

ACT 159

H.B. NO. 329

A Bill for an Act Relating to Public Officers and Employees Excluded or Exempt from Collective Bargaining.

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

SECTION 1. Chapter 89C, Hawaii Revised Statutes, is amended as follows:

1. Sections 89C-1 and 89C-2 are amended to read:

“**[[§89C-1]] Purpose.** The legislature finds that existing statutes do not permit the chief executives of the State and counties, the board of education, the board of regents, the auditor, the director of the legislative reference bureau, the ombudsman, and the chief justice of the supreme court sufficient flexibility to make appropriate and timely adjustments in the compensation, hours, terms, and conditions of employment, and other benefits for public officers and employees who are excluded from collective bargaining coverage under chapter 89. To this end, the legislature grants to the respective chief executives, the board of education, the board of regents, the auditor, the director of the legislative reference bureau, the ombudsman, and the chief justice, the authority to make such adjustments for officers and employees excluded from collective bargaining in conformance with this chapter.

Nothing in this chapter shall be construed to interfere with or diminish any authority already provided by statutes to the chief executives, the board of education, the board of regents, the auditor, the director of the legislative reference bureau, the ombudsman, or the chief justice.

[[§89C-2]] Adjustments authorized; limitations, restrictions. Any provision of law to the contrary notwithstanding, the compensation, hours, terms, and conditions of employment, and other benefits for public officers and employees who are excluded from collective bargaining shall be adjusted by the chief executives of the State or counties, the board of education, the board of regents, the auditor, the director of the legislative reference bureau, the ombudsman, or the chief justice, as applicable. The chief executives, the board of education, the board of regents, the auditor, the director of the legislative reference bureau, the ombudsman, and the chief justice, or their designated representatives, shall determine the adjustments to be made and which excluded officers or employees are to be granted adjustments under this chapter, in accordance with the following guidelines and limitations:

- (1) For excluded officers and employees under the same compensation plans as officers and employees within collective bargaining units, such adjustments shall be not less than those provided under collective bargaining agreements for officers and employees hired on a comparable basis, except that adjustments in compensation shall be within limits set forth in paragraphs (2) and (3).
- (2) For officers and employees covered by chapters 77 and 297, no adjusted compensation shall exceed ninety-five per cent of the maximum compensation allowable under section 26-53 for the first deputy or first assistant to the head of a department of the State. To promote the uniform administration of compensation under chapters 77 and 297, the foregoing limitation shall apply uniformly to all officers and employees throughout the State covered¹ or employee is employed by the State or a county government. Any officer or employee, who is receiving a salary in excess of the limitation provided herein on ☐ June 3, 1978☐], shall continue to receive the salary so long as he remains in the same position or until such time as the maximum compensation allowable under section 26-53 for the first deputy or first assistant to the head of a department of the State is sufficiently increased to authorize adjustments to the officer's or employee's salary.
- (3) For officers and employees covered by chapter 304, no adjusted compensation shall exceed ninety-five per cent of the compensation paid to the president of the University of Hawaii under section 26-52(2); provided that an officer or employee, who is receiving on ☐ June 3, 1978☐] a salary in excess of ninety-five per cent of the salary paid to the president of the University of Hawaii, shall continue to receive the salary so long as he remains in the same position or until such time as the salary of the president is sufficiently increased to authorize adjustments to the officer's or employee's salary.
- (4) No adjustment in compensation, hours, terms, and conditions of employment, or other benefits shall be established which is in conflict with the system of personnel administration based on merit principles and scientific methods governing the classification of positions and the employment conduct, movement, and separation of public officers and employees.
- (5) The compensation of officers or employees whose salaries presently are limited or fixed by legislative enactment shall not be adjusted under this chapter, but shall continue to be adjusted by the appointing authority within limits established by law or by legislative enactment.
- (6) The compensation of officers or employees, who are not covered under the same compensation plans as officers and employees within collective bargaining units and whose salaries presently are authorized to be fixed by the appointing authority, need not be adjusted under this chapter. The appointing authority may continue to make specific adjustments in the salaries of individual officers or employees from available funds appropriated for such purpose within limits set forth in paragraphs (2) and (3) of this section."

2. Section 89C-4 is amended to read:

“[[§89C-4]] Adjustments for other officers and employees.(a) The respective representatives of the State, counties, and the judiciary shall submit to their respective chief executives and to the chief justice, recommendations on the adjustments to be made under this chapter for other officers and employees within their respective personnel systems. The conference of personnel directors shall confer prior to the submittal of any recommended adjustment by each director to his chief executive or by the administrative director of the courts to the chief justice. Such adjustments and their effective dates shall be uniform, if practicable, among the jurisdictions.

(b) The superintendent of education and the president of the University of Hawaii shall submit to the board of education and the board of regents, respectively, recommendations on the adjustments to be made under this chapter for officers and employees within their respective personnel systems. The superintendent and the president shall confer with the state director of personnel services prior to the submittal of any recommended adjustment. Any adjustments adopted by the board of education or the board of regents which presently require the approval of the governor shall remain subject to the approval of the governor.

(c) The auditor, the director of the legislative reference bureau, and the ombudsman shall decide by majority vote on the adjustments to be made under this chapter for officers and employees within their respective offices, including employees of the state ethics commission which is administratively within the office of the auditor. The auditor, the director of the legislative reference bureau, and the ombudsman shall confer with the state director of personnel services prior to voting on any adjustment. Such adjustments and their effective dates shall be uniform for employees under sections 23-8, 23G-2, 84-35, and 96-3.”

3. Section 89C-5 is amended by amending subsection (c) to read:

“(c) The chief executives of the State or counties, the board of education, the board of regents, the auditor, the director of the legislative reference bureau, the ombudsman, or the chief justice, shall not make any adjustments nor use funds for purposes of this chapter without the prior approval of the appropriate legislative bodies as required in this section.”

SECTION 2. The substance of the amendments of this Act shall control regardless of any other act enacted during this regular session.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 1, 1982.)

Note

1. The words “by chapters 77 and 297, whether or not the officer” are missing at this point.