2]] Assistant; staff.** The director shall appoint a first assistant and such other officers and employees as may be necessary to carry out the functions of the bureau. All employees, including the first assistant, shall be hired by the director and shall serve at his pleasure. In determining the salary of the employees of the bureau, the director shall consult with the department of personnel services; provided that, effective July 1, 1981,<sup>6</sup> the salary of the first assistant shall [not exceed the sum equal to ninety-five per cent of the salary of the director.] be \$44,000 a year and, effective July 1, 1982, the salary of the first assistant shall be \$47,520 a year.<sup>7</sup> The director and his full-time staff shall be entitled to participate in any employee benefit program plan or privilege."

SECTION 31. Section 84-35, Hawaii Revised Statutes, is amended to read as follows:

"**§84-35 Staff.** The ethics commission may employ and at pleasure remove such persons, including an executive director, as it may deem necessary for the performance of its functions [and fix their compensation]. Effective July 1, 1981, the salary of the executive director shall be \$34,096 a year. Effective July 1, 1982, the salary of the executive director shall be \$34,824 a year. The commission shall fix the compensations of other employees within the amounts made available by appropriation therefor. The employees of the commission shall be exempt from chapters 76 and 77."

SECTION 32. Chapter 96, Hawaii Revised Statutes, is amended as follows:

1. Section 96-2 is amended to read:

"**§96-2 Ombudsman; office established, appointment, tenure, removal, qualifications, [compensation,] salary, vacancy.** The office of the ombudsman is established. The legislature, by a majority vote of each house in joint session, shall appoint an ombudsman who shall serve for a period of six years and thereafter until a successor shall have been appointed. An ombudsman may be reappointed but may not serve for more than three terms. The legislature, by two-thirds vote of the members in joint session, may remove or suspend the ombudsman from office, but only for neglect of duty, misconduct, or disability.

No person may serve as ombudsman within two years of the last day on which he served as a member of the legislature, or while he is a candidate for or holds any other state office, or while he is engaged in any other occupation for reward or profit.

[The salary of the ombudsman shall be the same as the salary of the circuit court judges. Any adjustment in the annual salary of the circuit court judges as fixed by the legislature shall be applicable to the salary of the ombudsman.] Effec-

tive July 1, 1981, the salary of the ombudsman shall be \$46,750 a year. Effective July 1, 1982, the salary of the ombudsman shall be \$50,490 a year. The [compensation] salary of the ombudsman shall not be diminished during his term of office, unless by general law applying to all salaried officers of the State.

If the ombudsman dies, resigns, becomes ineligible to serve, or is removed or suspended from office, the first assistant to the ombudsman becomes the acting ombudsman until a new ombudsman is appointed for a full term."

2. Section 96-3 is amended to read:

**"§96-3 Assistance, staff, delegation, funding.** The ombudsman shall appoint a first assistant and such other officers and employees as may be necessary to carry out this chapter. All employees, including the first assistant, shall be hired by the ombudsman and shall serve at his pleasure. In determining the salary of each such employee, the ombudsman shall consult with the department of personnel services and shall follow as closely as possible the recommendations of the department. [The] Effective July 1, 1981, the first assistant's salary shall [not exceed ninety-five per cent of the salary of the ombudsman.] be \$44,000 a year. Effective July 1, 1982, the first assistant's salary shall be \$47,520 a year. The ombudsman and his full-time staff shall be entitled to participate in any employee benefit plan.

The ombudsman may delegate to his appointees any of his duties except those specified in sections 96-12 and 96-13; provided that during the absence of the ombudsman from the island of Oahu, or his temporary inability to exercise and discharge the powers and duties of his office, such powers and duties as contained in sections 96-12 and 96-13 shall devolve upon the first assistant during such absence or inability.

The funds for the support of the office of the ombudsman shall be provided for in the act providing for the expenses of the legislature."

SECTION 33. There is appropriated out of the general revenues of the State of Hawaii to the legislative agencies indicated below the following sums, or so much thereof as may be necessary for the fiscal biennium 1981-1983, to provide salary increases, and retroactive salary payments for the legislative auditor and the auditor's first deputy or first assistant, the director of the legislative reference bureau and the director's assistants, executive director of the ethics commission, and the ombudsman and the ombudsman's first assistant:

	FY 1981-1982	FY 1982-1983
Office of the Legislative Auditor	\$ 7,875	\$15,135
Ethics Commission	3,100	6,510
Office of the Legislative Reference Bureau	17,975	31,813
Ombudsman	7,875	15,135

The sum appropriated shall be expended by the auditor, office of the legislative reference bureau, or office of the ombudsman, as applicable, for the purposes of this part.

#### PART IV

SECTION 34. The purpose of this section is to prohibit the increase of the

salaries of certain city and county officers of the executive branch after June 30, 1982. The salaries of elected officials, department heads, first deputies to department heads, and certain officers and employees under the mayors' offices which are at least equal to or more than the salary of a department head are subject to this section.

Efficient and effective government requires a reasonable relationship among the salaries of full-time, top-level officers of all jurisdictions according to levels of responsibilities. Salary inequities and disparities among top-level officers produce morale problems, which may result in less than the best performance of duties by officers with the problems.

The State has recognized the principle of equal pay for equal work to minimize such problems, at least for lower level public officers and employees. The principle has been implemented in civil service classification and collective bargaining laws of statewide application which cover civil service officers and employees of the State and counties. Implementation of the principle has provided a system of public employment which promotes efficient and effective government at all levels by requiring approximately the same compensation to officers and employees with essentially the same responsibilities, experience, and work performance.

Unlike the salaries of their subordinate civil service officers and employees which are rationally interrelated under the classification and collective bargaining processes, the salaries of top-level officers of the State and counties are not presently interrelated in a similar manner. Each of the jurisdictions establishes the salaries independent of the other. Thus, there is no formal schedule which interrelates salaries according to rational criteria among all jurisdictions.

The legislature finds that a schedule of integrated, equitable, and reasonable salaries among top-level officers of all jurisdictions is necessary to provide for more efficient and effective government. In parts I, II, and III of this Act, the legislature has attempted to establish salaries of top-level state officers which are interrelated according to levels of responsibilities. The salaries of the state officers, however, have not been established in relation to the salaries or responsibilities of top-level county officers. The legislature recognizes that this omission needs to be addressed. The legislature also recognizes that the salaries established for state officers may not be perfect and that study of the issue should be conducted to remove any imperfections. Thus, part V establishes a public officers and employees compensation review commission which, among other things, is to review the salaries of top-level officers of both the State and counties and recommend a schedule of salaries for these officers which is integrated, equitable, and reasonable. The legislature intends to consider the recommended schedule and take action to implement such a schedule, in an amended or unamended form.

Thus, the legislature finds that, to ensure a stable situation while the commission is conducting its review and for the fullest benefit to be derived from the intended schedule, the salaries of top-level county officers must not be increased until after legislative review of the recommendation.

The legislature also finds that the salaries of certain top-level county officers subject to this section are adjusted automatically when adjustments are

made to the salaries or wages of their subordinate employees under collective bargaining agreements.

Such an automatic adjustment provision is unsound and inadvisable public policy which is detrimental to the public interest. A basic conflict of interest exists when the county officers whose salaries are adjusted according to collective bargaining agreements are parties in negotiating the collective bargaining agreements. On the other hand, these county officers have a duty to engage in negotiations of collective bargaining agreements with the public interest foremost. The public interest requires the minimum expenditure of public moneys necessary for the efficient operation of government. On the other hand, these county officers will receive higher salaries if significant or substantial, or indeed if any, salary or wage increases are provided under the collective bargaining agreements. Thus the conflict of interest is obvious.

The legislature further finds that such automatic adjustments for any top-level officer of any level of government are anathema to good government and to present sunshine laws of this State. The people of this State deserve to see the methodology of salary increases for top-level officers of all levels of government, and the people should have the opportunity to testify for or against such increases. Such open government is basic to a democracy and the automatic adjustment of salaries of top-level officers, who have the greatest responsibilities to the public, without public display and input violates the principles of a democratic society.

This section prohibits the increase of the salaries of top-level county officers whose salaries are automatically adjusted when the salaries or wages of subordinate employees are adjusted under collective bargaining agreements. The legislature intends to use the recommendation of the public officers and employees compensation review commission to advise the counties on the implementation of more acceptable alternative means for establishing the salaries of top-level county officers whose salaries are automatically adjusted.

The legislature further finds that in considering the amendment of Article VIII, section 2, of the Constitution, which established county superiority in the area of executive, legislative, and administrative structure and organization, the 1968 Constitutional Convention specifically excluded matters relating to personnel from the superiority provision. The Committee on Local Government stated, in its committee report, that it was convinced that the legislature should not be deprived of the power to enact, and maintain in effect laws in this area.

The legislature finds that this section concerns purely personnel matters within the powers of the legislature and does not intrude upon the executive or administrative structure or organization of any county. The legislature further finds that this section is a law of statewide concern and interest and is necessary to provide for more efficient and effective government for the people of Hawaii.

The legislature further finds that prohibiting the increase of salaries of county officers subject to this part does not affect the powers and functions of the officers. These county officers have certain powers and functions which are assigned under state general law, county charter provisions, or county ordinance. The extent of the powers and functions are not dependent upon the amount of salaries. An increase or decrease in the salaries of the county officers does not correspondingly cause an

increase or decrease of their powers or functions. Thus, the legislature finds that this section in no way limits the powers or changes the functions of the officers, nor does this section alter the powers such that the ability to perform the functions are impaired, nor does this section alter functions such that the powers to accomplish them are insufficient.

Chapter 46, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§46- Prohibition on increase of salaries of certain county officers and employees.** The salary of a city and county or county officer or employee of the executive branch who is:

- (1) Exempt from civil service by section 76-77(1), but whose salary is or becomes at least equal to or more than the salary of the head of any department of the city or county under which employed; or
- (2) Exempt from civil service by section 76-77(2);

shall not be increased after June 30, 1982."

**SECTION 34A.** The purpose of this section is to prohibit the State and the counties from providing salary adjustments or increases to certain state and county officers or employees where the adjustment or increase constitutes a mandatory adjustment or increase which is, directly or indirectly, dependent upon and related to negotiated salary increases received by civil service or non-civil-service employees covered by collective bargaining. The prohibition against such automatic salary adjustments would apply in essence to state and county executive branch employees and state judicial branch employees who are exempt from civil service and collective bargaining; who are not subject to chapter 89C, Hawaii Revised Statutes; and whose salary or compensation is fixed or limited by statute or ordinance.

The legislature finds that the salaries of certain elected and appointed county officers are adjusted automatically when adjustments are made to the salaries or wages of their subordinate employees under the collective bargaining agreements.

Such an automatic adjustment provision is unsound and inadvisable public policy which is detrimental to the public interest. A basic conflict of interest exists when the elected or appointed county officers whose salaries are adjusted according to collective bargaining agreements are parties in negotiating the collective bargaining agreements. On the other hand, these county officers have a duty to engage in negotiations of collective bargaining agreements with the public interest foremost. The public interest requires the minimum expenditure of public moneys necessary for the efficient operation of government. On the other hand, these county officers will receive higher salaries if significant or substantial, or indeed if any, salary or wage increases are provided under the collective bargaining agreements. Thus, the conflict of interest is obvious.

The same conflict would arise if state officers, who are exempt from collective bargaining, were to receive automatic salary adjustments tied in to salary increases under collective bargaining agreements they helped to negotiate.

Moreover, the legislature finds that the current problem of an inequitable, unintegrated, and uncoordinated compensation system between and among certain high level elected and appointed officers or employees of the state and

county governments, especially between and among the counterpart positions at these two levels of government, is an urgent and important matter of statewide concern and interest requiring immediate legislative action. The legislature so finds because the pay inequities and disparities characterizing the present system — especially where certain elected and appointed county officers or employees receive automatic pay increases whenever there is a negotiated increase for their subordinate employees — adversely affect overall officer and employee morale and the efficient and economical operations of government at both the state and county levels, and the present unintegrated system impedes the State in its policy efforts and the exercise of a valid state power or function to establish some form of an integrated, equitable, and reasonable compensation schedule or pay policy for the various state and county officers and employees, not just for civil service employees or those covered by collective bargaining. Part V of this Act, which establishes a public officers and employees compensation review commission, is one example of the State's policy efforts in this regard and the exercise of the State's power to remedy the current problem of the lack of an equitable and integrated statewide public sector compensation structure.

In view of the foregoing, the legislature declares and finds that this section is a law of statewide concern and interest which is necessary to remedy the unsound public policy referred to above which is detrimental to the public interest. Furthermore, the legislature finds that no charter provision of any county specifically requires the salaries of the subject county officers or employees to be automatically adjusted according to adjustments under collective bargaining agreements. The legislature also expressly notes that the new statutory prohibition contained in this section is not only a law of statewide concern but also a law of general application which applies equally, across the board to all counties and the State.

The Hawaii Revised Statutes is amended by adding a new section to be appropriately designated and to read as follows:

**“§ - Prohibition on certain increases in salaries for certain state and county officers or employees.** Any law to the contrary notwithstanding, neither the State nor any of the counties shall provide or pay to the following state or county officers or employees any adjustment or increase in his or her respective salary or compensation where such adjustment or increase constitutes a mandatory adjustment or increase which is, directly or indirectly, dependent upon and related to negotiated salary adjustments or increases received under collective bargaining agreements by civil service or other public employees covered by collective bargaining: any elected or appointed officer or employee in the executive and judicial branches of state government and the executive branch of any county government (1) whose salary or compensation is fixed, limited, or otherwise specified by statute, ordinance, or other legislative enactment whether or not in express dollar amounts or express dollar amount ceilings; (2) who is not subject to chapters 76 and 77; and (3) who is excluded from collective bargaining and not subject to chapter 89C.”

SECTION 35. If section 34 or 35<sup>8</sup> shall be deemed invalid for any reason by a court of competent jurisdiction, any grant-in-aid made by the State to a county pursuant to section 248-6, Hawaii Revised Statutes, shall be reimbursed

to the State by that county in an amount equal to any mandatory salary adjustment or increase provided or paid to any of that county's officers or employees subject to section 34 or 35<sup>8</sup> where such salary adjustment or increase is, directly or indirectly, dependent upon and related to negotiated salary adjustments or increases received under collective bargaining agreements by civil service or other public employees covered by collective bargaining.

## PART V

**SECTION 36.** There is established within the office of the governor for administrative purposes only an advisory commission to be known as the public officers and employees compensation review commission. The commission shall consist of eleven members appointed by the governor without regard to section 26-34, Hawaii Revised Statutes. Of the eleven members, two shall be appointed from a list of five persons nominated by the president of the senate; two shall be appointed from a list of five persons nominated by the speaker of the house of representatives; one shall be appointed respectively from each of four lists, consisting of three persons each, respectively nominated by the mayor of each of the four counties; and one shall be appointed from a list of three persons nominated by the Hawaii State Association of Counties. The officers of the commission shall be elected by the members.

After the initial appointments have been made, any vacancy in the commission shall be filled by the governor by appointment from the remaining nominees on the list applicable to that vacancy. If none of such remaining nominees is available for appointment, the governor shall fill the vacancy through consultation with the applicable nominating authority for that vacancy.

The commission shall:

- (1) Review the compensation or salaries of:
  - (a) Those elected or appointed officers or employees in the executive branches of the state and county governments — including but not limited to the governor, lieutenant governor, the mayors of the various counties, the heads of state and county departments and their deputies and assistants, and other public officers or employees — whose salaries are fixed or limited by statute, ordinance, or other law;
  - (b) The various high level officers of the judiciary branch, including but not necessarily limited to the chief justice and associate justices of the supreme court, the chief judge and associate judges of the intermediate appellate court, all other judges, and the administrative director and deputy administrative director of the courts;
  - (c) The heads and deputies and assistants of the three legislative agencies (Office of the Auditor, Office of the Ombudsman, and Legislative Reference Bureau) and any agency administratively attached to any of these agencies; and
  - (d) Such other, primarily management or higher level, non civil-service state or county executive branch officers or employees, who are not covered in (a) above and who are excluded from collective bargaining, whether or not their compensation is spe-

cifically fixed or limited by statute, ordinance, or other law and whether or not they are subject to chapter 89C, Hawaii Revised Statutes, whose compensation the commission deems necessary to review in order to develop a meaningful, equitable, and integrated statewide compensation schedule; and

- (2) Formulate and recommend a compensation schedule containing appropriate salaries or compensation for those state and county positions or officers and employees covered in (1)(a), (1)(b), (1)(c), and, as appropriate, in (1)(d) above.

In its review, the commission may examine, as necessary, the compensation of, or the compensation schedules applicable to, state and county civil service employees and any other compensation schedule or system it deems relevant.

All affected or applicable state and county agencies shall fully cooperate with and assist the commission in its review and shall provide the necessary data and information to the commission upon its request.

The recommended compensation schedule shall:

- (1) Provide in general for an integrated, equitable, and reasonable compensation structure for the state and county positions to which the compensation schedule would apply;
- (2) Provide more specifically for an integrated, equitable, and reasonable relationship, according to levels of duties, responsibilities, or functions, between superior and subordinate positions, similar positions in different public agencies, positions of the State and the counties, and between comparable positions in the public and private sectors;
- (3) Provide for respective compensations which are adequate to attract qualified persons for the various positions, but are not excessive or overly generous; and
- (4) Establish such other standards, guidelines, salary classifications, or principles which the commission deems relevant or necessary.

The commission shall submit its findings and recommendations, including the recommended compensation schedule and drafts of recommended legislation, to the governor, the legislature, and the mayor and chairperson of the council of each county no later than thirty days prior to the convening of the Regular Session of 1983.

The commission may employ, without regard to chapters 76 and 77, Hawaii Revised Statutes, and, at pleasure dismiss, such persons as it finds necessary for the performance of its functions and fix their compensation.

Members of the commission shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.

The commission shall terminate on June 30, 1983.

SECTION 37. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000, or so much thereof as may be necessary for fiscal year 1982-1983, for the operations of the public officers and employees compensation review commission, including the hiring of necessary staff.

The sum appropriated shall be expended by the office of the governor for the purposes of this Act.



## PART VI

**SECTION 38.** If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

**SECTION 39.** Statutory material to be repealed is bracketed. New material is underscored.<sup>9</sup>

**SECTION 40.** This Act shall take effect upon its approval.

(Approved May 27, 1982.)

### Notes

1. "The" should be underscored.
- 1A. "The" should not be underscored.
- 1B. "Director of the office of consumer protection" should be underscored.
2. "Of the director" should be underscored.
3. "1982, the" should be underscored.
4. "Justice" should not be underscored but "," should be.
5. "And" should not be underscored but "," should be.
6. "Effective July 1, 1981," should be underscored.
7. "Be \$44,000 a year and, effective July 1, 1982, the salary of the first assistant shall be \$47,520 a year." should be underscored.
8. "35" should be "34A".
9. Edited pursuant to HRS §23G-16.5